Convention Relative to the Treatment of Prisoners of War to insure respect for that convention by persuading North Vietnam to fulfill its obligations under the convention; to the Committee on Foreign Affairs.

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

H. Res. 1138. A resolution to amend the Rules of the House of Representatives with respect to House consideration of certain Senate amendments, to provide for the Delegates from Guam and the Virgin Islands, and for other purposes.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. BLACKBURN:

H.R. 16846. A bill for the relief of George E. Ray; to the Committee on the Judiciary.

By Mr. FISHER:

H.R. 16847. A bill for the relief of George A. Simeral; to the Committee on the Judiciary.

By Mr. GUDE:

H.R. 16848. A bill for the relief of Dimitrios K. Angelopoulos; to the Committee on the Judiciary.

SENATE—*Tuesday, September 26, 1972*

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

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

Almighty and Eternal God, who hast been our guide and companion, our refuge and strength in all our yesterdays, may the memory of Thy great goodness inspire us to enter faithfully, courageously, and industriously upon the duties of this new day. Cleanse us of all that is base and ugly, that with pure hearts and steadfast devotion we may never fail Thee nor break faith with our better selves. Shed Thy holy light upon the work of Thy servants here that in their solemn deliberations, in hours of tedious toil, in testing moments they may be guided by Thy mind and spirit. May they hear the voice of the people but always obey the voice of the divine. By Thy continual presence give them the will to champion whatsoever things are true, whatsoever things are honest, whatsoever things are just, whatsoever things are pure, whatsoever things are lovely, and whatsoever things are of good report.

We pray humbly in Jesus' name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 26, 1972.

To the Senate:

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

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Monday, September 25, 1972, be approved.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Commerce Committee, the Veterans' Affairs Committee, and the Subcommittee on Internal Security of the Committee on the Judiciary be authorized to meet during the session of the Senate today.

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

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the calendar, beginning with No. 1147 up to and including 1149, then Nos. 1160 and 1161.

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

ERIEZ MAGNETICS CORP.

The resolution (S. Res. 132) to refer the bill (S. 2026) entitled "A bill for the relief of Eriez Magnetics Corp." to the Chief Commissioner of the U.S. Court of Claims for a report thereon, was considered and agreed to, as follows:

Resolved, That the bill (S. 2026) entitled "A bill for the relief of the Eriez Magnetics Corporation", now pending in the Senate, together with all accompanying papers, is hereby referred to the Chief Commissioner of the United States Court of Claims. The Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due from the United States to the claimant.

CROWN COAT FRONT CO., INC.

The resolution (S. Res. 290) to refer the bill (S. 3451) entitled "A bill for the relief of the Crown Coat Front Co., Inc.," to the Chief Commissioner of the U.S. Court of Claims for a report thereon, was considered and agreed to, as follows:

Resolved, That the bill (S. 3451) entitled "A bill for the relief of the Crown Coat Front Company, Incorporated" now pending in the Senate, together with all the accompanying papers, is hereby referred to the Chief Commissioner of the United States Court of Claims; and the Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due from the United States to the claimant.

FRANK P. MUTO, ALPHONSO A. MUTO, ARTHUR E. SCOTT, AND F. CLYDE WILKINSON

The bill (S. 3756) for the relief of Frank P. Muto, Alphonso A. Muto, Arthur E. Scott, and F. Clyde Wilkinson, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in the administration of subchapter III (relating to civil service retirement) of chapter 83 of title 5, United States Code, and subject to sections 8334(c) and 8339(h) of such title, Frank P. Muto, Alphonso A. Muto, Arthur E. Scott, and F. Clyde Wilkinson shall be deemed to have rendered creditable service during such periods as they were employees of the Democratic or Republican Senatorial Campaign Committee prior to October 2, 1962.

(b) The Civil Service Commission shall accept the certification of the President of the Senate, or his designee, concerning the service of, and the amount of compensation received by, the individuals named in subsection (a) of this section.

(c) An individual receiving credit for service for any period referred to in subsection (a) of this section shall not be granted credit for such service under the provisions of the Social Security Act.

SYSTEM OF WILD AREAS WITHIN THE NATIONAL FOREST SYSTEM

The Senate proceeded to consider the bill (S. 3973) to establish a system of wild areas within the lands of the national forest system, which had been reported from the Committee on Agriculture and Forestry with amendments, on page 6, line 21, after "(3)", strike out "If, on the basis of representations received under provisions of section 103(c) the Secretary determines that measures are required for sanitation, health, and safety of the visiting public or for the protection of natural resources, such measures shall be of a rustic, primitive nature." and insert "Subject to existing private rights there shall be no commercial enterprise and no permanent road within any wild area designated by this Act and, except as necessary to meet the minimum requirements for the administration of the area for the purpose of this Act (including measures required in emergen-

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

cies involving the health and safety of persons within the area), there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.";

On page 7, line 11, after "(4)", strike out "Subject to existing private rights, the use of motorized equipment or aircraft shall be limited to measures required to protect the health and safety of persons using the area, and the control of fire, insects, and diseases, subject to such conditions as the Secretary deems desirable."; and insert "Within wild areas designated by this Act the use of aircraft or motorboats, where these uses have already become established, may be permitted to continue subject to such restrictions as the Secretary of Agriculture deems desirable. In addition, such measures may be taken as may be necessary in the control of fire, insects, and diseases, subject to such conditions as the Secretary deems desirable.";

On page 11, line 11, after "Sec. 202.", strike out "The administration, protection, and management of the Sipsey Wild Area shall be by the Secretary of Agriculture as a part of the national forest system and the Bankhead National Forest and shall be in accord with the provisions of title I of this Act."; and insert "The administration, protection, and management of the Sipsey Wild Area shall be by the Secretary of Agriculture as a part of the national forest system and the Bankhead National Forest and shall be in accord with the provisions of title I of this Act, except that the management plan for the Sipsey Wild Area shall provide that there shall be no commercial enterprise and no permanent road within such area and, except as necessary to meet minimum requirements for the administration of the area for the purpose of this Act (including measures required in emergencies involving the health and safety of persons within the area) and that there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.".

So as to make the bill read:

S. 3973

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 National Forest Wild Areas Act of 1972".

TITLE I

STATEMENT OF FINDINGS AND ESTABLISHMENT OF A WILD AREA SYSTEM

SEC. 101. (a) Congress hereby finds that there is a need for a system of Federal lands in the Eastern United States which can provide present and future generations with primitive recreation opportunities in a spacious, scenic, natural, and wild setting removed from activities and highly developed works of man and similar to the experiences provided by the national wilderness preservation system; the national forest system represents a major federally owned land area in the Eastern United States; few areas of the national forest system located in the Eastern United States, which were acquired largely from private ownerships, meet the criteria set forth for wilderness by the Wilderness Act of 1964 (78 Stat. 890; 16 U.S.C. 1131) because of the past works of man; and that many such national forest areas have been restored or are in the process of restoration to a near natural condition and appear predominantly primitive and undisturbed in character.

(b) In accord with these findings there is hereby created a system of federally owned national forest wild areas designated by Congress within the national forest system, east of the one hundredth meridian to be managed by the Secretary of Agriculture (hereinafter referred to as the "Secretary") as a part of the national forest system. Areas designated under this Act shall be known as wild areas and shall be administered to restore, maintain, and protect the natural, primitive, and wild character of the areas for public use and enjoyment for primitive recreation, scientific, and educational purposes by present and future generations of the American people. No area shall be designated as a wild area except as provided for in this Act or a subsequent Act.

DEFINITION

SEC. 102. The term "wild area" as used in this Act is an area of outstanding beauty; is primarily primitive and natural in character although man and his works may have been present or are present, and wherein the marks of man's activities are subject to restoration to the appearance of a predominantly primitive and natural condition; is large enough so that the primitive and natural values can be preserved; and the area provides outstanding opportunities for public use and enjoyment in a primitive setting.

ESTABLISHMENT OF AREAS

SEC. 103. (a) The Secretary shall study and, from time to time, submit to the President areas which in his judgment meet the requirements of this Act and are suitable and desirable for "wild area" classification. Prior to the submission of any such area the Secretary shall make a specific determination that the area recommended for "wild area" classification does not meet the criteria for wilderness as set forth in section 2(c) of the Wilderness Act of September 3, 1964 (78 Stat. 891, 16 U.S.C. 1131(c)). The President shall advise the United States Senate and the House of Representatives of his recommendations with respect to the designation as a "wild area" of each area submitted. Each recommendation of the President for designation of an area as a "wild area" shall become effective only if so provided by an Act of Congress.

(b) Each proposal shall be accompanied by a report, including maps and illustrations, showing among other things the area included within the proposal, the characteristics which make the area a worthy addition to the system; the current status of landownership and use in the area; the reasonably foreseeable potential uses of the land and water which would be enhanced, foreclosed, or curtailed if the area were included in the wild area system.

(c)(1) Prior to submitting any recommendations to the President with respect to the suitability of any area for designation as a "wild area" the Secretary shall:

(A) give such public notice of the proposed action as he deems appropriate, including publication in the Federal Register and in a newspaper having general circulation in the area or areas in the vicinity of the affected land;

(B) hold a public hearing or hearings at a location or locations convenient to the area affected. The hearings shall be announced through such means as the Secretary deems appropriate, including notice in the Federal Register and in newspapers of general circulation in the area: *Provided,* That if the lands involved are located in more than one State, at least one hearing shall be held in each State in which a portion of the land lies;

(C) at least thirty days before the date of a hearing advise the Governor of each State, the governing board of each county, parish, town, and municipality in which the lands are located, the governing board of each appropriate substate multijurisdictional general purpose planning and development agency that has been officially designated as a clearinghouse agency under Office of Management and Budget Circular A-95, and the governing board of each appropriate established environmental protection district, and Federal departments and agencies concerned, and invite such officials and Federal agencies to submit their views on the proposed action at the hearing or by no later than thirty days following the date of the hearing.

(2) Any views submitted to the Secretary under the provisions of (1) of this subsection with respect to any area shall be included with any recommendations to the President and to Congress with respect to such area.

(d) Any modification or adjustment of any wild area shall be recommended by the Secretary after public notice of such proposal and public hearing or hearings as provided in subsection (c) of this section. The proposed modification or adjustment shall then be recommended with map and description thereof to the President. The President shall advise the United States Senate and the House of Representatives of his recommendations with respect to such modification or adjustment and such recommendations shall become effective only in the same manner as provided in subsections (a) and (b) of this section.

ADMINISTRATION

SEC. 104. (a) The Secretary shall administer units of the wild area system in accord with the following provisions:

(1) Primitive, natural, and wild conditions will be restored, maintained, and protected to provide for public use and enjoyment for recreation, scientific, and educational purposes in a natural setting free from the activities and highly developed works of man, wherein natural attractions prevail in an atmosphere of spacious solitude.

(2) Public use shall be permitted consistent with the ability of the area to support such use and retain its primitive, natural, and wild characteristics.

(3) Subject to existing private rights there shall be no commercial enterprise and no permanent road within any wild area designated by this Act and, except as necessary to meet the minimum requirements for the administration of the area for the purpose of this Act (including measures required in emergencies involving the health and safety of persons within the area), there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.

(4) Within wild areas designated by this Act the use of aircraft or motorboats, where these uses have already become established, may be permitted to continue subject to such restrictions as the Secretary of Agriculture deems desirable. In addition, such measures may be taken as may be necessary in the control of fire, insects, and diseases, subject to such conditions as the Secretary deems desirable.

(5) No timber harvesting shall be permitted.

(6) No grazing of domestic livestock shall be allowed except riding stock where permitted.

(7) No commercial services shall be allowed except those necessary to achieve the purposes of the Act.

(b) The Secretary shall prepare a management plan for each unit of the wild area

system in accordance with the Act, utilizing a multidisciplinary approach and providing for appropriate public involvement.

ACQUISITION

SEC. 105. (a) Within areas of the wild area system, the Secretary may acquire by purchase with donated or appropriated funds, by gift, exchange, condemnation, or otherwise, such lands, waters, or interests therein as he determines necessary or desirable for the purpose of this Act. All lands acquired under provisions of this section shall become national forest lands.

(b) In exercising the change authority granted by subsection (a) of this section, the Secretary may accept title to non-Federal property for federally owned property located in the same State, of substantially equal value, or if not of substantially equal value, the value shall be equalized by the payment of money to the grantor or to the Secretary as the circumstances require.

(c) The head of any Federal department or agency having jurisdiction over any lands or interests in lands within the boundaries of any wild area is authorized to transfer to the Secretary jurisdiction over such lands for administration in accordance with provisions of this Act.

MINERALS

SEC. 106. Subject to existing valid claims, federally owned lands within units of the wild area system are hereby withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing or disposition of mineral materials.

SEC. 107. The Secretary shall permit hunting, fishing, and trapping on the lands and waters under his jurisdiction within wild areas in accordance with applicable Federal and State laws; except that the Secretary may issue regulations designating zones where and establishing periods when no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment. Except in emergencies, any regulations pursuant to this section shall be issued only after consultation with the wildlife agency of the State or States affected.

SEC. 108. The Secretary shall cooperate with the States and political subdivisions thereof in the administration of wild areas and in the administration and protection of lands within or adjacent to the wild area owned or controlled by the State or political subdivisions thereof. Nothing in this Act shall deprive any State or any political subdivision thereof of its right to exercise civil and criminal jurisdiction within the wild area, or of its right to tax persons, corporations, franchises, or other non-Federal property, including mineral or other interests, in or on lands or waters within the wild area.

SEC. 109. The Secretary is authorized to make such rules and regulations as he deems necessary to carry out the purposes of this Act.

TITLE II

ESTABLISHMENT OF THE SIPSEY WILD AREA WITHIN THE BANKHEAD NATIONAL FOREST, STATE OF ALABAMA, AND FOR OTHER PURPOSES

SEC. 201. Congress hereby finds that the Sipsey Area of the Bankhead National Forest, as described herein, is an area of national forest land which, although one subject to the works and activities of man, has been restored or is in the process of restoration to a predominantly primitive and natural condition, appears predominantly primitive and undisturbed in character, and is chiefly valuable for the purpose of providing present and future generations primitive recreation opportunities in a spacious, scenic, natural, and wild setting, removed from activities and highly developed works of man. In order to provide permanent protection and enhancement of the resource values which contribute to public enjoyment of said area, and to provide an equal or greater degree of protection than could be afforded if the area were qualified and part of the national wilderness preservation system, there is hereby established the Sipsey Wild Area within the Bankhead National Forest, State of Alabama. The Sipsey Wild Area shall consist of approximately twelve thousand acres as shown on a map entitled "Proposed Sipsey Wild Area" dated September, 1972, which is on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture and to which is attached and hereby made a part thereof a description of the exterior boundaries. The Secretary may by publication of a revised map or description in the Federal Register correct clerical or typographical errors in said map or description.

SEC. 202. The administration, protection, and management of the Sipsey Wild Area shall be by the Secretary of Agriculture as a part of the national forest system and the Bankhead National Forest and shall be in accord with the provisions of title I of this Act, except that the management plan for the Sipsey Wild Area shall provide that there shall be no commercial enterprise and no permanent road within such area and, except as necessary to meet minimum requirements for the administration of the area for the purpose of this Act (including measures required in emergencies involving the health and safety of persons within the area) and that there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.

The amendments were agreed to.

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

NATIONAL COMMISSION ON MULTIPLE SCLEROSIS ACT

The Senate proceeded to consider the bill (S. 3659) establishing a commission to develop a realistic plan leading to the conquest of multiple sclerosis at the earliest possible date, which had been reported from the Committee on Labor and Public Welfare with an amendment on page 5, after line 14, insert a new section, as follows:

EXPENSES OF THE COMMISSION

SEC. 7. The expenses of the Commission shall be paid out of funds otherwise available to the President.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Commission on Multiple Sclerosis Act".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress hereby finds and declares—

(1) that multiple sclerosis is a disease characterized by degeneration within the brain and spinal cord and by loss of motor and sensory functions;

(2) that this disease, known as the "great crippler of young adults," generally makes its first appearance in the very prime of life, between the ages of twenty and forty, already affects great numbers of Americans, and will begin to afflict an even greater number as our young adult population expands;

(3) that the cause of multiple sclerosis is unknown and there is neither a preventive nor a cure for the disease; and

(4) that the determination of the most effective program for discovering causes, cures, and treatments deserves the highest priority.

(b) It is the purpose of this Act to establish a national commission—

(1) to determine the most productive avenues of exploration toward researching the possible causes and cures for this disease; and

(2) to make specific recommendations concerning the utilization of national resources for that purpose.

ESTABLISHMENT OF COMMISSION

SEC. 3. There is hereby established a commission to be known as the National Commission on Multiple Sclerosis (hereinafter in this Act referred to as the "Commission").

SEC. 4. (a) The Commission shall be composed of eleven members appointed by the President from among individuals with a demonstrated interest in achieving, through research, practical means for preventing or arresting the further progress of multiple sclerosis within the shortest possible time, with a knowledge of the prerequisites for productive research and development, and with a grasp of the forces motivating greater productivity, as follows:

(1) six members from the public; and

(2) five members from the medical community.

(b) The President shall designate one of the members of the Commission to serve as Chairman and one to serve as Vice Chairman.

(c) Six members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

(d) Each member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation. Each member of the Commission who is not otherwise employed by the United States Government shall receive $100 per day (including travel-time) during such time as he is actually engaged in the performance of his duties as a member of the Commission. Each member of the Commission shall be allowed travel expenses and a per diem allowance in the same manner as prescribed for persons employed intermittently in the Government service under section 5703(b) of title 5, United States Code.

DUTIES OF THE COMMISSION

SEC. 5. (a) It shall be the duty of the Commission to make a thorough and complete study and investigation of current research in the field of multiple sclerosis and related neurological diseases to determine the most productive avenues of approach toward finding causes, cures, and treatments for multiple sclerosis, including recommendations with respect to the need for enactment of new legislation or the revision of existing legislation. Such study and investigation shall give particular emphasis to funding needs and the means by which the Federal Government can best participate in this effort.

(b) The Commission shall transmit to the President and to the Congress a final report not later than one year after the date of enactment of this Act, and shall cease to exist thirty days after submitting its report.

SEC. 6. (a) In order to carry out the provisions of this Act, the Commission is authorized to—

(1) make expenditures;

(2) hold hearings;

(3) take testimony orally or by deposition;

(4) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates; and

(5) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

(b) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and urged to furnish to the Commission, upon the request of the Chairman or Vice Chairman, such information, services, personnel, and facilities as the Commission deems necessary to carry out the provisions of this Act.

EXPENSES OF THE COMMISSION

SEC. 7. The expenses of the Commission shall be paid out of funds otherwise available to the President.

The amendment was agreed to.

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

EXECUTIVE SESSION

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

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

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

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

The second assistant legislative clerk read the nomination of Colston A. Lewis, of Virginia, to be a member of the Equal Employment Opportunity Commission for the term expiring July 1, 1977.

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

ACTION

The second assistant legislative clerk read the nomination of Christopher M. Mould, of the District of Columbia, to be an Associate Director of ACTION.

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

NATIONAL MEDIATION BOARD

The second assistant legislative clerk read the nomination of Kay McMurray, of Illinois, to be a member of the National Mediation Board for the remainder of the term expiring July 1, 1974.

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

BOARD OF PAROLE

The second assistant legislative clerk read the nomination of Thomas R. Holsclaw, of Kentucky, to be a member of the Board of Parole for the term expiring September 30, 1978.

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

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

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

LEGISLATIVE SESSION

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

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

HELP FOR VICTIMS OF CRIME

Mr. MANSFIELD. Mr. President, there is a thoughtful editorial published in the Christian Science Monitor for September 22, 1972, entitled "Help for Crime's Victims."

It indicates the need for legislation of this sort and gives credit where credit is due, to the distinguished Senator from Arkansas (Mr. MCCLELLAN) who put the case well in presenting this legislation, using these words:

Our system of criminal justice must in some measure compensate those who are wronged as well as punish those who are wrongdoers.

Mr. President, I ask unanimous consent to have the editorial printed in the RECORD.

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

HELP FOR CRIME'S VICTIMS

If the federal government assumes responsibility, as it does, for the innocent victims of natural disaster—such as the thousands made homeless in the Middle Atlantic states by Hurricane Agnes, or the New England fishermen whose business has been washed out by the "red tide" of poisonous algae—why should it not compensate the innocent victims of crime?

There is a good case to be made for government assumption of this responsibility. It is being made in the form of a bill, just passed by the Senate, which would pay the victims of violent crime from $100 to $50,000 for costs incurred in such attacks. The bill would cover medical or burial costs, loss of earnings, rehabilitation, child-care costs, and similar expenses.

In favor of such a proposal, it can be argued that while the government is not responsible for nor can it prevent natural disasters, it has elected to help the victims of such calamities. But crime prevention is a constitutionally ordained responsibility of government. Under its police powers, is government not much more responsible to the victims of crimes which it has failed to prevent, than to the victims of natural disasters?

Countering this argument is the obvious concern over how much this new undertaking would cost the taxpayer. Companion to that is the fear, expressed by administration officials among others, that it would open the door to fraud. As for the first objection, the cost of such a program (for which the Senate bill asks $15 million the first year) could in itself be an incentive for the government to push even harder on crime control, which is after all the central and root issue. The second objection derives from the same philosophical gulf between those who favor and those who oppose welfare programs on grounds that there are always some chiselers looking for a free ride. That is lamentably true, as there are always goldbrickers in the armed services, and dunderheads in the public schools. But we do not decommission the Army nor close the school doors because of the tiny minority who do not carry their own weight.

England, Australia, New Zealand, and Canada have already recognized the basic justice of this idea and passed laws helping crime victims. Closer to home, so have nine states. And the legislation introduced by Senator McClellan recognizes and encourages such state laws by providing that $10 million of the first year's proposed cost would go to pay 75 percent of the costs incurred by the states for this purpose.

The crime compensation bill has been tacked on to a larger omnibus anticrime bill in such manner as to bypass the usual House floor debate—where it might have gotten short shrift—and will shortly go to a joint House-Senate conference committee. With all the current emphasis on increasing violence and the more wildly recognized need for crime prevention, as evidenced in the omnibus legislation of which this bill is a part, there is need for a balance that includes crime's victims. Senator McClellan put the case well in these words: "Our system of criminal justice must in some measure compensate those who are wronged as well as punish those who are wrongdoers."

OUR PRISONERS OF WAR AND MIA'S

Mr. MANSFIELD. Mr. President, our hearts are torn, because of the plight U.S. prisoners of war and U.S. MIA's find themselves in at the present time.

There has been a good deal of discussion in the press about the POW's and I ask unanimous consent that two editorials, one from the Los Angeles Times entitled "The POW's Are a False Issue," and the other from the Baltimore Sun entitled, "War Prisoners or Political Pawns?" both published today, be printed in the RECORD.

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

[From the Los Angeles Times, Sept. 24, 1972]

THE POW'S ARE A FALSE ISSUE

It has been a pathetic picture, the three American prisoners of war, promised release from North Vietnam, paraded before cameras and in and out of interviews, two of them accompanied by families, their agonized reunions exploited. And then flown off to China. They speak with the nervous caution of men long used to silence, still unsure of their freedom, knowing that they have been chosen out of no respect for international conventions but solely to perpetuate a war of propaganda.

By official American count, they are three from among 537 American prisoners of this undeclared war, and that is to say nothing of the 1,254 missing in action.

No matter how one judges this war, they are tragic figures, all of the prisoners. They have been denied the norms that a civilized world has developed for its uncivilized behavior. Hanoi has rejected international inspection of its camps, confirmation of the prison lists, even the regular exchange of mail. And Hanoi has also refused the return of its own sick and wounded, or any plan that would shift all prisoners to neutral territory and international supervision.

The prisoners have been made pawns of peace by both sides, a central issue of four years of negotiations.

President Nixon has insisted that American troops will remain until the prisoners are freed. Congressional foes of the war dared schedule the suspension of funds only on a timetable four months after the release of

the prisoners. And the North Vietnamese, quick to appreciate the apparent American sensitivity, now use the prisoner release to try to make more tempting each demand at the negotiating table. So the prisoners become an issue that prolongs the war.

It is a false issue. Mr. Nixon has long since reduced the American combat capability in Indochina to a point where American troops couldn't do anything about the prisoners even if they wanted to. There isn't even the wherewithal, it appears, for another absurdity like the Son Tay raid that found only an empty prison camp in November of 1970. The American capability today is limited to inflicting the punishment of naval and aerial bombardment which have yet to pound any political flexibility into Hanoi.

So the shrillness of the American voices reflects in some sense a helplessness. But the scene is not helped by its domestic political extensions, including the weekend exchanges between Sen. George McGovern and Secretary of Defense Laird.

It seems quite evident that the people of the United States are not impressed with the propaganda exercise that Hanoi is unfolding with the encouragement of a handful of American activists.

The prisoner issue is not likely to be resolved before the war is ended. The prisoners are of value to North Vietnam only to the extent that the United States accepts them as part of a negotiating package. The most likely way to end the lonely incarceration of the prisoners is to end the American military role in Indochina.

[From the Baltimore Sun, Sept. 24, 1972]

WAR PRISONERS OR POLITICAL PAWNS?

The way in which American prisoners of war in North Vietnam are being dangled on political strings, like puppets, is disgraceful. These are human beings—these men who have already suffered severe and unique hardship in the service of the United States, and their families in this country who have suffered their own kind of hardship. It is inhuman for governments or special interests to treat them as mere instruments of propaganda or policy, to be manipulated (so far as possible) before cameras and microphones and to be kept in suspense as to when and how they are actually to be released. The spectacle of the past week in North Vietnam is calculated to play upon the emotions and sympathies of all Americans, and no doubt it has, but it also should create a feeling of indignation and outrage.

If North Vietnam wishes to release selected prisoners of war, primarily to show that it accords them fair treatment, it seems to us that this should be done decently and with some respect for the men, their families and the sensibility of the American people. Hanoi adds nothing to its case by dealing through private groups of anti-war Americans, by encouraging the prisoners to utter empty platitudes before they are released and by arousing in other prisoners of war a hope that at some point they too may be singled out for favor.

The United States government, responsible for the fact that the men are prisoners of war, has a primary obligation now to show its concern for the men and their families, to welcome their release and to do everything possible to assure their safe and swift return. And this fact must be kept in mind: the way to bring about the release of all the prisoners of war is to end the war.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The distinguished Republican leader is recognized at this time.

AMNESTY FOR DESERTERS AND DRAFT EVADERS

Mr. SCOTT. Mr. President, just in the interest of truth, I should like to note the inaccuracy of a television commercial that is appearing from time to time and in speeches made by the same person, the candidate of the opposition, who continually asserts that he is in favor of a general amnesty for draft evaders, although he adds, "but not for deserters."

Candidate McGOVERN goes on to say that President Coolidge provided amnesty after World War I, and President Truman after World War II, and so forth.

Well, Mr. President, that is not accurate. It is not even close to being accurate. It is wrong. It is incorrect. It is misleading. It is exactly the opposite of what happened.

There is no precedent for general amnesty for wartime draft evaders. During World War I there was no amnesty for draft evaders. In 1924, President Coolidge pardoned about 100 men who had deserted from the Armed Forces after the war. Then, 15 years after the armistice, President Roosevelt granted amnesty and restored citizenship to World War I draft evaders who had been prosecuted and who had served their sentences.

In 1947, after World War II, President Truman pardoned 1,523 out of 15,805 who had violated draft laws during the war. After the Korean war there was a total absence of amnesty.

I think that Candidate McGOVERN owes it to the people of this country in the interest of fair campaign practices, in the interest of truth in advertising, in the interest of truth in packaging, and in the interest of truth in labeling, to tell the people of this country that he has made a woeful and grievous mistake and that some benighted member of his staff has again wrongly advised him.

There never was general amnesty. I cited the only occasions on which it occurred. We ought to stop hearing this story that I have heard, "I am only doing what other people have done who were President from time to time."

So, Mr. President, from time to time I will issue mild abjurations to Candidate McGOVERN to try to stick more closely to the path of accuracy, which will bring a little more comfort for him than the rocky road of deviation.

QUORUM CALL

Mr. MANSFIELD. Mr. President, may I be recognized?

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER TO PRINT "JOURNEY TO CHINA" AS A SENATE DOCUMENT

Mr. MANSFIELD. Mr. President, while the distinguished minority leader and I were in China, it was requested that we not issue a formal report at that time. As the Senate will recall, we did make a report to the Senate and, because of the request made, we did not issue a printed report at that time. At this point, there is no longer any need to refrain from doing so.

Therefore, on behalf of the distinguished Republican leader and myself, Mr. President, I ask unanimous consent that the reports which we made to the Senate be incorporated in a Senate document and entitled "Journey to China."

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair recognizes the distinguished Senator from Iowa (Mr. HUGHES) for not to exceed 15 minutes.

THE WAR UNDER PRESIDENT NIXON

Mr. HUGHES. Mr. President, today is the 1,345th day of the war under President Nixon—a period almost exactly as long as that from Pearl Harbor to V–J Day. Three decades ago, it seemed to us that the carnage and horror of World War II was lasting a lifetime. Now in a few more days, our still-undeclared war in Indochina will have outlasted the war with the Nazis and the Japanese. And there is still no end in sight.

It is true that the nature of the war has changed. Last week, for the first time since March 1965, there were no reported American battlefield deaths in Vietnam. The combined U.S. casualty count of five noncombat deaths, four men missing or captured and seven wounded was the lowest since 1961.

This, of course, does not mean that our involvement in the killing has stopped. The mechanized destruction by American forces continues from the skies and from the seas. Although all combat units have been withdrawn and there are only 36,000 U.S. soldiers still stationed in South Vietnam, there are about five times that number all told, including Air Force personnel in Thailand and elsewhere and naval personnel offshore.

On this day when the Senate will be once again voting on whether or not this war should be ended, it is worth asking, as we have in the past, what has been the cost of prolonging this war?

We know that one third of the people of the nations of Indochina have been driven from their homes. Over a million people have been killed in total. Countless hundreds of thousands have lifetime scars and disabilities as reminders of this unending war.

We know about these horrors, but they

have been going on so long that they have become ordinary and our ability to feel pain and outrage has become strangely numbed.

When this war began and our involvement began, the pages who are now on the Senate floor were little children. And it may be that as we continue with this war that some who are little children today may be pages on the Senate floor as the debate goes on years from now, unless we realize what is happening.

There are costs in this war that we have not heard much about, hidden costs that will takes years to evaluate and generations to correct, no one really knows. One such cost that has received insufficient attention, in my judgment, is the damage this war has done to the physical strength, the morale, and the spirit of our armed services. Our people have, in the past, been motivated to fight in wars for defense of country and for high purposes of humanity, defending the freedoms of the world for many Americans. For many Americans, both ingredients are lacking in this war. Emotional problems, racial tensions, boredom and drug abuse have become problems to the armed services of unprecedented seriousness.

Two years ago, the American people became alarmed, almost overnight, about drug abuse in the armed services—particularly heroin addiction in Vietnam. There was apprehension, not only about the infestation of the armed services with the drug plague, but the prospect of adult drug dependents by the thousands being released, uncured of their addiction, into the mainstream of civilian society which, even without this influx, has not yet found out how to cope effectively with the drug problem in America.

Despite optimistic pronouncements from the administration and the military, I regret to state that, in my judgment, the fears that people had 2 years ago are now being borne out to an extent far beyond what is generally known. The urine testing program, put into effect by the armed services a year ago, in addition to its useful purposes, is emerging as an instrument for getting undesired personnel out of the armed services and violating the right to privacy of veterans and others. Efforts to cut off or control the opium traffic flowing out of the Golden Triangle area into the hands of American servicemen have simply not been successful by any realistic appraisal.

While all of the pressure of this great Nation was on the countries of the Middle East to stop this great opium traffic into our great Nation, the Golden Triangle of Indochina, where we spent tens of thousands of lives, was the area developing as the bread basket of opium supply flowing into this Nation. And it is still pouring into this Nation, despite the statements of the President.

I will wait with interest for sanctions to be taken against any nation in this Golden Triangle area by this President as long as this war and this conflict goes on, regardless of the amount of opium coming into this country from that area.

I want to make it plain that I am not talking about the quality or courage of the men in our Armed Forces. I am talking about what a war which so many believe to be morally wrong and not in our national interest does to the spirit of our fighting men, as well as to the attitudes of the American people about the military.

The Army we sent to Vietnam mirrored many of the domestic problems which we have been unable to solve because of the continued drain of that war—drugs, racial tensions, sagging morale, and the loss of a sense of real purpose. In some units, discipline collapsed. There were fraggings by enlisted men and, reportedly, counterfraggings by officers. Some units refused to follow orders into battle—not out of cowardice, but more commonly because of a lack of trust in newly arrived commanders, who did not have the ability to lead.

Recently, as you know, we have seen the case of a four-star general who conducted his own private war over North Vietnam in disobedience of orders and falsified the official reports. In addition to raising profoundly serious questions about the ability of the military command to control its own personnel, it poses an even more basic question of the breakdown of civilian control over the military. I must say the way this matter was reported and handed to the American people was deceptive.

This breakdown in our command and control system is perhaps the most demoralizing development in our armed services since My Lai. It is part of what this war has done to the state of our Armed Forces and the integrity of our national defense.

The vast majority of us have from time to time served as members of our armed services, and have fought in wars our country was forced to fight, and we regret seeing the public attitude changed to where people mistrust totally a military that must, in the interest of this Nation, be maintained at a moderate and decent level for the good of the world and the best interests of this Nation. And we regret to see the contributions that this war has brought against a military which was forced to fight because of political decisions, but has helped continue a war because of things Presidents have been unable to accomplish.

Are we locked into 4 more years of this in search of victory or peace on our own terms?

In many ways, this is a war without victors, only survivors.

Widows and orphans still have to eke out a living while the war goes on. Rice still has to be planted, if the farmers are not afraid to venture out to their paddies.

"Victory" means the recapture of the piles of rubble once known as An Loc or Quang Tri. Such "victories" are as empty as the villages and hamlets which were caught in the crossfire of this devastating war.

Reporters on the scene say that the war is stalemated and likely to stay that way for some time. Meanwhile, the United States plans to pour several billion dollars into Vietnamization and shows no sign of reducing our bombing, which now is about 100,000 tons of munitions each month.

This administration, like the previous one, has been unable to end this war. In fact, it has enlarged the war in many respects as the President tried one "decisive military action" after another, each one without the success he promised the American people.

As Craig Whitney of the New York Times wrote last Sunday, the invasion of Cambodia did not succeed in cutting off supplies. Nor did the invasion of Laos. Nor did the massive bombing of last winter. And we have the admission of Air Force officials that even the renewed bombing of the North and the mining of the harbors stopped only about half to three-quarters of the supplies from getting through—not nearly enough to have a decisive impact on the war.

At each stage of this long war, the decisionmakers have been mesmerized by predictions of victory if only one more thing were tried. And each of the predictions, literally and figuratively, has turned to ashes.

The war policy has not worked. Is it not time we tried a peace policy?

No one can believe that we are still in Vietnam in order to save democracy, for President Thieu has defied his own Constitution and has smashed the last semblance of a free press or local democracy.

Rather, we seem to be trying to save face—to salvage a reputation which long ago was tarnished by our involvement in this war. So we continue the war—at a daily cost of $20 million, with an average of one American killed, missing or captured each day.

We have bought time—time for the South Vietnamese to build the fourth largest armed force in the world, time for the Saigon regime to perfect its instruments of repression.

And at what cost to the United States? Twenty thousand more American deaths; 100,000 more wounded; 40 percent more men listed as POW's or MIA's; and $68 billion more in war spending since January 1969.

This war has gone on far too long. Now is the time for the Congress to enact a peace policy which will bring this war to an end.

If we do not take this step, then we are signing a blank check for 4 more years of war.

Four more years. Who would have thought, 4 years ago, that boys in junior high school would be risking their lives in Indochina 4 years later? And if current policy is continued, who can honestly guarantee that boys in junior high school today will not be at war in Southeast Asia 4 years from now?

When this war is over—if it ever ends, and I believe it will—we will probably look back more in sorrow than in anger; more in wonder at how we could ever have tolerated it so long.

In the long perspective of history, we will see how much this war diverted us from our traditional good works for other nations, how much it weakened our standing as the defender of freedom and democracy in the world.

We will also see how much it divided

our own people and created mistrust toward our Government.

Those costs may never be fully known—and the damage could be irreparable for years to come. Even among our children, as a recent survey shows, cynicism has replaced idealism; anger has replaced trust; fear has replaced hope. The military we should admire and respect has been brought under question time and time again.

And, side by side with the bomb craters in Indochina, we have the craters of neglect here in America. Suffering people and worthwhile programs have been shunted aside while we fought in Vietnam.

This is the legacy of Vietnam. Unless we act today to end this war, we may be locking ourselves in for 4 more years of tragedy beyond description at home and abroad.

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

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

Mr. HUGHES. I am happy to yield to the Senator from Montana.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Chair recognize me at this time, inasmuch as I have a 5-minute order.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized for the purpose of yielding a portion of his time to the Senator from Montana.

Mr. ROBERT C. BYRD. I yield to the distinguished majority leader.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, I have listened with great interest to what the Senator from Iowa has just said. As the Senator said there will be no victors in this war, only survivors.

The Senator also stated that in the years to come when this war is over with, and it will be over with some day, we will look back upon. it with sorrow, and anger, and grief because of the Americans who have lost their lives in a war in which we had no business, in an area in which we had no interest, and in a cause which has brought about division, dissention, and discontent at home.

The one thing which weighs most heavily on my mind, and has from the very inception of this conflict, is the fact that we have lost in excess of 55,000 Americans; 56,131 Americans have died in Vietnam and Indochina since the first of January 1961 through the 16th of September 1972, and 303,387 have been wounded, for a total casualty list of 359,518 Americans. And what did they die for? Why were they wounded? What was the cause? I have never been able to satisfy myself that there was any legitimate reason, and I certainly do not agree with anyone who says that the Gulf of Tonkin resolution gave any President of the United States the right to interfere on the scale that we have in Southeast Asia.

As the only remaining living signatory to the Southeast Asia Treaty, I want to say unequivocally, despite what others have said, that that treaty did not give this Nation the right to intervene as it did in the affairs of Laos, Cambodia, and Vietnam.

I think that the Senator from Iowa has performed, as always, a real service to the Senate and the Nation in baring his soul, his feelings about this tragic war. The war may go on for 4 more years; I believe there was a statement in one of the North Vietnamese newspapers just several days ago which indicated that fact. In the course of this war we have questions coming up which reflect upon the Armed Services of this Nation, specifically the U.S. Army, which is a proud organization, but which, I think, must be rehabilitated, rejuvenated, and reconstructed. There is My Lai, Song Tri, the latest incident of unauthorized bombing.

The Senator and I served as enlisted men in two different wars. If we had disobeyed orders, if we had gone beyond the ken of our superior officers, I think the Senators knows what would have happened to us. We would have had no recourse to a congressional committee. I think it is well, due to the initiative of the Senator from Iowa and the sergeant from his home State of Iowa, that this matter had been laid out, not so much to find a scapegoat, but to reassert again the chain of command, which will be subordinate—and I repeat that word subordinate—to civilian controls, as the Constitution dictates. There are no if's, and's or but's.

This is an area which affects all of us. It is not a Democratic issue. It is not a Republican issue.

All of us, in some way, in some fashion, are at fault in this situation, but we have not paid the price in this Chamber. Young men who had nothing to say about it have paid the price. Today our POW's are increasing in numbers as the bombing of the past 4 or 5 months continues and is stepped up. Today we look at the war against a sixth-rate nation on which, in addition to Laos, Cambodia, and South Vietnam, we have dropped more than three times the total amount of bomb tonnage that was dropped in all theaters in the Second World War and during the Korean war. And the end is not in sight. The people still suffer and the people still pay.

I want to get this war out of my memory, if I can—which I doubt. I want to see it brought to an end so that we can take care of our own problems and face up to the needs of our own people.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired. The Senator from Massachusetts (Mr. KENNEDY) yielded 2 additional minutes to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I have finished my remarks.

Mr. HUGHES. Mr. President, I thank the distinguished Senator from Montana—the Senator from Massachusetts has agreed to yield me the 2 minutes—for his participation, actually a great conclusion to what I had previously said. It is obvious that we have shared the agony of the war in our hearts and our inability and frustration to do something conclusive in the Congress of the United State. I think just as obvious is the devastating effect the war has wrought not only in Indochina, but, ironically, so many problems for the military itself.

So many debates have taken place in the brief time I have been in the U.S. Senate on this subject that it is difficult to recall them all. So many things have been said that are so similar. Yet we go on. I do hope that this may be the day when we can begin the end by exercising the constitutional right of this body to end the war in Southeast Asia.

I thank the Senator from Massachusetts for yielding.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair recognizes the distinguished senior Senator from Massachusetts (Mr. KENNEDY) for not to exceed 15 minutes, less the time he yielded to the distinguished Senator.

THE PRESIDENT'S WAR IN INDOCHINA

Mr. KENNEDY. Mr. President, the most important issue before the American people this year is President Nixon's war—and our country's massive contribution to the daily bloodbath that continues to sweep over the people and villages of Indochina. It is a tragedy which the President promised to end, but a tragedy whose end is not in sight.

The rhetoric of this administration has been a rhetoric of peace—of leaders approving "decisive" military ventures and "sanctuary operations" to end the war, of "new optimists" talking about pacification gains, and of generals telling us the enemy is on the run. But no amount of old rhetoric or new promises by this administration can cover a simple fact—the last 4 years have only produced war and more war, which tears the fabric of our society and numbs the spirit of our Nation—1969 brought a secret airwar over Laos; 1970 brought a senseless invasion of Cambodia; 1971 brought sanctuary operations into Laos and 1972 brought the mining of Haiphong Harbor, and the unprecedented airwar over North Vietnam.

The American people were led to believe that all of these ventures, and more, would shorten the war. Some of these ventures were even labeled "decisive"—in terms of bringing the peace. But these military gambits, cloaked in a rhetoric of peace, have failed in their purpose. They have failed to shorten the war—let alone end it. And that is the dismal record of the administration's policy toward the Indochina war.

So the war drags on—amid reports from the White House which emphasize the administration's unending willingness to continue the war, and contribute some more to the bloodbath sweeping over the countries of Indochina.

We have become accustomed to the rhythm of violence in Vietnam and Indochina—to the dual cadence of death and destruction in the field—to the unlimited commitments from both sides to bomb

and rocket, and kill and maim, even more.

In fact, so much violence and so many tragedies have assaulted our sensibilities in recent years—violence and tragedies often carried out in America's name—that many of us have become immune to what is happening in Indochina. We forget the plight of the innocent victims of this conflict, while we continue the massive bombing of their villages. We hardly notice when our President pledges an unlimited air war over Indochina, or when field reports, describing pitiful conditions, appear in our press. In the Miami Herald of August 23—the very day President Nixon accepted his renomination—Peter Arnett, a respected correspondent for the Associated Press, made this report from Quang Tri. He said:

> Both sides are systematically destroying this once-pleasant riverside community of palm-shaded streets and historic sites where 80,000 Vietnamese lived. It is an orgy of destruction that has no parallel in the Vietnam war.
>
> The subtleties that once made the Vietnam war different—the "limited" approach by the United States to the Viet Cong "insurgency", the "counterinsurgency" programs aimed at winning back "the hearts and minds" of the people—all have been swept aside.

Mr. President, as the war continues and escalates—as we try to do from the air what we could not do from the ground—nearly every aspect of our national policy and view is being swept aside. Instead of reports from the White House optimists about progress in "pacification" and "return to village" programs, we see the greatest movement of refugees, and the highest civilian casualty rate in the history of the war.

We no longer hear the President speak much of ending the war—but simply of setting goals of peace, for which "we will do our very best to reach." And so the war drags on—with an incredible and needless cost in life and spirit and dollars.

Since the renewed airwar over Indochina early this year, at least 100 American planes have been shot down over North Vietnam alone—and over 100 U.S. airmen are now captured or missing—bringing to a total of nearly 550 the number of GI's added to the prisoner of war and missing in action lists since early 1969. And the American people know today, that while spokesman for the administration assure us again and again about their concern for these men—the administration has no plan for their early return, because they have no plan for ending the war.

Other statistics also tell the story of the administration's promise of peace. Since 1965, nearly 7 million tons of bombs have been dropped over Indochina. This is over 10 times the tonnage dropped during the Korean war, and over 3 times the tonnage dropped during all of World War II. The bulk of this tonnage over Indochina has been dropped since 1969. In North Vietnam, where the administration is conducting one of the most intensive bombing campaigns in our Nation's history, the full impact of the bombing upon the civilian population is not fully known. We do know, however, that not all American bombs are "smart bombs"—indeed, most of them are not. We also know, from countless eye-witness reports, about the destruction that our bombs have brought—not only to military targets, but also to hospitals and churches and schools and heavily populated civilian areas. And we know that there has been "carpet bombing" by B–52's spreading destruction from 36,000 feet. Such missions have been flown over Haiphong, reportedly hitting the city market and workers' quarters.

Most attention in recent months has focused on the massive air war over North Vietnam. But there has also been a step-up in the bombing of the South. In fact, the number of U.S. air strike sorties over South Vietnam far exceeds those over North Vietnam. In the South they increased from 416 in January to some 14,855 in May—and since then have approached some 12,000 a month.

Moreover, in the single month of July, American B–52 bombers reportedly flew 900 missions over South Vietnam—or 111 missions more than were flown during all of 1971. Each mission is composed of at least three planes, each capable of carrying 30 tons of bombs.

Given the intensive airwar over North and South Vietnam—let alone Laos and Cambodia—is it any wonder, Mr. President, that American officials in Saigon report that civilian war casualties in South Vietnam have at least doubled in recent months? Is it any wonder that South Vietnam is experiencing the largest refugee movement in the history of the war? Is it any wonder that combatant casualties are high on both sides, and that American pilots are being downed at an alarming rate? Is it any wonder that American visitors to North Vietnam tell of civilian war victims and death?

These facts, and more, contrast sharply with the administration's rhetoric that the war is still winding down—and that the only bloodbath which should concern Americans is the highly speculative bloodbath of the future.

This so-called bloodbath argument is as old as the Indochina war itself. It was used in the early 1950's by the French as an excuse to cover their war to regain their former colony. For example, the March 12, 1950, edition of the New York Times carries this headline: "Danger of Blood Bath Seen." It quotes Leon Pignon, then French High Commissioner in Vietnam, as saying that "withdrawal of French forces from Indochina would plunge the country into a bloodbath."

So there is little new about the bloodbath argument to prolong the war. And it is being used again today, just as cynically, to cover up our renewed bombing of the north and our contribution to the escalating violence and human tragedy throughout Indochina.

Over the years, the adminstration's bloodbath argument to prolong the war has been based upon very questionable historical evidence. The record indicates that the argument is based first upon reports of a bloodbath occurring in North Vietnam after the Geneva Accords of 1954. Recent evidence suggests, however, that these reports were both exaggerated and misinterpreted, creating a sort of bloodbath myth perpetuated in a book apparently written under CIA auspices.

Second, the argument is based upon the conclusions of two U.S. Government-sponsored studies conducted in 1970. The first study, which was quoted repeatedly in speeches of Vice President AGNEW in 1970, was undertaken by a Pentagon-sponsored Rand Corp. social scientist, Stephen T. Hosmer. His study was entitled "Vietcong Repression and Its Implications for the Future." The second study was conducted by Douglas Pike, an employee of the U.S. Information Agency and author of the book "Viet-Cong." His study was published in February 1970, under Government auspices, and entitled "The Vietcong Strategy of Terror."

Although both Hosmer and Pike elaborate at length on the fear of a bloodbath, with Hosmer providing a figure of 100,000 people likely to face reprisals, nonetheless, both outline circumstances which would work against such a bloodbath. Pike even admits that only a "decisive Communist victory" would carry the threat of reprisals involving mass slaughter.

No one seriously argued in 1970, nor do they know, that any such decisive victory was, or is, about to occur. It was clear then, as it is now, that negotiations could prevent such an outcome. In fact, the Hosmer study concluded, in part, that the political requirements of the Vietcong and North Vietnamese after a complete U.S. withdrawal from South Vietnam, would tend to dictate a policy of less repression, not more.

But the true tragedy is that the bloodbath toll predicted in 1970—if the war were ended—has been more than tripled by the on-going battle—in just 2 years. Since the administration raised the specter of a bloodbath in the summer of 1970, by official count, this is what the actual human toll has been: Over 3,100 American GI's have died in combat—hundreds more are missing in action—47,574 South Vietnamese soldiers have been killed—1,062 allied troops are dead—and 196,841 North Vietnamese and Vietcong have been reported killed. In short, to avoid a possible bloodbath of perhaps 100,000 people, in only 2 years 248,577 combatants alone have died.

In addition, close to 100,000 South Vietnamese civilians have been killed, as well as tens of thousands of men, women, and children in Laos and Cambodia and North Vietnam. Nearly 1,800,000 South Vietnamese have become refugees, losing their homes and their land, forced to join the ranks of countless thousands of new war victims throughout other areas of Indochina.

As many as 400,000 lives, by official count—have been sacrificed on the altar of the bloodbath argument, which this administration continues to propogate. This is the reality of the bloodbath argument, and it is graphically outlined in a table, which I ask unanimous consent be printed at this point in the RECORD.

There being no objection, the table

was ordered to be printed in the RECORD, as follows:

2 Nixon years: The reality of the bloodbath argument (August 1970 to August 1972)

	Bloodbath predicted
Nixon administration predictions in August 1970 of possible reprisals	[1] 100,000
	Actual Bloodbath (2 years)
Statistics of the actual human toll caused by the war since August 1970:	
Deaths:	
G.I.'s killed	3,100
South Vietnamese Army killed	47,574
Allied killed	1,062
North Vietnamese/Vietcong killed	196,841
South Vietnamese civilian war dead	90,000
Laos civilian war dead	2,700
Cambodian civilian war dead	970
North Vietnamese civilian war dead	(?)
Total deaths [2]	342,147
Refugees:	
South Vietnamese refugees	1,800,000
Laos refugees	500,000
Cambodian refugees	1,600,000
North Vietnamese displaced civilians	(?)
Total refugees	3,900,000

[1] At various times administration spokesmen have used figures for the "predicted bloodbath" that run into the millions. On May 8, 1970, the President told a press conference, ". . . if we withdraw from Vietnam and allow the enemy to come into Vietnam and massacre the civilians there by the millions, as they would . . ." However, Vice-President Agnew used the 100,000 figure, along with other administration spokesmen, drawing upon the Rand Corp. study for its basis.

[2] All statistics are from Department of Defense, U.S. AID, or Subcommittee on Refugees studies.

Mr. KENNEDY. We hear a great deal in 1970 about the potentiality of a bloodbath in which 100,000 might be killed. Well, since then 347,000 have been killed and 1.8 million South Vietnamese are refugees, and over 500,000 Laotians, and 1.6 million Cambodian refugees have been created, with no accounting of the North Vietnamese civilians displaced, although the number would be in the hundreds of thousands, I believe.

Without including them, we have 3.9 million refugees created since August 1970 and 342,000 people have been killed.

Mr. President, we simply can no longer allow the specter of a highly questionable bloodbath of the future to blind us from the real bloodbath that is going on today. This bloodbath started long ago—and we are still part of it—and it will continue daily so long as the war continues, and so long as we delay in ending our participation in it, and in undertaking the necessary negotiations to stop it.

Such a negotiated settlement should include provisions to protect and provide sanctuaries for all those who fear for their lives under whatever political settlement is finally achieved in Vietnam. The safety and right of asylum for South Vietnamese citizens can be secured only through a negotiated settlement.

And there is ample precedent for such provisions—within the historical context of Indochina and elsewhere. We all know, for example, that the right of refuge and population regroupment was agreed to in the Geneva accords of 1954, which ended the first Indochina war. And in similar wars, no less bloody and impassioned than Vietnam—such as Algeria, or even Nigeria—the issue of protecting former opposition groups and the civilian population was guaranteed in the arrangements which followed the war, and, in the main, were satisfactorily carried out.

In Algeria, for example, there were hundreds of thousands of colonials, and with all the threats about the potentiality of a bloodbath there, they were able to make adjustments and to protect the colonials. Even in Nigeria, where there was the most bitter of tribal disputes, which had been going on for hundreds of years, with all the potential for a bloodbath, it was successfully prevented; and during that conflict we know the enormous losses that were suffered—over a million people, mostly children, died of starvation.

Even in Bangladesh, with all the passions that were built up there, especially toward the Biharis who had worked closely with the Pakistanis—about 1,400,000 of them in a country of 75 million—while there have been some tragic incidents, nonetheless, the threatened bloodbath there has been prevented.

In these three situations, in three of the most emotional situations one could imagine, involving tribal conflicts going back hundreds of years, bloodbaths were prevented.

So, Mr. President, let us end the bloodbath argument and see it for the hoax it is: An excuse which has allowed this administration to prolong the agony of Vietnam and to maintain and escalate a policy of war.

We can only face this truth when we also clearly face the fact that we are today substantially contributing to the rising toll of war victims throughout Indochina. This fact is documented in our Government's cables from the field, from official studies, and from 7 years of hearings and study by the Judiciary Subcommittee on Refugees—all underscore the point that American bombs and American supplied ammunition create refugees and civilian casualties just as well as North Vietnamese and Vietcong action.

Yet, American complicity in the tragedy of this bloody war is consistently minimized by the administration. It takes a picture of a napalmed little Vietnamese girl running across our television screens before we fully realize that we still provide the napalm and all the other bombs which continue to drop on the people of Indochina. It takes a news story such as this, published in a recent issue of Time magazine, to remind us that American bombs kill civilians and create refugees. The Time article reports:

The U.S. maintains that civilians are not being bombed in the delta. But last week Tom Fox of Time's Saigon bureau paid a visit to Dinh Tuong Province. He found that in fact the bombing has claimed numerous civilian casualties. When they heard Fox inquiring about the bombing more than a dozen other patients came forward to offer the names of civilians and villages that have been struck. "The bombs are falling everywhere, and the civilians are getting killed," one woman said.

Almost as proof of how the rhythm of violence affects the people of Vietnam today, as in the past—and of how indiscriminate it is, as both sides engage in rocketing and bombing—there appeared recently a series of articles about "massacres" in South Vietnam. The facts behind these reports suggest not only the complexity of the violence, or that both sides engage in it, but simply that the bloodbath today is more real than that speculated for the future.

One "massacre" report concerned North Vietnam atrocities in Bong Son in Binh Dinh Province. The report was published by the New York Times on August 4. This, in turn, was counterbalanced by a dispatch in the Christian Science Monitor of August 5, telling of the killing and looting in Bong Son by South Vietnamese armed forces, while they were retaking the town. Obviously, the people of Bong Son, like so many Vietnamese, were caught in the crunch of violence from both sides.

Mr. President, none of us holds any brief for violence in Indochina—from either side. We ought to condemn all the violence, and all those who support the continuation of violence, under whatever name or for whatever excuse—including the highly speculative bloodbath of the future.

And we do not have to overstate America's role in this tragic war—nor do we have to understate the very ugly contribution of the North Vietnamese to the ongoing tragedy—to call the administration's bloodbath argument what it is: A whitewash and a deliberate effort to disguise the bloodbath of today which our military policies are helping to prolong.

The bloodbath argument is a cynical hoax upon the American people. It is political rhetoric that clouds the hard choices we face in negotiating a peace that will end the war—and finally end America's status as a prisoner of this war.

Mr. President, I ask unanimous consent to have printed in the RECORD a number of recent press articles relating to my comments here today.

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

[From the Washington Post, Aug. 11, 1972]

(By Laurence Stern)

THE CONVOY OF DEATH

Last week in Saigon, newsmen were briefed by American officials on the "Convoy of Death"—an alleged attack by North Vietnamese ambush teams on a retreating column of unarmed refugees from Quangtri during the Communist capture of that city at the end of April. As reported by the official briefers, the incident falls into the category of atrocity. The claim was that 1,000 to 2,000 defenseless civilians were killed in the attacks on April 29–30.

And within the past few days The New York Times has carried two dispatches from its able Saigon correspondent, Joseph B. Treaster, on reports from refugees and estimates of "allied intelligence officials" that

some 250 to 500 civilians were executed by the Communists during their three-month occupation of northern Binhdinh Province in South Vietnam's central coastal region.

These reports are bound to invoke the memory of the Hue massacre and the specter of a future Communist "blood bath" that high administration figures claim could accompany a political settlement of the Vietnamese conflict. The "blood bath" theory has long served as a potent argument against trying to come to terms with Hanoi and the Southern Front on a formula for sharing the power in Saigon.

The new reports also come on the heels of North Vietnam's protests, condemned by the administration as propaganda, against American bombing of the Red River Valley dike system and other non-military targets.

So, the decibels of accusation and counter-accusation are rising both above and below the DMZ as the Paris talks flounder on. If the past is any guide, there are undoubtedly elements of the true, the false and great gobs of the unknown in the charges of both sides. Furthermore, as the international climate grows increasingly shrill so will the possibilities of reasonable inquiry be drowned out by the noise.

The "Convoy of Death" story was challenged in some important respects by Associated Press correspondent Holger Jensen, who reported that half the victims of the April 29–30 attacks were South Vietnamese troops battling their way out of besieged Quangtri—and not just unarmed civilians. He puts his maximum estimate of those killed, soldiers and civilians, at 600, less than a third of the officially-claimed toll.

This is not to say that the killing of civilians fleeing with the South Vietnamese army and ranger units is an attractve piece of heroism, and more than the bombing of civilians in retaliatory American strikes is a pardonable misdemeanor.

But when government spokesmen on either side begin to moralize about the outrages of the enemy's troops it is time to raise the antennas of skepticism rather than to join the parade, as this war has repeatedly taught us.

The reports from Binhdinh Province deserve even closer attention. For there is little doubt that the "bloodbath" demonologists in the administration and elsewhere will soon begin banging the kettle drums.

In his dispatches on the Communist occupation of northern Binhdinh, an entrenched Vietminh and then Vietcong stronghold, Treaster carefully separates what the refugees said from the assertions of "allied intelligence officials."

Those refugees who chose to escape from the Communist zones spoke of heavy political indoctrination, of execution of Saigon government functionaries and of conscript hard labor in the service of the Communist troops. The chief targets, Treaster was told, were the agents of the Saigon government; hamlet and village chiefs, police and militiamen. It is the mirror image of conditions when territory is under Saigon control and the suspected Vietcong cadre and infrastructure becomes the chief target for "neutralization" under the Phoenix program.

Some Washington officials closely concerned with Vietnam matters feel it is too early to judge how representative a picture it is of the Communist occupation of northern Binhdinh. Individual refugees have their own motives for running, whether from ideology, bombs or artillery. Each has a limited perspective on something far bigger than anyone's individual perceptions.

"What this tells me more than anything is that the White House sees little possibility of a negotiated settlement," said one such source. His point was that when the conference table is bare the war of rhetoric waxes strongly.

[From the Christian Science Monitor, Aug. 5, 1972]

HOW THE FIGHT WENT IN BONG SON

(By Daniel Southerland)

BONG SON, VIETNAM.

South Vietnamese troops have succeeded in recapturing this town on the central coast which was held by the Communists for more than three months. But the manner in which the troops moved back in has served further to undermine confidence in the Saigon government.

Bong Son was one of three district towns in northern Binh Dinh Province that were lost to the North Vietnamese in April, early in the Communist offensive. Two of the three towns have now been recaptured.

The government attack into Bong Son two weeks ago met only light resistance. But in retaking the town, the government forces destroyed much of it with artillery and air strikes. Then the troops commenced to loot the town—an action that seems automatically to follow the government's recapture of territory.

Finally, the government brought several thousand refugees from Bong Son back to the town, telling them that it was now under government protection—safe and secure. This turned out to be totally untrue. Government control extended only a short distance outside Bong Son. Soon after the refugees had returned to their battered homes here, the North Vietnamese counterattacked. For three days in a row, they poured artillery fire into the town; the North Vietnamese aim appeared to be to rout the government troops, mainly through heavy shelling, just as they had done in April. But inevitably the shells also struck civilians, killing and wounding scores of refugees. One shell hit a truck loaded with refugees.

So once again the people left Bong Son. It will be harder to bring them back next time.

On the military side of the picture, the performance of the government troops in the face of the counterattack ranged from poor to fairly good.

AN ERROR IN TACTICS

Government officers made one disastrous mistake. They concentrated their artillery next to the bridge on the south side of Bong Son. This gave Communist gunners a lucrative target at an easily pinpointed location.

"It was one of those things you just don't do," said an American adviser afterward.

With South Vietnamese howitzers that had been captured earlier, the North Vietnamese blasted the government artillery positions, knocking out 12 guns along with sizable quantities of ammunition.

A panicky company of government regulars tried to flee southward across a railroad bridge. But officers at the south end of the bridge turned them around.

Several soldiers belonging to the Popular Forces, the lowest paid and most lightly equipped of the government forces, leaped out of their positions and ran when they made contact with a handful of North Vietnamese soldiers in the streets of Bong Son. Four were wounded in the back.

To prevent a general retreat, the government's district chief, Lt. Col. Duong Trieu Thanh, set up two machine guns near the main bridge and warned that if any more soldiers tried to flee the town, they would be mowed down by the machine guns.

When a group of government cadres who had returned to the town got into jeeps and started to drive off, a police lieutenant pointed his submachine gun at them and told them that he would shoot them if they tried to leave. They climbed out of the vehicles and took cover in trenches.

Colonel Thanh attempt to make an example of the four men who had been wounded while fleeing. He pointed out to the other Popular Force soldiers that none of the soldiers who had held fast in their positions when the street fighting occurred had been injured. Only those who fled were wounded.

SKILL EXHIBITED

On the bright side of the picture for the government forces, one battalion of regular troops maneuvered with considerable skill while under fire. Fast action by officers, including the district chief, prevented what could have become a rout.

But the government hold on Bong Son still seems tenuous. During this correspondent's visit to the town, a steady stream of U.S. jets bombed areas only a mile or so to the west of the town. District Chief, Thanh warned that it was not safe to go more than 300 to 400 meters to the west of the main road.

With the Regular Army handling security just outside Bong Son and with most of the town's population gone, Colonel Thanh, as the local governor, has little to do at the moment other than assist refugees moving through the town. He also seems to be doing everything he can to prevent further looting by the government troops.

MOTORBIKES IMPOUNDED

This correspondent watched while the colonel on two occasions, stopped soldiers who were attempting to leave the town on stolen motorbikes. He personally asked for ownership papers and when these were not forthcoming, he impounded the motorbikes.

The diminutive colonel also discovered that drivers who were supposed to be moving refugees to the south in government trucks were collecting fees to transport refugee belongings. The colonel ordered a stop to this. He also reprimanded government rural development cadres, and arrested one of them, when he found that they, too, were trying to collect fees from refugees.

"This is just one of the many wars I've got to fight," the colonel said.

[From the Baltimore Sun, Aug. 8, 1972]

MASSACRE OF CIVILIANS REPORTED

WASHINGTON.—A State Department spokesman said yesterday that U.S. military advisers and other eyewitnesses estimated 1,000 to 2,000 South Vietnamese died last April 29 to 30 in what was described as "a deliberate North Vietnamese Army massacre of helpless civilians."

The action was said to have taken place near the My Chanh River bridge on Route 1 when thousands of refugees fleeing from Quang Tri were caught in the open by Communist artillery fire.

WOMEN AND CHILDREN

A State Department press officer, John King, said the estimates of deaths were probably closer to the higher figure of 2,000 noncombatants, composed mainly of women, children and older people.

He said another column of refugees was caught five days earlier a few miles south of Quang Tri April 24. He gave no estimates of the casualties in the earlier incident.

According to official reports received by the State Department, Maj. Donald L. Price and Maj. Robert F. Sheridan of the U.S. Marine Corps said they had seen the civilians brought under fire by 130-mm. artillery shells fired over their heads with delayed-action fuses.

The two Marine advisers said that "literally shredded the refugee column."

"It was the worst sight I have ever seen," Major Sheridan reported. "It was a massacre."

[From the Washington Star and Daily News, Aug. 9, 1972]

REPORTER DISPUTES UNITED STATES ON MASSACRE

(By Holger Jensen)

SAIGON.—Hundreds of South Vietnamese were killed trying to escape from Quang Tri City before its fall. The slaughter was indiscriminate, by definition a massacre.

But from evidence at the scene and in the aftermath, the action April 29–30 was not "a deliberate North Vietnamese army massacre of helpless civilians," as State Department spokesman John King described it.

The carnage suggested a cold-blooded North Vietnamese resolve to stop all traffic on Highway 1, in callous disregard of civilian targets. But there was no evidence of a deliberate intent to single out the civilian refugees.

More than half the victims were South Vietnamese soldiers, and Washington's estimate of 1,000 to 2,000 dead seems inflated.

200 TO 600 DEAD LIKELY

Interviews with survivors of the massacre and an inspection of the death site indicate 200 to 600 dead.

North Vietnamese forces surrounded Quang Tri and cut Highway 1, its southern escape route to Hue, a week before the fall of the province capital. South Vietnamese marines who tried to reopen the highway fought their way to within 8 miles of Quang Tri. Three convoys of South Vietnamese troops and civilians tried to flee southward on Highway 1 between April 24 and 30. They were ambushed by North Vietnamese forces entrenched on both sides of the highway, 4 to 8 miles southeast of Quang Tri.

This correspondent was with South Vietnamese marines who fought their way to the southernmost ambush site April 30. Wounded survivors who passed the advancing marines said their convoy had been hit by mines, mortars, rocket grenades and small-arms fire from North Vietnamese dug in as close as 20 yards to the roadway.

MIXED WITH SOLDIERS

According to the State Department, the North Vietnamese used antipersonnel artillery shells with fuses set for air bursts, which "shredded the refugee column" with sprays of shrapnel.

But frontline witnesses reported no air bursts before April 30—they would have killed troops of the enemy's own ambush force as well as the fleeing South Vietnamese.

Air bursts were fired by the North Vietnamese April 30 and May 1 and many civilians were hit. By then the civilians were intermingled with South Vietnamese rangers fighting their way out of Quang Tri.

The full savagery of the slaughter did not become apparent until two months later, when Saigon's paratroopers returned to the scene. This correspondent was with the paratroopers.

Hundreds of wrecked vehicles and corpses littered a 4-mile stretch of Highway 1. Four out of five vehicles were military—jeeps, trucks, tanks, armored personnel carriers, artillery pieces and ambulances. Civilian vehicles included buses, motorcycles and bicycles.

Civilian and military vehicles were jumbled so close together it was obvious the North Vietnamese could not fire on one without hitting the other. The concentration of wreckage at certain points also indicated panic on the part of the South Vietnamese.

Convoy drivers appeared to have been so intent on fleeing Quang Tri they continued to drive into withering fire even after lead vehicles were hit and the highway was blocked.

Graves registration workers found 186 civilians dead at ambush sites. Of these 76 were claimed by relatives. The other 110 were buried in a mass ceremony at Phong Dien on Aug. 1.

TROOP TOLL UNCLEAR

It is not known how many military dead were recovered. South Vietnamese officials did not announce the military toll, and informants only knew of a burial service for unidentified soldiers. It appears, however, that most of the victims were soldiers because most of the wrecked vehicles were military.

Several hundred bodies are believed to have been destroyed by decomposition over a two-month period in Quang Tri's searing dry season and through napalm strikes by American planes to prevent the enemy from using South Vietnamese military equipment at the ambush sites.

Bulldozers that cleared the highway at the start of Saigon's counteroffensive piled unrecognizable remains in heaps along with the wreckage of vehicles. Some of these were destroyed when the gasoline tanks exploded.

All this would seem to account for a maximum estimate of 600 dead. This is based on inspection by this reporter, interviews and the accounts of other experienced field reporters.

One American here who says he contributed to the report asserts he clearly informed the State Department that 100–200 civilians had been killed in the ambushes. He could not explain how the figure had risen to 1,000 to 2,000 except to say: "There must have been a screwup somewhere along the line."

[From the Baltimore Sun, Aug. 8, 1972]

IN VIETNAM, REPRISALS EXPLODE AFTER BOMBS

(By Joseph Kraft)

WASHINGTON.—"Don't you think we know that every family in the South has worked with the Saigon government? Don't you think we know that almost all the young men fight in the Saigon armies? Don't you think we see the dangers of a bloodbath?"

That comment was made to me by a North Vietnamese official in Hanoi a couple of weeks ago, and I was reminded of it by the recent news that the Communists had murdered several hundred South Vietnamese officials in Binh Dinh province.

For the fact is that a gruesome round of bloody reprisals is becoming practically inevitable as the Vietnam war winds to its close. It can be averaged only by deliberate arrangement. But while Hanoi says it wants to make such arrangements, the attitude of Saigon and Washington is in doubt.

The reason reprisals are so likely is that the war in Vietnam is not a classic fight between two countries, as President Nixon would like us to believe. In such a war, the end would see each country go back to its own territory.

The fighting in Vietnam, however, is much more like a civil war. Families are divided, and villages, provinces, and cities. As a result, especially furious passions formed in the United States by the Civil War or in India by partition—have been generated.

The object of the fighting, moreover, is not to win territory. It is to gain the support of the local population.

In pursuit of such support, South Vietnam and the United States have launched the famous pacification program, pushing out administrative control from Saigon to the remote countryside. One feature of pacification is the so-called Phoenix program, designed to eliminate—sometimes by assassination—suspected Communists.

Much of the American bombing of South Vietnam fits into the same pattern. The purpose is not to eliminate enemy soldiers or strong points. It is to deny the enemy access to the local population. It is a means of using terror to kep people from living in areas where the enemy would be bound to penetrate.

Against the combination of pacification and bombing, the Communists have used classic tactics. They have moved in the fashion of the resistance forces that fought the Nazis in occupied Europe.

They have struck out by terror—including judicial murder, sometimes—against those co-operating, or collaborating, as they like to call it, with the central government. That explains the murders now uncovered in Binh Dinh province.

The upshot is a cycle of violence. The more pacification spreads and the more bombing is conducted, the more the Communists are prone to use terror tactics against South Vietnamese officials.

Measuring respective guilt in meting out portions of blame within this cycle of action and reaction would defy the wisdom of Solomon. Perhaps all that can be said in these circumstances, is that to talk about morality is, on either side, a shameful hoax.

The Communists have shown a consistent interest in such damage-control measures. Virtually all their peace packages contain some provision for preventing reprisals. When I was in Hanoi, foreign minister Nguyen Duy Trinh indicated the North Vietnamese wanted to arrange a settlement in slow stages, put into effect over several years, so that passions could be eased.

To be sure, all the North Vietnamese suggestions for limiting reprisals imply first a change of regime in South Vietnam. It is impossible for Washington and Saigon to meet these suggestions on the terms posed by the other side.

But it is not enough for Washington and Saigon simply to beat their breasts about Communist atrocities. Since one stroke of violence leads to the next, Washington and Saigon have an obligation to act in a way that limits, rather than promotes, violence. They have an obligation to come forward with proposals that minimize the danger of reprisals.

This obligation is particularly heavy on the United States. For one matter in which we are all agreed is that, except for American intervention, the war would have been over long ago.

[From the New York Times, July 5, 1972]

QUANGTRI VILLAGERS TELL OF FLEEING BOMBING

(By Sydney H. Schanberg)

PHUDUONG, SOUTH VIETNAM, June 29.—They had lived for nearly two months under North Vietnamese occupation, but, they say, it was the constant pounding by American bombs and shells, not Communist rule, that finally drove them to desperation and to escape.

So the South Vietnamese rice farmers slipped out of the village at midnight, and, for 11 terror-ridden hours, walked and ran south along the coast until they found themselves in friendly hands.

They were shelled on the way by one of the American ships that roam along the coast in search of targets. One family was wiped out by the barrage—the husband and a child killed on the spot, and the mother and another child badly wounded and left behind.

"One hundred shells fell, there were explosions all around us," said Ho Ngu, whose family of six was part of the exodus. "We threw ourselves to the ground. Dirt and rocks fell all over us. We did not know if we were wounded until afterward, when we began to feel our backs and legs and found no blood. We were lucky."

JUST BEFORE COUNTEROFFENSIVE

Fifteen other families—a total of 70 people—were in the group that escaped from

Communist-occupied Quangtri Province about a week ago. They fled just before a South Vietnamese force began a counteroffensive to try to recapture Quangtri, the country's northernmost province, which had fallen on May 1.

Mr. Ngu and others in his group recounted their life under the North Vietnamese and their night of escape to a visitor in this village about three miles northeast of Hue, where they are living with hundreds of others in a makeshift refugee camp in the compound of an elementary school.

The members of Mr. Ngu's group, which came from Haique Village in Quangtri, said they did not know that Government troops had abandoned the province until North Vietnamese troops appeared.

"No one gave us any warning," said Ho Vong, an old man with wispy chin whiskers and teeth lacquered black according to local custom, "so there was no way to run."

SOME WERE VIETCONG

He shook his head in bewilderment as he related how the village officials fled without telling anyone of the collapse of the South Vietnamese troops—without even telling their own families, which they left to fend for themselves.

The refugees said that nearly all the Communist soldiers who entered their village were North Vietnamese—they could tell by their accent—but that a few were local Vietcong guerrillas "we had known before."

The Communists moved into the houses and the farmers moved into bunkers they dug in the paddy fields. Almost immediately bombing by B–52's and shelling began. The bombardment was so intense, the refugees related, that the Communists were too busy trying to stay alive to organize the village politically and give propaganda lectures.

"There was so much shelling and bombing that there was no time to do anything to us, good or bad," said another old man, Le San.

The one thing the North Vietnamese did do was ask the villagers to surrender their Government identification cards. Many got away with telling the Communists their cards had been lost or burned during the bombing, but others gave up the cards—and now face the bureaucratic struggle of getting new ones so they can qualify for refugee aid.

YOUNGSTERS PUT IN MILITIA

The lack of organizing by the North Vietnamese was apparently typical only in areas where the allied barrage was overwhelming. Refugees who have escaped from other areas or have been freed by the recent counteroffensive report that the Communists confiscated their rice, marshaled all boys and girls into an armed militia, made villagers work as forced laborers and held continual indoctrination sessions.

In Haique the peasants could stand it no longer after four or five days of the bombing and shelling and tried to flee, but the North Vietnamese told them it was safer to move to the next district north, Trieuphong, because the bombardment was less severe there.

Some of the villagers stayed, but most walked several miles north to Trieuphong, where they lived in a village about six miles east of Quangtri City, the province capital.

There they stayed in the houses of villagers who had been organized by the North Vietnamese and were frequently called out to indoctrination meetings at night. The Haique people, because they were not permanent residents, were not asked to attend the meetings and were generally ignored both by the local people and by the Communists.

"The people did not say anything about what went on at these meetings," Mr. Ngu reported, "and we did not ask any questions for fear they would suspect us as spies for the Government."

TRIPS BACK FOR RICE

The groups lived on rice they had brought with them. When that was gone some men trekked back to their village and cut more.

There was bombing and shelling, but it was not as fierce as that at Haique. The people dug bunkers again and spent much of their time in them, but several villagers were killed anyhow. They often heard tanks rumbling nearby but never saw them.

After nearly two months they decided that their only hope lay in escape to the south. "We knew that as long as we stayed," Mr. Vong related, "our lives could be counted in minutes, because wherever the North Vietnamese are, the Americans will bomb all the time."

They decided they would leave at the first pause in the bombardment on June 22. It came at midnight.

They started down the sand flats, carefully keeping between the shore, where they thought the Communists would have sentries, and the hamlets farther inland, which they felt were likely targets.

Only an hour after they left, they came under shelling. After that the fear of being detected kept them running or walking fast until first light, when a helicopter hovered over them and the pilot waved them south in a friendly way.

FOUR FAMILIES JOINED GROUP

Their number had grown to about 90, for they had met four families escaping from other villages.

Late in the morning they came upon an advance element of about 100 South Vietnamese marines and began to feel safer. The marines gave them some dry rice, passed some money among the children to cheer them up and directed the group to Huongdien, a district town in South Vietnamese territory.

They reached the town after dark, having walked nearly 20 miles. They spent the night there and the next morning were carried by boat to a port near Hue and then by road to the refugee camp.

Living conditions here are poor. The rations are meager and many of the children have skin diseases and bronchial ailments. The most common sound is a deep, racking cough.

Stoicism is also common among these people who have been uprooted so many times by the war.

"Temporarily we just need food and lodging," said Mr. San, his wizened face showing nothing but dignity, "so we can live on until the day when we can go back to our village."

[From Time magazine, Sept. 11, 1972]

DINH TUONG: HELL IN A SMALL PLACE

The South Vietnamese are no strangers to bombing. Since 1966, an estimated 65% of all American bombs have been dropped on the South, making the mighty B–52 an object of dread and fear. The giant bombers, silent and invisible at 30,000 ft., are first announced by the whistling of scores of falling bombs. On contact, the strike shakes the earth for miles around, raising a holocaust of dust, smoke and debris. Well-dug-in guerrillas can frequently survive an attack, but a peasant in his field has little chance.

Though most attention in recent weeks has focused on the air war over North Viet Nam, there has also been a dramatic step-up in the bombing of the South. In the single month of July, American B–52 bombers flew 900 missions over South Viet Nam—111 missions more than were flown in all of 1971. For the first time the big B–52s flying out of Thailand's Utapao Air Base are striking the heavily populated Mekong Delta. With ARVN forces deployed elsewhere to counter the North Vietnamese offensive and unable to cope with the growing enemy threat in the Delta, the U.S. has apparently decided on a policy of massive and calculatedly destructive airpower as a substitute for manpower.

The most heavily hit region of the current campaign has been Dinh Tuong province, where 600,000 Vietnamese, mostly small farmers, are crammed into a tiny area one-third the size of Rhode Island. In the past two months, American planes have flown more than 125 missions over Dinh Tuong—an average of more than two a day. Each mission is composed of anywhere from three to 36 B–52s; each plane is loaded with 30 tons of bombs. A few of the victims at present in Dinh Tuong Hospital:

A 14-year-old peasant boy is rushed into the emergency room. Half of his left arm has been blown away and the other half is wrapped in a blood-dripping bandage. Three hours earlier, he had been walking his family's water buffalo in an open field when B–52 bombs rained down near by.

Bui Van Si, a 58-year-old rice farmer, was cutting rice with ten other men in Sam Giang district several weeks ago. About 11 a.m. several B–52s dropped bombs in the field. Eight of the men were killed outright. Only Si and one other made it to the hospital. "I heard nothing," he says. "Then the loud, shaking sound of the falling bombs. I dived. The others were killed instantly."

Le Van Du, 12, resembles an Egyptian mummy, wrapped from head to foot in bandages. The boy's father says that there had been fighting in the area three days before, but after the soldiers passed, he allowed his son to leave the house. The boy was walking in a field near home when the bombs fell.

The U.S. maintains that civilians are not being bombed in the Delta. But last week Tom Fox of TIME's Saigon bureau paid a visit to Dinh Tuong province. He found that in fact the bombing has claimed numerous civilian casualties. When they heard Fox inquiring about the bombing, more than a dozen other patients came forward to offer the names of civilians and villages that have been struck. "The bombs are falling everywhere, and the civilians are getting killed," one woman said.

Officials do not categorize each kind of "war-related" casualty that enters the hospital, so no accurate count of bombing victims is possible. But a spot check by the head nurse revealed that patients from eleven different civilian bombing incidents—many involving multiple deaths—were recovered in two of the hospital's largest wards. To be sure the bombing victims represent only part of the war casualties. Others are suffering from mortar wounds. Communist-fired B–40 rockets and AK–47 rifles; some do not know what hit them.

But the B–52 bombing adds an entirely new dimension to the fighting in the Mekong Delta. A high-ranking U.S. military official, who refused to be named, said that he knew of "no B–52 civilian casualties"—though he later admitted that there might be a few. His office is right across the street from the hospital. The officer insisted that intelligence for the plotting of B–52 raids was good, then added, incredibly, that the North Vietnamese and Viet Cong had recently broken contact in the province, and that no one really knew where they were. In the American effort to eliminate this elusive, wandering enemy—numbering 5,000 by the officer's estimate—the bombs are dropping night and day on the friendly Vietnamese of Dinh Tuong, who can only do their best to stay out of harm's way.

[From the Christian Science Monitor, Aug. 16, 1972]

U.S. REPORT RAPS SAIGON ON CASUALTIES—CIVILIAN LOSSES BLAMED ON SOUTH VIET ORDERS

(By Daniel Southerland)

SAIGON.—An official report to the U.S. mission here indicates that indiscriminate bombing and naval gunfire may have caused unnecessary civilian casualties in a populous coastal province, reliable sources say.

The report, the sources say, indicates that the South Vietnamese, during their counteroffensive into the Northern part of Binh Dinh Province, have frequently called in U.S. bombs and naval gunfire on targets which were not carefully identified.

The report came from the headquarters of CORDS for Military Region II. CORDS is the U.S. organization which supports the South Vietnamese "pacification" effort. The initials stand for Civil Operations and Rural Development Support.

Other accounts reaching the U.S. mission here speak of South Vietnamese Army commanders wanting vengeance for earlier defects and deliberately ordering air strikes because they considered people in the northern part of Binh Dinh to be pro-Communist.

American military authorities in Saigon say privately that they have found no evidence to substantiate reports on the misuse of American air strikes and naval gunfire in Binh Dinh. But other sources say that many of the areas where indiscriminate strikes have occurred have not yet been secured by the South Vietnamese.

Thus it would be difficult at this point to come up with evidence of civilian casualties. The point which seemed clear in the CORDS report was that air strikes and naval gunfire were being used indiscriminately by the South Vietnamese—so indiscriminately that unnecessary civilian casualties may have occurred.

At any rate, the CORDS report was taken seriously enough for the U.S. military command in Saigon to send an investigatory team to Binh Dinh last week. An American general headed the team.

Aside from Gia Dinh Province, which surrounds Saigon, Binh Dinh—with nearly a million people—is the most heavily populated of South Vietnam's 44 provinces.

When the North Vietnamese took over the northern three districts of the Province last April, some of the people fled the fighting. But the majority—an estimated 150,000 people—chose to stay behind or were prevented from fleeing. They remained under Communist occupation for more than three months.

SAIGON RECAPTURE INCOMPLETE

In late July, the South Vietnamese launched a counter-offensive into northern Binh Dinh. They have recaptured two of the three district capitals which were lost to the Communist. But many hamlets in the countryside of northern Binh Dinh are still under Communist control.

Impressions gathered by this correspondent during a recent trip to Binh Dinh tended to support the reports indicating that the South Vietnamese have been using air strikes and artillery in an indiscriminate manner there.

When this reporter asked a U.S. adviser to the South Vietnamese Army why the North Vietnamese retreated from some areas of nothern Binh Dinh, he replied:

"The NVA (North Vietnamese Army) pulled back under the threat of heavy bombing."

"EVERY VILLAGE AND HOUSE"

"They knew that we would bomb every village and every house," the adviser said.

Another adviser remarked that the American Army units with which he had worked used air strikes "when we had specific targets with which we were in contact. I've never seen air support used like this before," the adviser said, speaking of the South Vietnames counteroffensive into northern Binh Dinh.

The South Vietnamese, he said, "call it in all the time."

[From the Miami Herald, Aug. 23, 1972]

BOTH SIDES DESTROYING CITY—PINCERS OF WAR LEVEL QUANG TRI

(By Peter Arnett)

QUANG TRI, VIETNAM.—As efficiently as a heel grinds out a smouldering cigaret, so have the South Vietnamese, their American Allies and the North Vietnamese crushed the life from Quang Tri City.

Both sides are systematically destroying the once-pleasant riverside community of palm-shaded streets and historical sites where 80,000 Vietnamese lived. It is an orgy of destruction that has no parallel in the Vietnam war.

The vistas of tumbled, broken homes, of steel rods stricking grotesquely from twisted concrete walls, of hollow-eyed, crouching men are from earlier wars. Quang Tri today is Seoul in 1950, Cassino in 1944, the towns and villages of Europe wiped out in World War I.

But while Quang Tri is the first Vietnamese city to be methodically leveled, it will probably not be the last if the war continues.

The subtleties that once made the Vietnam war different—the "limited" approach by the United States to the Viet Cong "insurgency," the "counter-insurgency" programs aimed at winning back "the hearts and minds" of the people—have been swept aside.

When the South Vietnamese counteroffensive moved into gear late in June, the North Vietnamese rolled out their 130mm guns. The South Vietnamese wheeled in their heavy weaponry.

The United States held off its war planes for a few weeks but now uses them when the South Vietnamese ask for them. One leveled the province chief's headquarters and his garden full of ancient Chan statutes with a 3,000-pound smart bomb 10 days ago. Other smashed a wide gap in the northwest corners of the old Citadel with seven smart bombs last week.

Today Quang Tri settles into the earth, flattened like a matchbox under the wheels of a locomotive.

The awesome power of the belligerents is apparent on the roads north to Quang Tri.

A curtain of white sand, raised by strong winds from across the salt flats, shrouds the carcasses of trucks and ambulances alongside Highway 1. The North Vietnamese systematically destroyed these scores of convoy vehicles making a frantic dash when the city fell May 1. The shifting sands uncover, then cover again, the bones of those who died.

The infrequent drivers, all military, rush by nervously, an eye on the naked hills that loom high to the west, home for the big enemy guns that helped ravage the convoy.

Farther along, the retaliatory power of the United States is visible. Craters from repeated B52 strikes march through the town of Hai Lang, crisscrossing villages and roads. The holes 30 feet across are half filled with brackish water.

Not a church or a pagoda stands in a region noted for its piety; farmers working the salty Quang Tri soil had to believe in something to live.

A few who fled the bombing are allowed back into the war zone. They fill empty sand bags with broken crockery and pieces of family mementos, then hitch a ride back south to the refugee camps.

American advisers call the last stretch to Quang Tri City "the great Gobi Desert." Vehicles mire in the deep sand. The wreckage of tanks of both sides sit alongside waterholes or beside sandbanks.

A pall of black smoke hangs over the city, like that over an American industrial town in the days before anyone bothered about pollution. But here the only industry is war.

The South Vietnamese marines inside Quang Tri have taken well over 1,000 casualties in 25 days at a conservative estimate, their American advisers say. The Vietnamese paratroopers before them were relieved because of crippling casualties.

No one wants to go forward or back, only to crouch under a wall and listen for the boom of a distant gun firing, and the crump as the shell screams into the city. At least 1,000 shells boom into Quang Tri every day, they say. And that is not counting the shelling and air strikes launched against the North Vietnamese.

At any one time that enemy might number 600 men at most, the marines say. Some sit inside the walled Citadel in the northern part of the city, reportedly with enough food and other supplies for two years, left behind in May by the fleeing South Vietnamese infantry.

The North Vietnamese also hold five strongpoints in the south of the city, formerly moated forts for headquarters elements of the South Vietnamese Army. The defense include stout demonstration bunkers built by the U.S. Marines three years ago.

If progress can be measured by 10 yards advance today, then back five tomorrow, or a whole block gained by a battalion in three weeks after taking 200 casualties, then the South Vietnamese are making progress in Quang Tri.

If the enemy measures progress by delaying the government advance for a few days at the cost of no one knows how many dead then Hanoi no doubt is satisfied.

Young officers graduating from the Thu Duc Officers' School near Saigon fear going north to Quang Tri. The war is so fierce there, they say, that man could not survive to live out his true destiny.

But the officers still go north from Saigon to Quang Tri, just as the other officers come south from Hanoi. Their destiny seems to be to die in a dead city.

[From the New York Times, Sept. 1, 1972]

U.S. AIDES IN VIETNAM SEE AN UNENDING WAR

(By Craig R. Whitney)

SAIGON, SOUTH VIETNAM, Aug. 31.—Two weeks after Henry A. Kissinger's surprise visit to Saigon, high-ranking American officials here are talking privately not of a breakthrough in the peace talks, but rather, of the possibility of unending war.

The main issue now in Paris, it is clear from recent interviews there, is the Communist demand that the Government of President Nguyen Van Thieu be eliminated as part of a peace settlement. The American and South Vietnamese insist that this would be next to surrender.

A senior American official here, who consented to an interview not attributable to him by name, said that the allies have conceded as much as they can on the political issue. Last Jan. 25, President Thieu offered to resign five months after an agreement and one month before new presidential elections, but the Communists have rejected the proposal because the present Saigon administration would remain in power in the interim.

HOPE FOR CONCESSION

Since there is little evidence that the Communist side is softening its position, many Saigon officials feel the only chance of a breakthrough on the political issue lies in still another concession by the Americans and South Vietnamese.

There was widespread speculation when Mr. Kissinger, President Nixon's adviser for national security, arrived here on Aug. 16 that he might be here to talk President Thieu into such a concession. Mr. Kissinger talked

with Mr. Thieu for two hours on Aug. 17 and for four hours on the 18th, and the South Vietnamese leader has never seemed more confident of continued American backing of his policy of "four nos"—one of which is no imposition of a coalition government with the Communists in the south.

According to one American who should know because he sees Mr. Thieu frequently, Mr. Thieu is confident that Senator George McGovern poses no real threat to President Nixon's re-election and Mr. Thieu is not even making contingency plans in case the Democratic nominee wins and implements an immediate bombing halt and troop withdrawal.

NIXON AND THE ELECTION

Some officials at the South Vietnamese Embassy in Washington have professed some uneasiness about what Mr. Nixon might do as Election Day approaches to defuse the war as a political issue. But conversations with other Vietnamese in Paris and here in Saigon left this correspondent with the impression that the Nixon Administration was trying its best to allay these vague fears, as it did before the Nixon trips to Moscow and Peking.

In interviews in Washington, some American officials speculated that it might not be necessary to continue the current sustained bombing of North Vietnam, or the mining of its ports, much beyond October. They expect the North Vietnamese offensive to have run out of most of its steam by then.

But President Nixon said last Tuesday that he would not reduce or stop the bombing during the election campaign unless the prospects for a negotiated settlement improved. Any easing of military pressure on the North would cause a crisis of confidence in the Saigon Government unless it were fully explained in advance, and in the last week there has been a series of intense bombing raids around Hanoi and Haiphong.

Indeed, in a speech on Aug. 3, Mr. Thieu said that he thought it necessary to "keep up relentless bombing" of North Vietnam for another six or seven months, but—directing his remarks at Washington—"if our allies are determined, peace will be restored in Indochina. If they lack determination, the Communists will revert to their half-guerrilla, half-conventional warfare, and the war will go on in Indochina forever."

Air Force officers here feel that such a statement implies stronger faith in the effectiveness of bombing than even they have.

One of Mr. Thieu's close Vietnamese advisers in the Presidential Palace said, last week, "as far as I know, Mr. Thieu and Mr. Kissinger reviewed all aspects of the Vietnam problem—but mainly they worked out a coordination of actions by both governments in this sensitive electoral period in the United States."

The adviser also said that the allies still expect the North Vietnamese to launch a series of powerful military offensives before the end of this year, and "in this context, any talk about such things as a cease-fire or a compromise is futile, if not deceiving."

AIDE VISITED DELTA

One of Mr. Kissinger's aides, David A. Engel, took a trip down to the northern Mekong delta, where North Vietnamese forces had been infiltrating Dinhtuong Province, to get an assessment of the situation there, according to Embassy officials. But Mr. Kissinger stayed in Saigon the whole time he was here, and most of his consultations were with Ambassador Ellsworth Bunker and General Frederick C. Weyand, the officials say.

What they told him is unknown. But what high Administration officials in Saigon and Washington have been telling newsmen, in background sessions, is that, as one American intelligence specialist said the other day, "I can't imagine why the other side would feel ready to give up at this point. Our faithful sources say the word is to continue, and even under the bombing they can get enough supplies to keep going for a long, long time, even at the current relatively high level of battlefield activity."

The intelligence specialist pointed out, for example, that it would take only 20 daily truckfuls of heavy 130-mm. artillery shells to enable the North Vietnamese to keep up their heavy shelling of Quangtri city, just below the demilitarized zone. "They drive by night and hide by day, and getting that many trucks past the bombing is no problem," the officer said. "You can't completely interdict the flow."

DISAGREE WITH ROGERS

All military sources here are unanimous in predicting that even if the level of conflict subsides after the fall, the conflict can be carried on by the kind of widespread guerrilla activity that has already begun in recent weeks, with commando attacks on large military installations and with reported attempts to cut some of the principal roads to Saigon.

The sources disagree totally with Secretary of State William P. Roger's recent prediction of a negotiated settlement of the war before or soon after the November elections. Last week the State Department, too, diluted Mr. Roger's prediction, saying that it should, rather than a prediction, be called an expression of hope.

[From the Washington Post, Sept. 12, 1972]

CORNELL AUTHOR DISPUTES NORTH VIETNAMESE BLOODBATH

(By George C. Wilson)

A charge by President Nixon and others that the North Vietnamese murdered up to 500,000 of their own people when they took over the country in the 1950s is a "myth," according to a study circulated yesterday by Cornell University.

The charges are dispatched in a 59-page essay by D. Gareth Porter, a 30-year-old research associate at Cornell's international relations of East Asia project. Cornell's project office, in sending out the report, said it deserves "immediate, widespread public attention" because of Mr. Nixon's frequent references to the alleged bloodbath in North Vietnam.

"This bloodbath myth is the result of a deliberate propaganda campaign by the South Vietnamese and U.S. governments to discredit" North Vietnam, Porter says in summarizing the paper he researched in South Vietnam and at Cornell. Porter has been a critic of the Vietnam war.

The prime source for President Nixon, author Bernard Fall and others in describing the alleged massacre during the North Vietnamese land reform from 1953 to 1956 is a book guilty of "gross misquotation" and "fraudulent documentation," Porter alleges.

The book Porter cites is entitled, "From Colonialism to Communism," By Hoang Van Chi. Chi's book—published in 1964—was financed and promoted by such U.S. agencies as the Central Intelligence Agency, according to Porter.

Chi, now a course chairman in Southeast Asia orientation at the State Department's Washington Training Center, was at Ft. Bragg, N.C., lecturing and could not be reached for comment yesterday.

The National Security Council cited Chi's book as one of President Nixon's sources for declaring on April 16, 1971, "I think of a half a million, by conservative estimates, in North Vietnam who were murdered or otherwise exterminated by the North Vietnamese after they took over from the South . . ."

The President added at that same news conference that "if the United States were to fail in Vietnam, if the Communists were to take over, the bloodbath that would follow would be a blot on this nation's history from which we would find it very difficult to return . . ."

Asked by Porter to document the President's "half a million" figure, the National Security Council quoted Chi as writing the following: "Theguilt complex which haunted the peasants' minds after the massacre of about 5 per cent of the total population . . ." The National Security Council added on its own that "5 per cent of the total population of North Vietnam at that time would be about 700,000."

"Mr. Chi offers no justification for this allegation" that 5 per cent of the North Vietnamese population was murdered, asserts Porter, "but he suggests at one point that most of the deaths were those of children who starved 'owing to the isolation policy.'"

Charges Porter: "This is yet another of the many wholly unsubstantiated charges put forth by Mr. Chi, for there was no such policy of isolating families, even of those landlords sentenced for serious crimes during the land reform . . .

"Yet it is mainly on the basis of Mr. Chi's totally unreliable account, the intention of which was plainly not historical accuracy but propaganda against" North Vietnam, says Porter, "that the President of the United States himself has told the American people that 'a half a million'" people were exterminated.

In contrast to CIA's description of Chi as a "former Vietminh cadre" who could thus be expected to have firsthand knowledge of the land reform program, Porter asserts that Chi was never a party member before leaving the North for South Vietnam in 1955.

"Mr. Chi was himself a relatively wealthy landowner," Porter claims on the basis of an interview with Chi. Thus, he argues, Chi could not be expected to give an unbiased account of the land reform program.

Western authors like Fall, says Porter, suffered a "critical" shortcoming because they could not read Vietnamese and thus could not research the original documents the North Vietnamese used to communicate with their own cadre. Fall and others, therefore, had to rely on Saigon and U.S. government summaries of the North Vietnamese material or on authors like Chi. (Porter reads Vietnamese and said in an interview that this enabled him to study documents that went to North Vietnamese cadre from party leaders.)

In an attempt to show the danger relying on summaries and other secondary sources, Porter charges Chi distorted a North Vietnamese party (Lao-dong Party) slogan by saying it included the phrase, "liquidate the landlords." There was no such phrase, Porter asserts. Instead, he alleges, the slogan said: "Abolish the feudal regime of land ownership in a manner that is discriminating, methodical and under sound leadership."

He charges Chi also mistreated Gen. Vo Nguyen Giap's speech of Oct. 29, 1956, on land reform. Giap, according to Chi's translation, said the party "executed too many honest people" and came to regard torture as normal practice.

Comparing the Vietnamese original text of Giap's speech with the Chi and Porter translations (which Porter said other scholars and Vietnamese corroborated), Porter alleges that "Mr. Chi's translation is one of his most flagrant abuses of documentary eivdence."

Donald Brewster is the National Security Council staffer (on loan there from AID who discussed the source of Mr. Nixon's bloodbath figures with Porter. Brewster told The Washington Post yesterday that real and literal meanings of Communist statements are sometimes two different things.

Brewster added that the sources he cited for Porter "are not the totality" of the material the White House relied upon. Also, said Brewster, it is the trend that is most important, not specific figures. In that sense, he said, the trend of Communist actions, such as North Vietnamese assassinations in

Hue, shows fears of a bloodbath in South Vietnam are indeed well founded, just as President Nixon has stated.

Porter himself said in an interview that he has filed for conscientious objector status and would decline to serve in the military in the Vietnam war. He is on a year-long fellowship, $5,000 for the academic year, in pursuit of his doctorate at Cornell's East Asia research center.

[From the Washington Post, Sept. 13, 1972]

FIGURE ON NORTH VIETNAM'S KILLING "JUST A GUESS," AUTHOR SAYS

(By George C. Wilson)

"It was just a guess, an estimate that nobody could figure," said the author of a book the White House has cited in documenting President Nixon's charge that the North Vietnamese massacred "half a million" people while imposing land reform in the 1950s.

Hoang Van Chi, author of "From Colonialism to Communism," said in an interview yesterday that he arrived at a figure in that range by projecting countrywide the experience in his own North Vietnamese village of about 200 persons. He said about 10 people died there from Communist persecution, one from execution and the rest by such "other means" as imposed starvation.

He said he used that 5 per cent rate in his village, plus what he learned from others in North Vietnam, as the basis for declaring in his 1964 book that there was a "massacre of about five per cent of the total population" in North Vietnam.

President Nixon's National Security Council, in listing Chi's book as one source for Mr. Nixon's massacre figures, said that 5 per cent of the North Vietnamese population when Chi made his estimate "would be about 700,000" people.

Mr. Nixon has cited the massacre figure of "half a million" in making the case for continued United States support of the South Vietnamese government. On April 16, 1971, he said: "I think of a half a million by conservative estimates in North Vietnam who were murdered or otherwise exterminated by the North Vietnamese after they took over from the South . . ."

More recently, on July 27, President Nixon said from 1954 to 1956 in the North Vietnamese Communists' "so-called land reform program 50,000 were murdered, assassinated." Mr. Nixon added that the Catholic Bishop of Danang told him in 1956 that "there were at least a half million who died in slave labor camps in North Vietnam."

D. Gareth Porter, a research associate at Cornell University's International Relations of East Asia Project, charged in a paper distributed by the university on Monday that "careful investigation" showed such bloodbath charges were "a myth." Chi's book was "the central piece" in "a deliberate propaganda campaign by the South Vietnamese and U.S. governments to discredit" the North Vietnamese government, Porter claimed.

Donald Brewster of the National Security Council staff said Chi's book was only one of several sources used in making the "half a million" estimate. Porter claimed some of the other sources cited by the council appeared to be drawn from Chi's work.

Chi himself, a course chairman at the State Department's Washington Training Center and lecturer in Asian affairs, made these points yesterday in responding to Porter's attacks on his credentials and scholarship:

CIA sponsorship. Chi said he thanked the Congress for Cultural Freedom in the foreward to his book for its financial assistance but had no way of knowing back then that Central Intelligence Agency money went to the organization. "Porter tried to link me to the CIA," complained Chi.

"Wealthy" landowner charge. Porter charged that Chi could not be impartial in discussing land reform in North Vietnam because he was a "relatively wealthy landowner" before leaving there for the South in 1955. Chi said he had sold off the acreage he had inherited and was down to 2.7 acres in the North in 1953.

A man with that little land, said Chi, is not a wealthy landowner. Besides, he said, Communist Party members all the way up to and including Ho Chi-minh owned more land than he did in North Vietnam at the time of land reform.

"I'm for redistribution of land," said Chi, "but against the method that was applied" in North Vietnam. He said he was considered a revolutionary in the Vietminh resistance against the French but was not a formal member of any Communist Party.

Translations. Porter accused Chi of distorting North Vietnamese policy statements and slogans by inaccurately translating them into English for his book. Chi conceded he had not stuck to the literal translation in all cases because he was trying to impart the true meaning—the one that mattered. "I should have added a footnote" explaining that, Chi said.

His experience on the ground in North Vietnam influenced his translations, and, he argued, made them more meaningful to the reader trying to perceive what was really going on.

"I deplore the case of many scholars who try to understand communism by reading documents," Chi said. "You cannot read books on communism and know it. You have to live under a communist regime to know it."

Declaring that his book was printed in both Vietnamese and English, Chi said Vietnamese who have read both versions would have complained if his translations were inaccurate. He said he had received no such complaints.

Porter in his paper charged Chi had mistranslated a basic Communist slogan in discussing the party's takeover of North Vietnam. "I report what I hear," said Chi, "not what they put in documents."

"I stick to my view," said Chi, "that land reform (in North Vietnam) was a pretext for a mass purge. I'm for land reform for South Vietnam. I left North Vietnam for the way land reform is practiced."

"Some of my family died from starvation," he said in discussing the persecution in North Vietnam during land reform. "I'm not very firm about the figure" of how many were purged "because it was only an estimate." Chi said since his book came out, a defector has estimated 300,000 North Vietnamese were purged during the land reform campaign.

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

Mr. KENNEDY. I yield.

Mr. FULBRIGHT. I agree with the Senator completely that the blood bath issue is a phony one. What he has said is entirely correct, and justified on the basis of history.

I note that this morning's newspaper says again that the North Vietnamese are willing to settle on the basis of a neutral South Vietnam. What does the Senator think about that, relative to the President's position on maintaining the war, continuing the war, because he has asserted that the North Vietnamese insist upon the communization of South Vietnam as their goal?

I have never believed that they have insisted on that. There has been much evidence that they do not, and that they would be satisfied with a neutral, non-Communist government.

As the Senator knows, this morning's paper has an account of that. How does he feel about it? Does that indicate to him that there is any desire for a blood bath, if they make such an offer for a neutral South Vietnam?

Mr. KENNEDY. Certainly a neutralization of South Vietnam would be in our interest, and the adjustments and accommodations to bring that about, I think, would certainly be consistent with the idea of preventing the much talked about blood bath.

Outrageous incidents have taken place on both sides. No one is condoning the accounts of atrocities in North Vietnam, and no one should be justifying the Phoenix program which has been a part of our strategy in South Vietnam. We are so quick to condemn violence on the other side, and yet we have had, as a part of our whole program, the assassination of local villagers suspected to be Vietcong.

The Senator is quite correct in suggesting by his question that neutralization would be absolutely consistent with our interest, and I believe with the interests of the people in the South.

I am interested in the reaction of the chairman of the Committee on Foreign Relations, and I would be interested to know how he is able to explain to his constituents—because I have problems in explaining to mine—how we can have a President of the United States sitting in Peking, listening to "America the Beautiful," raising a glass of champagne with the Chinese leaders, talking about new rapprochements with the Chinese, and doing the same thing with the Russians; I thought they were supposed to be the threat to the potential security of this country. But we are trying to reach some kind of accord with them.

How does the Senator from Arkansas explain to his constituents that the North Vietnamese, by contrast, pose some kind of threat to the people of Arkansas? Maybe the Senator could help me, because then I might be able to explain it to the people of Massachusetts.

Mr. FULBRIGHT. All I can say is that this administration, under the leadership of President Nixon, has done the greatest job of hoodwinking the American people that I ever saw, because his policy has no relationship to the truth. It is utterly inconsistent with what he does by going to Peking and Moscow.

I approve of his going to Peking and Moscow, but that is absolutely inconsistent with what we are doing by continuing the war in Vietnam.

All this business about a blood bath is utterly inconsistent with the facts. What I cannot understand is the American people being taken in by this kind of public relations job. There is no reason whatever for continuing the war. The blood bath argument is completely phony.

This offer that they will accept a neutral government destroys the last argument of the administration, that the North Vietnamese demand that we turn over to them the Government of South Vietnam directly as a part of the negotiation. This is what has been said in the last year. I do not believe it is true. I do not think they demand that we turn over the Government. I do think they de-

mand that Thieu not continue as the President, and that there be at least a neutral government, which will then, in due time, be able to determine its own future.

About 5 years ago, the Committee on Foreign Relations had a study made of this concept of neutrality and its possible application to Southeast Asia. That study, by some distinguished scholars, indicated that this concept could play a very constructive role in the settlement of the Vietnam issue. That was 5 years ago—or more than 5 years ago; it was about 1966 or 1967. But now, after all this time, it is interesting that it is being revived, and I think what the Senator is saying about the bloodbath is as obvious as the nose on your face. There is no prospect of that in light of history, providing we do not push it to the very end, we continue this war right down to the line, continue our own bloodbath, then you always inspire retaliation and you continue on both sides. That is the way to get a bloodbath, the way we are doing it, without the possibility of negotiating a settlement.

Mr. KENNEDY. The Senator is mindful, as chairman of the Committee on Foreign Relations, of how emotions of war and hate were built up in other situations, such as Algeria, Pakistan, Nigeria, and Biafra, especially in Pakistan-Bangladesh situation where the emotions, the intensity of feelings, were just as strong as in Vietnam. Yet, they were able to work out adjustments, at least to date, and no bloodbath has occurred. We cannot give any assurance that the Biharis will not be in trouble in Bangladesh in the future, but at least to date they have been able to bring an end to the violence in those situations.

Does the Senator see any reason why similar kinds of adjustments and negotiations could not be worked out to provide refuge for those people in South Vietnam and countries of Southeast Asia emigrating to the United States, if there were those who wanted to do so?

Mr. FULBRIGHT. The Senator is correct. I agree with him. The refuge for those leaders who would wish to emigrate, of course, can be provided. I do not think that is a problem.

Mr. KENNEDY. Would that be less expensive than continuing the war?

Mr. FULBRIGHT. That is correct. And it would save many lives. Most of the people do not want to emigrate—that is the ordinary people—and they will not be bothered, in my opinion, if a settlement could be worked out along the lines of the French settlement. As the Senator has pointed out, there was no bloodbath. That whole myth has been exploded.

Several recent articles and a book published recently, going deeply into that subject, indicate conclusively, I think, that there was no bloodbath, nor was there any failure to return the prisoners. The President falsely stated that issue, as the Senator knows, and it has been exploded. All the French prisoners of war were returned. A few native soldiers were not accounted for.

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair recognizes the distinguished minority leader, the Senator from Pennsylvania (Mr. SCOTT), for not to exceed 10 minutes.

TWO POINTS OF VIEW ON VIETNAM

Mr. SCOTT. Mr. President, the general public is well aware of many situations which seem to escape Senators. This is really remarkable, because we are supposed to be leaders of public opinion rather than followers, coughing in the dust of those who have moved ahead of us by the millions.

We go on endlessly, day after day, impugning the judgment of the American people, three-fourths of whom have said—and said again and again—that they believe that the way in which the President is bringing an end to this war is the proper way. Nevertheless, Senators who should know better repeat over and over the endless myths about how they suffer over this unpopular war, as if no one else suffers. Everyone suffers. It is a miserable and an unpopular war.

There are two points of view, basically. There are those who say that no progress is being made or the war will go on forever, and who nevertheless say, because they are so friendly with the opposition, that by the mere lift of a finger, if they were in power, they would get the prisoners of war back virtually overnight. How they would accomplish these miracles at the same time they expect the war to continue for years or forever is never explained.

I said there are two points of view, and I think this is what they are:

First, there is the point of view of the people like myself who say that we inherited in this administration a most unpopular situation. We inherited the situation in which two previous Presidents had taken us into what proved to be a very bloody and lengthy war. They had entered it with the best intentions, with promises to go anywhere and to assume any burden in the joint defense of freedom, and these two Presidents rallied the American people to support a venture in Indochina. The people went along, and Congress went along.

Then this administration came in, not with a secret plan—no such statement was ever made—not with a mysterious formula, but with a statement by the President that he would bring about an end to the war. This he has valiantly sought to do, and, so far as ground combat action is concerned, he has in fact done. That is proved by the decrease in casualties, by the absence of ground troops, and by the withdrawal of all combat soldiers, Armed Forces. It has been proven by the ending of the draft.

Reference has been made to students who were in junior high schools when the war began and who have to serve now overseas. They do not have to serve at all, not unless they volunteer. Nobody has to be in Vietnam, save by their own deliberate choice by becoming a part of the armed services. But what has happened is that, by this point of view, this President has undertaken to bring an end to the war.

They say no progress is being made but that ignores the fact that the North Vietnamese only this week again have modified their negotiating position.

For a long time North Vietnam insisted that the Government of South Vietnam be constituted out of the three groups and then they insisted that they, in effect dominate the selection of all three groups; so all the three factions making up a coalition government would, in fact, be chosen through the exertion of the will of the North.

Now they say they have made some progress. They say one-third of those can be chosen through the will of the South. That is the best way to shorthand it—the will of the South. The South Vietnamese can pick one-third of the people to govern their own country and the North Vietnamese will pick two-thirds. That is where we are now.

But there are people who argue that that is fair. There are people who argue the enemy's side, who say that is just or that is right. Well, that is nonsense. That is one side of the argument.

Inheriting a war, ending it, removing our forces, ending the draft as compassionately as we possibly can, not contending with anyone that we are not grieving for those who have been lost or those who have been wounded; grieving, however, for the South Vietnamese, at least as much as for the North Vietnamese, remembering to grieve for those who were our allies, and respecting the right of those people to seek freedom: this is the point of view that I share.

What is the other point of view? The other point of view is that through some mysterious way we got into the war, that some mysterious forces are keeping us there, and that all we have to do to get out is to adopt some kind of resolution or amendment and walk away and leave.

What that masks is something else again. What that masks is not merely a surrender. What it masks is an unreality. It masks the unreality that by walking out we do not do a thing about the prisoners of war. We settle for three and leave the rest there. It masks, then, this unreality of having no solutions, but of asking the American people to reverse their 3-to-1 judgment that the administration is doing the right thing and opt instead for the optimistic and unrealistic judgment that if we are just nice to the North Vietnamese and we say to them that we will stop all military action in the air and on the sea, that they, in turn, will then agree to release the prisoners. But these people who make that argument do not go far enough. They do not say what they will do about South Vietnam. They mask that by saying it is a corrupt military government which, in effect, means that any government outside of the United States and Western Europe and the Commonwealth has to be a corrupt government because it is not a democratic government. They continue: because it is a corrupt government, let them die, let them swelter in

their own blood, let them be lost to the Communists, let them, after all, be free—for what? Free to die, free to die alone, free to die without defense, free to die without those who promised to go in here and give them support.

Mr. President, I think it is time to penetrate the lack of logic of that point of view. The American people have long since penetrated it. They know that this is not President Nixon's war. They know that this is a war the American people got into under two other Presidents with the American people supporting them. They know that Members of the Senate of both parties supported it. There were some who did not. The distinguished majority leader has a record of being consistent throughout, for which we all praise and respect him. There were many others who were not. Only two Senators voted against the Gulf of Tonkin resolution.

Thus, I think that we should call on some councils of realism. We should say to ourselves, "How do we get out? By condemning Thieu's government?" As if we are so good and they are so bad and therefore they should be allowed to die alone and unprotected. That is a non sequitur, the kind of curious non sequitur which flourishes and fertilizes itself within the Senate. But it is not the truth. It is not the fact. It is not the way things are.

So, Mr. President, it seems to me that we should rally around the administration that is ending the war. We should consider what the late Senator Vandenberg recommended.

Let politics end at the water's edge.

We should go back to our bipartisan foreign policy where Congress without regard to its politics has supported Presidents over the year without regard to their politics when they were engaged in wars overseas.

We do not get out of the burden of guilt for this war by saying it is unpopular. We do not get out of the burden of guilt over the war by saying that some other government is bad. We are only going to get out of the war the way we are getting out of it, and I submit that is the only course open to us.

The PRESIDING OFFICER (Mr. HOLLINGS). The time of the Senator from Pennsylvania has expired.

FOREIGN ASSISTANCE ACT OF 1972

The PRESIDING OFFICER (Mr. HOLLINGS). Under the previous order, the Chair now lays before the Senate H.R. 16029, which the clerk will state.

The legislative clerk read as follows:

H.R. 16029, to amend the Foreign Assistance Act of 1961, and for other purposes.

The PRESIDING OFFICER. Under the previous unanimous-consent agreement, the Chair now lays before the Senate amendment No. 1573, as modified, by the Senator from Pennsylvania (Mr. SCOTT), which the clerk will state.

The legislative clerk proceeded to read the amendment.

Mr. SCOTT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. FULBRIGHT. Mr. President, reserving the right to object, I did not hear the request. Could it be repeated, please?

Mr. SCOTT. I asked unanimous consent that further reading of the amendments be dispensed with and that they be considered en bloc.

Mr. FULBRIGHT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Arkansas will state it.

Mr. FULBRIGHT. What amendments are being referred to, Mr. President? I did not understand what was going on.

The PRESIDING OFFICER. The clerk was reading amendment No. 1573 as modified, which is a series of amendments——

Mr. FULBRIGHT. For the moment, I object, simply in order to inform myself as to what is being proposed. I did not anticipate a request of this nature at this stage.

The PRESIDING OFFICER. The clerk will continue to read the amendment.

The legislative clerk read the amendment in full, as follows:

On page 14, in line 7, immediately after the figure $618,000,000" insert a comma and the words "of which not less than $50,000,000 shall be available solely for Israel".

On page 14, in line 8, strike out the figure $550,000,000" and insert in lieu thereof "$685,000,000, of which not less than $85,000,000 shall be available solely for Israel".

On page 18, in lines 20 and 21, strike out "fiscal year 1972" and "fiscal year 1973" and insert in lieu thereof "$400,000,000 for the fiscal year 1972" and "$435,000,000 for the fiscal year 1973", respectively.

On page 18, in lines 23 and 24, strike out "fiscal year 1972" and "fiscal year 1973" and insert in lieu thereof "$550,000,000 for the fiscal year 1972" and "$600,000,000 for the fiscal year 1973", respectively.

At the end of the bill, insert the following new section:

"MILITARY ASSISTANCE AUTHORIZATION

"SEC. 19. Notwithstanding any other provision of this Act, there is authorized to be appropriated to the President to carry out the purposes of part II of the Foreign Assistance Act of 1961, as amended, in addition to funds otherwise available for such purposes, not to exceed $200,000,000 for the fiscal year 1973. Amounts appropriated under this section are authorized to remain available until expended.".

The PRESIDING OFFICER. These amendments, under the unanimous-consent agreement, will be considered under controlled time, with the time to be equally divided between the Senator from Pennsylvania (Mr. SCOTT) and the Senator from Arkansas (Mr. FULBRIGHT).

Who yields time?

Mr. SCOTT. Mr. President, I yield myself 10 minutes at this time.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 10 minutes.

Mr. SCOTT. Mr. President, my amendment would restore the authorizations——

Mr. FULBRIGHT. Mr. President, will the distinguished Senator from Pennsylvania yield?

Mr. SCOTT. I yield.

Mr. FULBRIGHT. After informing myself, I have no objection to the amendments being considered en bloc.

Mr. SCOTT. I thank the Senator.

Mr. President, I renew my request and ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Mr. SCOTT. Mr. President, my amendment would restore the authorizations for grant military assistance, foreign military sales and security supporting assistance to the levels previously set by the Senate several weeks ago.

These are—as I have advised my colleagues, along with my cosponsor the Senator from Wyoming (Mr. MCGEE) by letter of September 25, 1972, which sets out the details—$600 million for military assistance; $435 million of new obligational authority for foreign military sales with an aggregate ceiling of $600 million; and $685 million for security assistance with $85 million earmarked for Israel.

Mr. President, last Friday the Senator from Arkansas (Mr. FULBRIGHT) offered an amendment reducing the authorization for grant military assistance from the $500 million in his committee's bill to $400 million. Because Senators were alerted that there would be a vote on my amendment to increase this authorization today, and because only about two-thirds of the membership of the Senate were present at the time—that is, presently in the city—I did not ask for a rollcall vote. I made it clear at that time, and repeat again, that I did not consider the sparsely attended voice vote—by, I believe, only three Senators present in the Chamber—by which that amendment was adopted as necessarily reflecting the will of the Senate.

In order to overcome the parliamentary problems occasioned by the voice vote on the Fulbright amendment, I have drafted the section of my amendment increasing the authorization for grant military assistance by $200 million as a new section to the bill. This was rendered necessary by the action of Senators yesterday.

Mr. President, as my distinguished colleagues are well aware, the merits of these authorizations have been debated at great length over the last several months. This bill was on the floor of the Senate for 6 weeks.

These levels I am proposing are the ones we have already debated and agreed to. I point that out—they have already been agreed to by the Senate once before. They would increase the authorization levels reported from the Foreign Relations Committee by $270 million but are still well below the amounts requested by the administration, and are, in fact, well below the amounts passed by the House of Representatives. My amendment will permit us to fund these programs at marginally adequate levels. No useful purpose would be served by reopening still another acrimonious debate over these funding levels. I cannot understand why a majority of the Foreign Relations Committee voted at this late date to reduce authorization levels already set by the Senate 60 days

ago. Mr. President, in my view it is time to fish or cut bait. It is time to pass this legislation with the numbers and amounts we previously agreed upon and to take this bill to conference.

Mr. President, I ask unanimous consent that my letter to my colleagues, together with the attached chart, be printed at this point in the RECORD. This chart states the levels in millions of dollars as voted by the Senate in S. 3390, as proposed in the Scott-McGee amendment, as reported by the Foreign Relations Committee, and as passed by the House of Representatives.

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

U.S. SENATE,
Washington, D.C., September 25, 1972.

DEAR COLLEAGUE: We would like to call your attention to an amendment which we are co-sponsoring to the Security Assistance Authorization Bill. The amendment simply restores the levels in the Senate bill previously acted upon prior to the inclusion of the Brooke Amendment. The levels which the Senate approved are modest. They are, for example, far below the authorization and appropriation bills passed by the House of Representatives. (See attachment)

You will note that, as compared with the latest recommendations of the Committee, the Scott-McGee amendment would authorize: $600 million in military assistance against the most recent proposal by the Chairman of $400 million; $685 million in supporting assistance of which $85 million is earmarked for Israel against the Committee proposal of $550 million with $50 million earmarked for Israel, $435 million for foreign military credit sales compared with $400 million now proposed by the Committee.

Sincerely yours,

GALE MCGEE,
U.S. Senator.
HUGH SCOTT,
U.S. Senator.

SECURITY ASSISTANCE AUTHORIZATION BILL

[In millions]

Levels	As voted by the Senate in S. 3390	As proposed in the Scott-McGee amendment	As reported by the Foreign Relations Committee	Fulbright amendment	As passed by the House of Representatives
Military assistance	600	600	500	[1] 400	730
Supporting assistance	685	685	550		769
(Earmarked for Israel)	(85)	(85)	(50)		(50)
Military sales	435	435	400		527
(Aggregate credit ceilings)	(600)	(600)	(550)		(629)

[1] Adopted by Senate Sept. 22 by voice vote.

Mr. SCOTT. Mr. President, having discussed the whole bill generally, I would like to comment on the motion to strike the section of the bill which contains the end-the-war amendment. I hope that this motion to strike will prevail for a number of reasons. First, it is near the end of the session, and it is difficult to get another bill through the committee and on the Senate floor. This is the second time around. The House of Representatives has been remarkably patient with us.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER (Mr. HOLLINGS). The Senate will be in order. The Senator from Pennsylvania may proceed.

Mr. SCOTT. Mr. President, I would not want to jeopardize this bill another time, because every time we do so it seems to shrink in the laundering process which it goes through in the committee.

I would hope that we could accept the bill with the figures we want to restore. I hope that we can adopt the motion to strike, because if the so-called end-the-war amendment remains in the bill, the bill may be defeated. Many of us may be forced to vote against it. And again that will leave us with a continuing resolution as the only basis on which to proceed.

It is unfortunate that the Senate is forced to act on a continuing resolution instead of facing up to its obligations and responsibilities on each of these bills.

Therefore, if we strike this section under the Stennis amendment, and if we increase the funds, the bill can go to conference. I am satisfied it will come out of the conference on a reasonably adjusted basis so that the President can accept the bill. All the people of the world and our own people who are especially involved in administering this amount will then be able to proceed with some certainty and some assurance as to what they are doing and as to what the policy of the United States is and, hopefully, will continue to be.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. FULBRIGHT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FULBRIGHT. Mr. President, what is the situation regarding the time between now and the vote?

The PRESIDING OFFICER. The Senator from Pennsylvania has 43 minutes remaining. The Senator from Arkansas has 51 minutes remaining.

Mr. FULBRIGHT. Mr. President, I was not quite clear about the situation. Is all time between now and 1:30 divided equally between the Stennis amendment and the Scott amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. SCOTT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SCOTT. Mr. President, are we required to use up the 43 minutes and the 51 minutes, respectively, before we go into the use of the time on the Stennis motion to strike? Does that become a matter of priority?

The PRESIDING OFFICER. It would take unanimous consent to do otherwise.

Mr. SCOTT. That was my thought.

Mr. FULBRIGHT. So that the time now would run continuously on the Scott amendment until exhausted and then on the Stennis amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. FULBRIGHT. How about any other amendments that may be offered or pending? How is time allocated on them?

The PRESIDING OFFICER. There is no time for any other amendment. No other amendments will be in order until 1:30 this afternoon.

Mr. GURNEY. Except by unanimous consent.

Mr. SCOTT. Except by unanimous consent.

The PRESIDING OFFICER. The Senators are correct, except by unanimous consent.

Mr. FULBRIGHT. Mr. President, under the unanimous-consent agreement, as I understood it, we would proceed to vote without debate on all other amendments, following immediately after the Scott, Stennis amendments. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. FULBRIGHT. So that if another amendment is offered, there will be no time for debating it?

The PRESIDING OFFICER. The Senator is correct.

Mr. FULBRIGHT. Mr. President, that is a very efficient way to dispose of amendments.

The PRESIDING OFFICER. That is the unanimous-consent agreement of the Senate.

Mr. FULBRIGHT. Mr. President, I was not quite clear about it.

Mr. SCOTT. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SCOTT. Mr. President, I think this would be helpful. I understand that the Senator from Florida (Mr. GURNEY) has an amendment to offer. If the Senator from Arkansas and the Senator from Pennsylvania agree and a unanimous-consent request is granted, the amendment may be offered and disposed of by a voice vote during this period of debate on the Scott-McGee amendment. May that be done?

The PRESIDING OFFICER. By unanimous consent.

Mr. SCOTT. Mr. President, I yield 5 minutes of my time to the Senator from Florida (Mr. GURNEY) to pose a unani-

mous-consent request and to offer a motion.

Mr. GURNEY. Mr. President, I ask unanimous consent that it may be in order for me to offer an amendment at this time.

The PRESIDING OFFICER. The Senator from Florida ask unanimous consent that his amendment be in order at this time. Is there objection? The Chair hears none, and it is so ordered.

Mr. GURNEY. Mr. President, I send an amendment to the desk, which I offer to the bill, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 13, line 9, after "(1)", insert "(A)".

On page 13, between lines 11 and 12, insert the following:

(B) At the end of section 504, add the following new subsection:

"(c) There is authorized to be appropriated to the President for the support of regional naval training activities in the Western Hemisphere, in addition to funds otherwise available for such purposes, $2,500,000 for the fiscal year 1973. Amounts appropriated under this subsection are authorized are to remain available until expended."

The PRESIDING OFFICER. Five minutes have been yielded to the Senator from Florida.

Mr. GURNEY. Mr. President, the amendment is self-explanatory. That is why I wanted the clerk to read it.

What we are doing here is putting $2.5 million into the bill to develop naval training facilities at Key West, Fla., involving mainly naval personnel from the Latin American countries and training them in naval duties.

The State Department is strongly in favor of the amendment, and the Navy Department is in favor of the amendment.

There is a provision in the House bill which would authorize $5 million for this very project. We are suggesting, and the amendment provides, one-half of that amount.

I would hope that the Senator would approve the amendment.

Mr. President, I yield at this time to my colleague, the junior Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. CHILES. Mr. President, I thank my colleague for yielding.

I am delighted to join with him in offering this amendment which covers a project included in the House version of the bill.

Mr. President, Senator GURNEY and myself are introducing an amendment to the Foreign Assistance Act which would authorize the appropriation to the President for the support of regional naval training activities in the Western Hemisphere, in addition to funds otherwise available for such purposes, $2.5 million for the fiscal year 1973. This amendment was offered in the House by Congressman FASCELL and was included in the House-passed version of this bill.

Mr. President, I believe we can all recognize the importance of increasing the ability of our Latin American allies to assume an increasing share of the burden of defending the Western Hemisphere. The additional funds our amendment authorizes would allow the Navy to establish and operate an inter-American training center which would do just that.

With the phasing out of diesel submarines, the Key West, Fla., U.S. Naval Station was at the top of the list for base closures. It became necessary that new missions for this station be found. The funds this amendment would authorize would allow the establishment and operation of a training center which could capitalize on the U.S. Navy's recent experiences in the coastal and river areas of Southeast Asia which would be of exceptional value to our hemispheric allies. It would provide for a consolidation of Latin American naval training activity currently conducted at various other locations in the United States. It would be a single and easily accessible facility, offering courses specifically designed to meet the demonstrated training needs of Latin American navies, taught in Spanish and Portuguese. In addition to other courses, civic action, inshore and nearshore operations, small craft operations and maintenance would be taught at the center in the students' native language. It would offer an attractive means of offsetting an existing training deficiency. I see the establishment of the proposed Inter-American Training Center at the U.S. Naval Station in Key West as the utilization of present facilities in a way that is perfectly consistent with our national security, a utilization which would serve to enhance relations between the United States and her allies.

I believe, along with Senator GURNEY and Congressman FASCELL, that the establishment of an Inter-American Naval Training Center at Key West would be the first step in the Defense Department's turnaround in attitude toward this base. The Center has the strong support of the Department of Defense, the Department of the Navy, the Department of Representatives, and the full House of Representatives.

A letter dated June 30, 1972, from the Assistant Secretary of Defense, Lawrence S. Eagleburger, stated:

It is planned that this center would provide appropriate instruction in small craft operation and maintenance, inshore warfare and public works construction techniques (civic action).

The US Naval Station, Key West, Florida, affords an ideal combination of location, environment, and adaptable facilities available for the establishment of an IATC as a tenant activity.

And in a letter to Congressman ROBERT L. F. SIKES of Florida, the Secretary of the Navy, John W. Warner, stated:

I feel that the Inter-American Training Center will make a positive contribution to the Nixon Doctrine by preparing Latin American navies to assume a greater share of any mutual defense efforts.

Mr. President, the Department of Defense appropriations bill, which passed the House September 14, 1972, contains $880,000 for the Navy's military personnel to be connected with the Center. I have received assurances through Congressman FASCELL that $2.5 million for fiscal year 1973 will be included in the House foreign operations appropriations—this amount will be for training, equipment, curriculums, and other operational costs of the Center.

This amendment is already in the House version and I believe firmly that it merits the Senate's favorable consideration.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida.

Mr. FULBRIGHT. Mr. President, I yield myself whatever time I shall require.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. FULBRIGHT. Mr. President, this project is a new project to utilize the facilities at Key West to train Latin-American naval personnel.

I do not like to be in the position of opposing the Senators from Florida on a local project in their State which, as such, is not offensive. However, I do object on principle to bringing into the foreign aid bill a local project like this. It would be the same if it were in Louisiana, or Arkansas.

My reason is that the foreign aid bill, in my opinion, has long outlived its usefulness. There was a time in the days of the Marshall Plan when Europe was on its back and we thought with reason, I think, that there was a great danger of the collapse of Western Europe.

I supported foreign aid then. However, I have not supported the foreign aid concept encompassed in this bill on military assistance for a number of years now, 6 or 7 years, because I think it has outlived its purpose. It is now abused. It leads to corruption. It is a bad bill. I do not wish to be in a position of being a party to adding to it domestic projects such as this which inevitably create pressure on Representatives and Senators of those States to support the bill. That is the nature of our political system.

I cannot in good conscience accept the amendment. I have to oppose it. It is in the House bill. Whether it will stay in conference I do not know.

If this were a project to build something they want in Florida, something in a domestic bill, I would not raise any question about it, but on the Foreign Aid bill my position is to kill it or cut it back as much as possible. We have reduced it in committee below the budget request. Overall, this bill carries about the same amount as last year. I am trying to hold the line at the level of last year. It is still more than was approved in 1970 for example.

It is bad policy to be increasing this amount in the face of our great needs. So I cannot accept the amendment, as much as I regret opposing the two Senators from Florida. It is a small amount, $2.5 million. But it would start a training center, and then it will be increased to $5 million and then $20 million. When foreign aid is involved there is no limit to the amount of money these projects ultimately cost.

Yesterday, I placed in the RECORD a table showing how much is in the overall military assistance and arms sales program request for 1973. The executive

branch estimates $8.460 billion. It is incredible the amount of money we dispose of in this kind of legislation. It sort of has a vague appearance to it and people vote without going over it with a fine tooth comb.

If this were presented in the regular order through the Committee on Public Works, where there would be witnesses and hearings, and authorization, and then we would come to the appropriation, it would be proper.

I try to get a little public works money for Arkansas now and then, but we are put through hearings, testimony, authorizations bills, appropriation bills, but there is no assurance we will get it. We are asked, "Was this in the budget? Was this approved by OMB?"

I ask the Senator from Florida if this was approved by the Office of Management and Budget. Does the Senator know what they say when we put a project in public works that has not been approved by OMB? That is sacrilege. The Senator from Washington recently got millions in assistance for Israel. There had been no hearings, not a word of testimony. It was approved by the Senate. I think six colleagues joined me in opposing it. There were no hearings whatever. Imagine trying to get hundreds of millions for the State of South Carolina, I say to the present occupant of the chair (Mr. HOLLINGS), without hearings, with not one word of testimony, but just on the word of the Senator from Washington.

This is so modest, I am embarrassed to oppose it. It is only $2.5 million. But it is the same principle. OMB has not approved it, and there have been no hearings. Is that correct?

Mr. CHILES. I do not think so, but the Senator talked about the problems of getting projects for the State of Arkansas. I wonder if the problem is not more a problem of a place to put more projects because of the good work the Senator has done, with the other Senator from Arkansas. Is not the problem that you have run out of places to put them? There are no more rivers or other places to put the projects, instead of the problem of getting funds.

Mr. FULBRIGHT. I appreciate the Senator's compliment, but he is quite misinformed. There is nothing in Arkansas that is even comparable to the outskirts of Cape Kennedy. There are two small air bases. There was a program for the Arkansas River. That took 15 years. In that 15 years it has averaged less than $150 million a year. Florida gets that much every week. Florida has a half dozen bases that cost more than that. It took 15 years to build the Arkansas River project.

However, I do not regret that. When I look around the United States, I see many States are overpopulated with all kinds of goodies. Many of the problems result from too many people.

There was a story in the newspapers that in Morro Bay, Calif., there are so many people they do not want more people coming in.

There was another interesting story this morning concerning the Common Market. The report was that in Norway they wished to preserve some of the life style of Norway and they do not want to develop more factories and more installations and have more growth. That shocked the people in the Common Market. What the Norwegians are saying in their wisdom is: "We do not want all this progress merely to show greater GNP. We do not want a greater GNP based on more garbage disposals, sewage, and police protection.

It is a new idea. It raises a serious question about the value of GNP.

In answer to the Senator's question, I am not disturbed that we do not have as many projects in Arkansas as they have in the State of Florida, such as Disneyland. I understand Howard County in Maryland declined to give a permit to build a Disneyland-type project there. The Senator probably heard about that. It is very interesting what happened to that proposal. And, I believe, the State senator from Prince Georges County in Maryland is introducing a bill on this same subject.

So I appreciate the Senator's compliment but I can assure him that we are not covering up Arkansas with concrete and factories.

I regret that I must oppose this because I have great respect for the Senators from Florida, but they have put this on a bill which they know I feel very strongly about. The money in the bill is a waste of my constituents' money and it undermines the prestige and influence of the United States.

I just cannot bring myself to agree to accept this project on this bill. I would vote for it if it were put in public works, or even on the military bill. Then, I would vote for it. I keep thinking we will get rid of this kind of foreign military assistance some day.

Mr. President, I thought this article would be proper to bring to the attention of Senators.

Mr. GURNEY. Mr. President, if the Senator will yield, I wonder if we could dispose of the amendment before the Senator gets on to the general argument of the bill.

Mr. FULBRIGHT. I do not think you can dispose of it without unanimous consent, without consideration of the whole Senate, and I cannot give unanimous consent.

The PRESIDING OFFICER. The amendment was called up by unanimous consent.

Mr. SCOTT. The amendment is pending.

Mr. FULBRIGHT. That is interesting. When did the Chair put the question?

The PRESIDING OFFICER. When the Senator from Florida asked unanimous consent to call it up.

Mr. FULBRIGHT. Well, I was here. I did not hear it at all. I thought all the Senator did was yield to the Senator to discuss the matter. I guess I should have been more awake. These unanimous-consent requests are made so quickly. It is my fault. I did not hear it. I did not know that was the procedure.

Well, then, is it before the Senate?

The PRESIDING OFFICER. That is the pending question.

Mr. FULBRIGHT. What is the procedure under the unanimous-consent agreement? Was the unanimous-consent request given to vote on it?

The PRESIDING OFFICER. Only 5 minutes were yielded before it was to be put to a vote.

Mr. FULBRIGHT. I am not ready to yield for a vote.

Mr. GURNEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GURNEY. As I understood it, and as I also understood the agreement I had with the manager of the bill—and I discussed it with the Senator from Pennsylvania (Mr. SCOTT) in order to get him to yield—while the manager of the bill did not agree with the amendment, he did not object to bringing it up by unanimous consent. So I brought it up by unanimous consent and asked for its immediate consideration. As I understand the parliamentary situation, debate would be had for 5 minutes before the vote.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the Chair made it clear that no other amendment could be brought up before 1:30 except by unanimous consent, and there was no time provided for debate on this particular amendment.

Mr. FULBRIGHT. I understood the Senator could bring it up and it could be voted upon after the others, without debate. I made that inquiry. I thought that was the procedure that was being followed. The Senator, of course, could discuss it and explain it on the time yielded by the leader.

The PRESIDING OFFICER. He could have done it, but the request was otherwise.

Mr. FULBRIGHT. I had completely misunderstood. I thought it was going to be voted on after the other amendments. I did not hear the unanimous-consent request. It must have happened so rapidly. I did not know the Senator made a unanimous-consent request for its immediate consideration.

Mr. GURNEY. Mr. President, I call for the regular order.

The PRESIDING OFFICER. The question is on the amendment.

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

The yeas and nays were not ordered.

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

The PRESIDING OFFICER. On whose time?

Mr. FULBRIGHT. My time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

The question is on the adoption of the amendment. [Putting the question.]

The amendment was agreed to.

Mr. GURNEY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Pennsylvania.

Who yields time?

Mr. FULBRIGHT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Arkansas will state it.

Mr. FULBRIGHT. In case there is no Senator who wishes to debate at this time, what is the parliamentary situation?

The PRESIDING OFFICER. Time will be charged equally to both sides.

Mr. FULBRIGHT. But if neither side wishes to continue the debate at this time, what happens?

The PRESIDING OFFICER. The time must be used or yielded back. The time is now running for debate on this particular amendment. Either side can yield time.

Mr. FULBRIGHT. Which side is being charged this particular time?

The PRESIDING OFFICER. To the Senator from Arkansas on his parliamentary inquiry.

Mr. FULBRIGHT. Is time for a parliamentary inquiry charged to me?

The PRESIDING OFFICER. It is.

Mr. FULBRIGHT. How about a quorum call? Is that charged to me?

The PRESIDING OFFICER. If the Senator has yielded his own time, as he did just a moment ago.

Mr. FULBRIGHT. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from Arkansas has 31 minutes remaining.

Mr. FULBRIGHT. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, I may explain that apparently I was talking privately with the Senator from Pennsylvania when the unanimous-consent request was put, so it was my fault for not being alert to it. I did not anticipate it was about to be put. I thought it had been agreed that other amendments would be voted on after the voting at 1:30.

As I said, my reasons for opposing it are not because of the merits of the project, but that it should not be made a part of the foreign aid bill.

Mr. President, I ask unanimous consent that there be inserted in the RECORD at this point an article by Mr. D. E. Ronk in the Washington Post, entitled "Lao Regime Said to Bribe Opposition."

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

GENERAL VANG PAO IMPLICATED: LAO REGIME SAID TO BRIBE OPPOSITION

(By D. E. Ronk)

VIENTIANE, September 21.—The Laotian government used treasury funds this week to bribe legislators to end their six-months opposition to Prime Minister Souvanna Phouma, highly knowledgeable diplomatic sources disclosed today.

Sums paid to members of the National Assembly to support Souvanna were not specified, but some sources indicated they peace I recognized we might not succeed in or more legislators. However, these bribes are only the latest in a growing list of such payments this year, the sources said.

Sudden changes in the assembly's voting pattern, the sources said, came after Gen. Vang Pao, commander of the U.S.-supported irregular forces in northeastern Laos, hand-delivered the bribes to legislators.

Vang was chosen as the conduit after assemblymen said they would not accept the funds from Minister of Finance Sisouk Champassak, a central figure in the current political crisis, according to these sources.

Sisouk, who is also acting defense minister, is heir apparent to Souvanna and is supported by the major powers, including the United States, the Soviet Union and China. It was through Sisouk that government opponents in the assembly attacked Souvanna, creating the crisis.

Money used to end the crisis did not come directly from U.S. aid funds, according to the sources. They suggested, however, that Western countries, which provide a good share of Laos' operating funds, indirectly financed the payoffs. The United States is the largest contributor, providing $50 million annually in nonmilitary aid.

U.S. Embassy officials here have been keeping a close watch over political developments since the assembly went into session. The root of the crisis was an effort by Vientiane's Sananikone family, Laos' richest, to move its members into key economic slots in the government.

To accomplish this objective, the Sananikone family called for an end to the decade-old tripartite government system that has rightists, neutralists and left-wing Pathet Lao members holding ministerial portfolios.

By ending the tripartite government, the Sananikones and their allies could claim a number of portfolios.

Souvanna has said that he would not remain as prime minister if the tripartite * * * States has made it clear it would not back any government not headed by Souvanna or Sisouk. Thus, political maneuvering in the assembly during the past few months virtually paralyzed the government.

The Sananikone family and its allies, led by Assembly President Phoui Sananikone, sought through legislative maneuvers to topple the Cabinet, and possibly force a dissolution of the tripartite system. Souvanna resisted by skillful counter-measures and plain stubbornness, the sources said.

The assembly had refused to consider in recent weeks the 1972–73 budget, demanding that Souvanna appear with his Cabinet for a showdown. In response, Souvanna carried on with last year's budget and refused to shuffle his Cabinet, thus avoiding a confrontation.

However, Souvanna may have to reconstitute his Cabinet anyway, since a number of ministers either wish to leave their posts or are seeking diplomatic positions abroad, the sources said.

With one-third of the assembly's 60 members currently being on various junkets abroad, Souvanna apparently decided to try to break the deadlock by the simple expedient of payoffs to a majority of assembly members present in the capital, the sources said.

They said that Souvanna could be expected to present his Cabinet shortly. It is expected to be quickly approved along with the national budget.

Mr. FULBRIGHT. The article is very interesting. It reads:

The Laotian government used treasury funds this week to bribe legislators to end their six-months opposition to Prime Minister Souvanna Phouma, highly knowledgeable diplomatic sources disclosed today.

Sums paid to members of the Nationalist Assembly to support Souvanna were not specified, but some sources indicated they could have ranged up to $5,000 for each of 15 or more legislators.

It is very interesting how the money provided for in this foreign aid bill is used abroad. We have stories in the press this morning from the IMF and the International Bank that we are not giving enough money to assist the underdeveloped countries. Well, I can see how it would be very difficult to give them enough money to do them much good if the money is used to bribe the opposition forces in these countries. That is a very good example of one of the uses to which money provided in this bill will be put.

Mr. President, I wish to go to another matter, since there is so little in the foreign aid bill that any one here wants to talk about. I am not particularly anxious to talk about it, myself, because it has been talked about so long and is such a frustrating subject that I want to refer to a few other matters.

(The comments by Mr. FULBRIGHT on foreign policy and foreign involvement are printed in another part of the RECORD by unanimous consent.)

Mr. FULBRIGHT. Mr. President, a few moments ago the Senator from Pennsylvania had some comments about the statements that are being made in the Senate, and pleading for a return to the bipartisan policies of the days of Senator Vandenberg.

It so happens that during the period of Senator Vandenberg there was general agreement about most of the important issues of that particular day. During World War II, there was not any serious disagreement or view that that war was a tragic mistake. I think that the great majority of the people certainly did not think that Hitler was not the kind of menace, the kind of danger which warranted the intervention of this country in World War II. Whether or not that will be the long view of history no one knows, but even up to now I think there are few people who feel that we could have stood by and done nothing, in view of the threat that Hitler presented to the world.

It is true, as I have just said, that the present war was inherited by this administration. It was inherited to a great extent by the preceding administration. It was a small war, but a war had been going on. In fact, the first intervention, in a sense, goes back into the late 1940's and early 1950's, when our Government, contrary to its traditions, took the side of the colonial powers, in this case France, and gave it assistance to control its colonies.

So the intervention goes back a long way, and each succeeding administration, in a sense, inherited the war, or the elements which finally resulted in the war.

I think that is beside the point. The Senator from Pennsylvania started out by setting up a strawman, and said there was no secret plan. Well, I do not know that anyone has said there was a secret plan, but the President made it quite clear that his policy was to stop the war, and just for the record, I wish to reiterate some of the statements made by

President Nixon 4 years ago when he began his campaign for the Presidency. These are the words of President Nixon:

If in November this war is not over after all of this power has been at their disposal, then I say that the American people will be justified to elect new leadership and I pledge to you the new leadership will end the war and win the peace in the Pacific and that is what America wants.

On another occasion in announcing the invasion of Cambodia 2 years ago, the President said this:

During my campaign for the Presidency, I pledged to bring Americans home from Vietnam. They are coming home. I promised to end this war. I shall keep this promise. I promised to win a just peace. I shall keep that promise.

Then, on October 9, 1968, in bidding for election, the President said:

Those who have had a chance for four years and could not produce peace should not be given another chance.

I think the record should be clear that to say that he never said there was a secret plan is not the point. He did make a clear pledge to end the war, intimating he had a plan, at least he had a policy, to end the war and certainly he has not ended it yet, up to this day.

I would call it setting up a straw man, to say that he never had a secret plan.

Mr. President, I ask unanimous consent to have printed in the RECORD other selections from statements of President Nixon, giving the dates and places of the statements, relating to the question which I have just discussed.

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

A SELECTION OF STATEMENTS BY PRESIDENT NIXON ON ENDING THE VIETNAM WAR, 1968–1971

March 5, 1968—Speech at Hampton, New Hampshire: "If in November this war is not over after all of this power has been at their disposal, then I say that the American people will be justified to elect new leadership and I pledge to you the new leadership will end the war and win the peace in the Pacific and that is what America wants."

August 8, 1968—Acceptance Speech at Republican National Convention: "And I pledge to you tonight that the first priority foreign policy objective of our next Administration will be to bring an honorable end to the war in Vietnam."

March 25, 1969—Address to the National Association of Broadcasters: "I will tell you, looking toward the future, I think we are going to achieve that objective of a peace that will be one that will not just be for the year or two years, but for the foreseeable future in the Pacific and in the world—that kind of peace."

May 14, 1969—Address to the Nation on Vietnam: "With all of the moral authority of the office which I hold, I say that America could have no greater and prouder role than to help to end this war in a way which will bring nearer that day in which we can have a world order in which young men can grow up in peace and friendship. . . . In my campaign for the Presidency, I pledged to end this war in a way that would increase our chances to win true and lasting peace in Vietnam, in the Pacific, and in the world. I am determined to keep that pledge. If I fail to do so, I expect the American people to hold me accountable for that failure."

July 26, 1969—Statement Upon Arrival in Manila, Philippines: "If peace is to come from Asia—and I emphasize this point—the United States will play its part and provide its fair share. But peace in Asia cannot come from the United States. It must come from Asia. The people of Asia, the Government of Asia—they are the ones who must lead the way to peace in Asia."

September 18, 1969—Address to the General Assembly of the United Nations: "We in the United States want to end this war, and we are ready to take every reasonable step to achieve that goal. But let there be no question on this one fundamental point: In good conscience we cannot, in the long-term interests of peace we will not, accept a settlement that would arbitrarily dictate the political future of South Vienam and deny to the people of South Vietnam the basic right to determine their own future free of any outside interference."

October 31, 1969—Letter to Georgetown University Student Randy J. Dicks:

"One of the first acts of my Administration was to review, exhaustively and comprehensively, every aspect of the nation's policies in Vietnam. We have drastically altered the policies we inherited. We are on the road to peace.

"That road is not easy. It is not simple, but I am convinced it is the right one. There is no problem to which I have given more of my time and thought. For nine months, we have worked every day for a just end to a conflict which has been building for more than eight years."

November 3, 1969—Address to the Nation on Vietnam:

"At the time we launched our search for peace I recognized we might not succeed in bringing an end to the war through negotiation. I, therefore, put into effect another plan to bring peace—a plan which will bring the war to an end regardless of what happens on the negotiating front.

"I am sure you can recognize from what I have said that we really only have two choices open to us if we want to end this war.

" 'I can order an immediate, precipitate withdrawal of all Americans from Vietnam without regard to the effects of that action.

" 'Or we can persist in our search for a just peace through a negotiated settlement if possible, or through continued implementation of our plan for Vietnamization if necessary—a plan in which we will withdraw all of our forces from Vietnam on a schedule in accordance with our program, as the South Vietnamese become strong enough to defend their own freedom.

" 'I have chosen this second course.'

"I have initiated a plan which will end this war in a way that will bring us closer to that great goal to which Woodrow Wilson and every American President in our history has been dedicated—the goal of a just and lasting peace."

February 18, 1970—"United States Foreign Policy for the 1970's: A New Strategy for Peace": The President's Report to the Congress: "A just peace in Vietnam has been, and remains, our goal. The real issues are the nature of that peace and how to achieve it . . . Abandoning the South Vietnamese people . . . would jeopardize more than lives in South Vietnam. It would threaten our long-term hopes for peace in the world. A great nation cannot renege on its pledges . . . My trip through Asia last summer made the fact more vivid to me than ever. I did not meet a single Asian leader who urged a precipitate U.S. withdrawal . . . To seek a just peace, we pursued two distinct but mutually supporting courses of action: Negotiations and Vietnamization. We want to achieve an early and fair settlement through negotiations. But if the other side refuses, we shall proceed to strengthen the South Vietnamese forces. This will allow us to replace our troops on an orderly timetable . . . On May 14 . . . I also indicated that we seek no bases in Vietnam and no military ties, that we are willing to agree to neutrality or to unification of Vietnam if that is what the South Vietnamese people choose . . . I look forward to the day when I shall not have to report on the problems of ending a complex war but rather on the opportunities offered by a stable peace, when the men and nations who have fought so long and so hard will be reconciled."

April 30, 1970—Address to the Nation on Cambodia:

"A majority of the American people, a majority of you listening to me, are for the withdrawal of our forces from Vietnam. The action I have taken tonight is indispensable for the continuing success of that withdrawal program.

"A majority of the American people want to end this war rather than to have it drag on interminably. The action I have taken tonight will serve that purpose.

"We take this action not for the purpose of expanding the war into Cambodia, but for the purpose of ending the war in Vietnam and winning the just peace we all desire. We have made and we will continue to make any possible effort to end this war through negotiations at the conference table rather than through more fighting on the battlefield.

"During my campaign for the Presidency, I pledged to bring Americans home from Vietnam. They are coming home. I promised to end this war. I shall keep that promise. I promised to win a just peace. I shall keep that promise. We shall avoid a wider war. But we are also determined to put an end to this war."

July 1, 1970—Address to the Nation on Cambodia: "America's purpose in Vietnam and Indochina remains what it has been—a peace in which the peoples of the region can devote themselves to development of their own societies, a peace in which all the peoples of Southeast Asia can determine their own political future without outside interference."

February 25, 1971—United States Foreign Policy for the 1970's: Building for Peace: The President's Report to the Congress: "If winding down the war is my greatest satisfaction in foreign policy, the failure to end it is my deepest disappointment. We will not be content until all conflict is stilled. This sentiment was the driving force behind our proposal for a cease fire."

February 25, 1971—Address to the Nation on Vietnam: "Our eventual goal is a total withdrawal of all outside forces. But as long as North Vietnam continues to hold a single American prisoner, we shall have forces in South Vietnam. The American prisoners of war will not be forgotten by their Government. I am keeping my pledge to end America's involvement in this war."

April 7, 1971—Address to the Nation on Indochina Policy: "I am often asked what I would like to accomplish more than anything else while serving as President of the United States. I always give the same answer—to bring peace—peace abroad, peace at home for America. . . . Every time I talk to a brave wife of an American POW, every time I write a letter to the mother of a boy who has been killed in Vietnam, I become more deeply committed to end this war, and to end it in a way that we can build a lasting peace."

April 30, 1971—News Conference: "They indicated they wanted the war to end now, that they wanted peace. That, of course, is what I want. It is what everybody in this room wants and it is what everybody in this nation wants. . . . My responsibility is to bring peace, but not just peace in our time, but peace in their time. I want peace not just for us, but peace for our children, their children."

Mr. FULBRIGHT. Mr. President, I do not know that I care to continue the dis-

cussion now, in view of the fact that there is so little interest in debate on this foreign military assistance program. I can, of course, only say that I do oppose, I will oppose, the effort of the Senator from Pennsylvania to increase the amount in the bill.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. Mr. President, I yield myself 3 minutes.

What is difficult to understand is why there would be a reduction of these figures after they were fully debated and agreed upon by the Senate only about 60 days ago.

We are certainly, for the most part, restoring the funds which we have already passed upon affirmatively. We have not reached the amount requested by the administration at all. We have not reached the amount set by the House of Representatives.

This is a moderate and reasonable attempt to arrive at a median solution of a problem that has plagued us most of the year.

I would hope that at this time we would be able to agree to support this amendment, so that we may, at long last, dispose of this bill.

Mr. President, I suggest the absence of a quorum, with the time to be taken out of my time.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Who yields time?

Mr. SCOTT. Mr. President, I ask unanimous consent, after consultation with the distinguished manager of the bill, that the Senate stand in recess——

Mr. STENNIS. Mr. President, will the Senator from Pennsylvania kindly withhold that, just so I may——

Mr. SCOTT. Could I state what I intend to do, and I will not make it in the form of a request?

Mr. STENNIS. Of course.

Mr. SCOTT. Mr. President, I intend to suggest, and yield myself 1 minute for that purpose, that the Senate stand in recess until the time expires on the amendment of the Senator from Wyoming (Mr. MCGEE) and myself and that the Senate reassemble at the point when the time for the motion to strike is reached. But, if the Senator from Mississippi wishes to make use of this time——

Mr. STENNIS. If the Senator from Pennsylvania will yield, what time would it expire?

Mr. SCOTT. Mr. President, will the Chair advise us on that?

The PRESIDING OFFICER. Forty-one minutes remain on this amendment.

Mr. STENNIS. If I could be recognized when we come back in.

Mr. SCOTT. Of course.

RECESS UNTIL 11:48 A.M. TODAY

Mr. SCOTT. Then, Mr. President, I ask unanimous consent that the Senate stand in recess for the period consumed by the remainder of the time allotted on this amendment and that upon return of the Senate, the distinguished Senator from Mississippi (Mr. STENNIS) be recognized on his motion to strike a section of the bill.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Pennsylvania? The Chair hears none, and it is so ordered.

At 11:07 a.m., the Senate took a recess until 11:48 a.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. HARRY F. BYRD, JR.).

The PRESIDING OFFICER. The Senate will receive a message from the President of the United States.

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 ON HEALTH MATTERS COVERED BY THE FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.) 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 to you the second annual report on health matters covered by the Federal Coal Mine Health and Safety Act of 1969, Public Law 91–173.

The report covers the implementation of the health program carried out by the National Institute for Occupational Safety and Health of the Department of Health, Education, and Welfare. The report provides a compendium of coal mine health research, medical examinations of coal miners, and other activities of 1971.

It is encouraging to note that, in 1971, the Department of Health, Education, and Welfare completed the first round of medical examinations of coal workers required in the act. Many of the X-rays taken in the examination have been completely processed and those miners with abnormal chest conditions have been notified of these conditions and of their rights under the act.

A comprehensive research program, which has as its basic objective the determination of the development and progression of coal workers' pneumoconiosis, continued in 1971 along the lines established in 1970. Significant progress was made in 1971 toward the attainment of this goal.

I commend this report to your attention.

RICHARD NIXON.

THE WHITE HOUSE, *September 26, 1972.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. HARRY F. BYRD, JR.) 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.)

FOREIGN ASSISTANCE ACT OF 1972

The Senate continued with the consideration of the bill (H.R. 16029) to amend the Foreign Assistance Act of 1961, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, I yield myself 15 minutes, or so much thereof as I may use, and I yield to the Senator from Louisiana for 1 minute.

SENATE CONCURRENT RESOLUTION 99—TO AUTHORIZE THE PRINTING OF ADDITIONAL COPIES OF THE REPORT ON H.R. 1

Mr. LONG. Mr. President, I submit a concurrent resolution, and ask for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated.

The legislative clerk read as follows:

S. CON. RES. 99

Resolved by the Senate (the House of Representatives concurring), That there be printed five thousand additional copies of the Senate Report to accompany H.R. 1, the Social Security Amendments of 1972, of which two thousand copies shall be for the use of the Senate Committee on Finance, one thousand five hundred copies shall be for the use of the Senate Document Room, and one thousand five hundred copies shall be for the use of the House Document Room.

Mr. LONG. Mr. President, this concurrent resolution would authorize the printing of 5,000 additional copies of the Senate report to accompany H.R. 1, the Social Security Amendments of 1972, of which 2,000 copies shall be for the use of the Senate Committee on Finance, 1,500 copies shall be for the use of the Senate document room, and 1,500 copies shall be for use of the House document room.

This bill is being reported today, and in view of its breadth and importance, we anticipate a widespread demand for the committee reports. I cleared this action, or at least I understand it has been cleared, with the acting chairman (Mr. CANNON) and the ranking minority member (Mr. COOK) of the Committee on Rules and Administration.

In view of the urgent need for additional copies, and the savings which would result from the printing of all copies at one time, they have graciously agreed to interpose no objection. It is estimated that the printing of these 5,000 additional copies will cost $6,250.

Mr. President, I ask unanimous consent that the Committee on Finance have until midnight tonight to file the report on this measure.

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

The question is on agreeing to the resolution.

The resolution (S. Con. Res. 99) was agreed to.

FOREIGN ASSISTANCE ACT OF 1972

The Senate continued with the consideration of the bill (H.R. 16029) to amend the Foreign Assistance Act of 1961, and for other purposes.

Mr. STENNIS. Mr. President, how much time do I have on the bill?

The PRESIDING OFFICER. The Senator from Mississippi has 48 minutes remaining.

Mr. STENNIS. I yield myself 15 minutes, or as much thereof as I may use.

Mr. President, under the unanimous-consent agreement, we now have time allotted on the amendment, which is—

On page 19, line 11, to strike all down to and including line 24, and renumber the succeeding sections accordingly.

It would strike from the bill the section of the bill as reported by the committee that in effect cuts off the funds for the support of the war in Southeast Asia, after a certain period of time, including other conditions.

It is the so-called Brooke amendment, sometimes called the Cranston amendment; and originally, in somewhat different language, it was the Mansfield amendment. We have voted on this amendment many times in the last 2 years or more, in one form or another. The last time was in August of this year, and the amendment was agreed to by a very close vote.

The amendment was a part of the military procurement bill; and in the conference on the bill, the Senate conferees solidly supported the amendment. I had voted against it, on the Senate floor but I took the points that had been made in its favor, and I tried to analyze the situation. It was a measure of the Senate at that time, and I vigorously supported that side of the argument.

By unanimous consent of all the conferees—I thought it was important—we invited the two distinguished authors of the amendment to come in and make a special presentation, which they did in a very fine way. The matter was fully considered at several sittings of the Senate and the House conferees, and we tried to get them to accept other language that modified the Senate position somewhat, trying to meet their arguments to a degree; but we never were able to make any headway with the House conferees. I speak with admiration for these gentlemen, not critically. They had just had a vote in the House of Representatives on an identical measure, and there the amendment failed by 50 votes. They did not stand on that alone.

I am reviewing this matter now because the situation is the same as it was then, even though we are closer to the election.

The House took the position, further, that a part of this language is already in the law, having been adopted last year as permanent law.

They were unyielding on that and on their vote in the House of Representatives.

Since then, both bodies have approved the procurement bill by overwhelming votes, and we have moved on. But the same matter has come up again in the House of Representatives, virtually the same language, on a different bill; and even though the attendance was not quite as high, the vote at that time was a margin of 48 of those who were opposing the amendment. In other words, it was killed by about the same margin—proportionately, even by a larger margin. That was about 10 days ago.

Now we are back here, in the same Chamber, with the same language, but on a different bill and with a somewhat different situation, in that twice the House of Representatives in the last very few weeks has refused by sizable margins to go along with this amendment.

Nothing is ever hopeless, and I do not think that is enough reason to defeat this amendment now, but I think it is very definitely a major part of the background. It is a point that goes along with other valid points to make a solid case in dropping this matter now, for this year, anyway.

We are not going to get an amendment of this kind adopted and written into law within 6 weeks from today. Six weeks from today there is going to be a presidential election, in which the war will not be the only issue, by any means, but it will be a tremendous factor, with respect to its background, and thinking of the people. I am going to discuss later, to be frank about it, whether or not I think the President has really tried—I am not getting into the campaign now—to bring this war to a conclusion. The people must think that he has, or there would be different votes in the Senate and in the House of Representatives, and there would be a different attitude about it in the campaign.

Mr. President, let me make clear that my amendment is a simple motion to strike this amendment entirely, to leave it out of the bill.

If this were a clear-cut choice as to whether or not we were going to end the war—that is, to continue the war or end the war—all of us, I am sure, would favor ending the war. There is no doubt about that. I think the vote would be unanimous, if that was the only consideration—just stopping the war or continuing the war. But there are other considerations, major considerations, and I am just going to mention a few. I have mentioned most of them before, along with others.

The President of the United States, under our form of government, has the power and the responsibility of leading negotiations, determinations, proposals, propositions, and all kinds of plans and preparations for trying to bring a war to a conclusion—any war, whether it is a declared war or not. That is where the power lies. That is where the responsibility lies. As I said from the beginning, let us not relieve him of that one bit.

We are not a negotiating team. Congress cannot be the voice of the Government in this field. We have some responsibility; I do not say that we are entirely free of it. But, the Constitution gives the President of the United States the responsibility of being the voice and the spokesman and the power of the Government in this field.

With all deference, every time we try to do more than our part, or try to direct the President, it encourages our enemies because it is well-known to them, of course, and no one knows the situation—where the power and responsibility lie—better than they; so that when we try to override the President or give him directions, mandates, or special instructions to the point of cutting off funds, we are encouraging the enemy to hold out for terms—not to aid and abet the enemy in the way that treason is defined, of course not—but as a practical matter and in the practical affairs of life it is inescapable when we try to override the President or to cripple him in his power in this matter, there is no way to avoid the conclusion that it encourages the enemy. That is where the gravest concern lies. I see us coming in here to do that very thing. I have said before that I think we are creating a precedent here that will plague us for many decades to come, even for the Senate again to approve the amendment that is in the bill. We are flirting with potentials that will come back to haunt us and place obstacles in our path and in the path of future Presidents—not in terms of an individual President when I refer to the President, as we are talking about eternal principles in our form of government. We are talking about the basic principles of human nature.

I submit we should be content with advising the President, even advising him publicly. We do not have to agree with him on matters, but when it comes to the proposition of cutting off funds, when we say that we are not going to let him have $1 after a certain time, or after certain conditions, when we are at war and Americans are still being called upon to risk their lives, that, I think, is a great error.

I conclude by saying that we should keep that responsibility on the President of the United States and not give him a way out and not water down his power and responsibility by trying to assume it ourselves.

No one knows better than our adversaries that we cannot do that, that we cannot vest ourselves with the power of the President, the power of being the spokesman for the United States.

I am not encouraged to believe that this war will necessarily end in a few days, a few weeks, or a few months. I do not know, but I believe that we are up against the toughest enemy we have ever faced. It has been proved over and over, month after month, and year after year, in our dealings with the North Vietnamese that they are determined, dogmatic. They have turned down over and over and over propositions that have been made to them, and they have turned them down with contempt. They are carrying on a remarkable war. They are fighting in an effective way against tremendous odds. They are willing to pay

the price—that is, they are paying the price.

I have raised the question here about the power of the President and now I raise the question: Is the President really trying?

If I did not think he was trying and doing everything within his power and the ingenuity of his own mind and that of his advisers, certainly I would not be here taking this position with reference to the amendment in the bill. We have to have someone trying, someone showing discretion, ability, and judgment along with it.

During the 4 years that he has been in the White House, he and his advisers have been seeking, searching, and trying to carry this thing on. In the same 4 years I have had some special responsibilities in the Senate with relation to legislation on the war, and the military in general, and I know that offers have been made and negotiations have been carried on over and over and over again, privately and publicly, to bring the war to a conclusion, offers which have been considered most generous—even extraordinarily generous around the world by our friends and those who are not our friends.

I have been told many times, and I believe it is true, that in the capitals of the nations of the Western world and those allied with us elsewhere, the terms the President has offered to North Vietnam are almost uniformly considered very generous indeed. I am further told, and I believe it is true, that even in the council chambers of nations not friendly to us, the same opinion prevails, that through the President we have offered terms which are generous and about as far as they think we could go and retain our self respect. I believe that is true. I believe that the President has been trying. I believe that he has done everything a self-respecting head of a nation can do, and everything that a self-respecting people can do or would want their President to do.

As I say, I am not thinking in terms of President Nixon. I am thinking in terms of the Chief Executive of the United States in facing this grave problem. I know that it has plagued him. I know the hard decisions he has had to make, but he has been willing to make them. I know something about how these decisions have borne down on him. Everyone who has observed him closely knows that, and how it and the other decisions he has had to make have plagued him.

I am sorry it has gone on so long—but the casualties are now down to zero—last week no casualties were reported, no lives were lost last week, the first time since 1965.

Mr. AIKEN. Mr. President, will the Senator from Mississippi yield?

Mr. STENNIS. I yield.

Mr. AIKEN. I do not know whether the Senator has pointed this out or not, but the enemies of the President, when they quote the number of killed and wounded in Vietnam during the past 4 years, always include the year 1968 when most of the casualties took place, when the casualties were running in the number of Americans killed at over 300 a week during that time, and for 2 or 3 months after President Nixon took office. Then the casualties began to decrease, until at the present time they are down to virtually zero—no fatalities, certainly no greater than they would be if we had that same number of military personnel at home or in other parts of the world. So that I believe it is very unfair to blame the present President for the fatalities which occurred the year before he was elected to office. However, that seems to be the order of the day, to blame him for everything. And, as far as I can see, the public is not responding to that type of campaign very well.

Mr. President, I do think that the RECORD ought to show that the bulk of these charges about losses occurred before the present President took office or in the first few months since he took office. Since then they have been diminishing.

Mr. STENNIS. Mr. President, I thank the Senator for his contribution to the debate. The figures that he is citing are correct. And he has spoken well for them.

Mr. AIKEN. Mr. President, I want it understood that I am not blaming President Kennedy or President Johnson for actions which they took.

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

Mr. STENNIS. Mr. President, I yield myself an additional 5 minutes.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for an additional 5 minutes.

Mr. AIKEN. Mr. President, every time they made an error in judgment and things became worse, they thought they were taking steps which would bring the war to an earlier conclusion.

Mr. STENNIS. Mr. President, I thank the Senator from Vermont again. I agree with what the Senator has said. I am not arguing this matter in terms of any individual President. Neither was the Senator from Vermont.

That is a matter of executive power and executive good faith. However, this amendment does not say that it advises and counsels with the President or that it is a sense of the Senate or of Congress. This amendment cuts off the money. And under those conditions it leaves the President powerless to act, because he cannot carry on affairs of this kind without the money.

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

Mr. STENNIS. I yield.

Mr. AIKEN. Mr. President, may I add one other thing? At the time that previous Presidents took action which resulted in an expansion of the war, they are wholeheartedly supported by most of the Senators who are now earnestly condemning President Nixon and even President Johnson.

Mr. STENNIS. Mr. President, I thank the Senator from Vermont very much.

As I say, this is the most drastic form of legislation that we could possibly pass. This has never been done in the history of our Nation. No provision like this has been enacted in the almost 200 years now of our Nation's history. No Congress has acted in this manner when our men were being sent into battle. And our men are being sent into battle now.

I have been holding hearings concerning our pilots and all of the things they are up against. Our men are being sent into battle today, this very hour. Now we are talking about cutting off the funds and thus paralyzing the President of the United States who is the only force and the only power in our Constitution that is authorized to speak and negotiate for us on this subject matter.

Let us keep the record straight here on what we are fighting over. It is not a matter of stopping this war today. We are fighting over a principle here of constitutional government. Where is the responsibility? By all means if the Congress were to cut off the funds and tie the President's hands, as I said a moment ago, that action will plague us for a long, long time.

There are now new charges even after we discussed the matter a week ago. The elections are 6 weeks away, and this matter is being aired to no end. And I am not arguing that campaign now. However, we are going to have a decision made by the people as to who the President will be for the next 4 years. That decision will be rendered 6 weeks from now, and there will be a clearing of the atmosphere. There will be a decision of the people themselves. This is not the only issue. However, it is a major part of it.

I think that, if for no other reason, we could well wait until that decision is in before we resort to this drastic step of cutting off this money that would apply, if the amendment becomes law, not only to the man who is President during this 4-year term, but also to the man who will serve for the next 4 years beginning next January 20.

I plead with the Senate to reconsider here the points we have made in the past when we did vote for the cut-off-the-funds amendment by almost the slimmest possible majority, whereas now, under these new facts, we have a different situation. I believe that this cut-off-the-funds amendment should be stricken from the bill and we should let it lie at least until after the election.

Mr. President, I yield back whatever time I had yielded to myself and I yield the floor.

Mr. CRANSTON. Mr. President, I yield myself such time as I may need.

The PRESIDING OFFICER (Mr. TUNNEY). The Senator from California is recognized.

Mr. CRANSTON. Mr. President, I agree with the distinguished Senator from Mississippi on one point, that the presidential election is now at hand. And in many ways the basic decision on this point over our involvement in the Vietnam war has passed to the arena of the presidential election. However, since this body has now gone very firmly on record in a series of votes in favor of cutting off the money in order to get us out of the war, it seems to me that it would be very unfortunate if, on the eve of this election, we were to take an action that seemed to indicate a change in our feeling about this war and about the necessity of cutting off the

funds as a way to assure that we get out of that war.

Mr. President, it is obvious that the people do have a clear-cut choice in the presidential election. A vote for the incumbent President will leave in office a man whose policies have not gotten us out of the war and show no indication of doing so.

A vote for his challenger is a vote for a man who has made a commitment to get us out of the war within 90 days after he takes office.

Mr. President, the Senator from Mississippi stated that to vote for the Brooke amendment to keep this provision in and not to vote for the Stennis amendment to get it out of this legislation would cause the North Vietnamese to be stubborn and unyielding in the negotiations.

I ask what sign there is of any indication that the North Vietnamese are willing to negotiate seriously. I ask what signs there are that the present military action and the bombing is in any way leading them toward meaningful negotiations.

I see no such signs. I have heard no one in an authoritative position who commented on the matter cite any such signs. There is no indication that the bombing is breaking their morale. There is no indication that the bombing in like wars has broken the morale of any other country at any other time. There is no sign now that the present bombing is breaking their ability to carry on militarily.

I think that the only sign we have is that the bombing has not reduced their ability to carry on the offensive effectively in South Vietnam. Quite recently there were reports in the newspapers indicating that the intelligence agencies confirm that there is no sign that the bombing is breaking their morale or their ability to fight on and on and on.

Recently unnamed "high Air Force officials" were cited in the newspapers as stating that they believe that under the present circumstances of the present military involvement of our Nation in that war, we nonetheless face at least 2 or 3 more years of the North Vietnam war, even if the present scale bombing continues.

President Nixon was thereafter asked in a press conference if he felt there might be 2 or 3 years more of bombing. He said, "No, that's ridiculous." Unfortunately, due to the way press conferences are carried on no one was able to follow up with a question as to why it is ridiculous. So I ask: Why is it ridiculous that the war might go on 2 or 3 years more under the President's present policy?

There is no sign based on reports from within the administration except the one that it might be going on for 2 or 3 more years. If we fail to act and the people fail to bring about a change in the election to the President's policy, we may face everlasting involvement in a never-ending war in Southeast Asia.

Mr. President, that is why it is important for us to maintain the Brooke amendment in this bill. The Senator from Mississippi said that the Brooke amendment leaves the President powerless to act. The President has had more than 3½ years to act and he has not found a way to end our involvement in the war in Southeast Asia. Therefore, it is up to us to take action; it is up to us to act since, with the power to act, he has failed to act.

The Senator from Mississippi said this never has been done before; never has Congress acted in this way to bring about an end to the war. Let me point out also that never before in the history of our land have we been involved in such an everlasting, tragic, costly war; costly in terms of blood, and costly in terms of treasure. We face an unprecedented situation and that is why it is necessary that we take unprecedented action.

Finally, let me comment on the Senator's remark that our self-respect is involved, that we have gone about as far as self-respect can permit us to go.

I say that self-respect requires us to end our involvement in the bloody mess in Southeast Asia. I believe our sense of self-respect has been done great damage by our involvement in this endless, destructive bombing that has killed so many civilians, as well as now and then reaching military targets.

We, the mightiest nation on earth, are inflicting on the Vietnamese people the heaviest bombing in the history of mankind. I believe the effect of this immoral action has a great deal to do with the failure of our country to recognize the immorality of so many acts that are occurring in our land at the present time.

Let me stress that nothing I say attacking our ruthless bombing in Southeast Asia excuses in any way or avoids recognizing the ruthlessness of the other side in this war, the ruthless killing afflicted upon South Vietnam and upon Americans by the North Vietnamese and the Vietcong.

But I say self-respect requires us to at least end the American part in the killing, even though Southeast Asians may go on killing themselves after we extract ourselves.

It is for this reason that I and others have expressed on the floor of the Senate and across this country the hope that the Stennis amendment will fail and the Brooke amendment in the bill will be sustained.

Mr. BROOKE. Mr. President, I yield myself as much time as I may need.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. BROOKE. Mr. President, the amendment in the bill is a very simple amendment. It is an amendment which the Senate has supported on several different occasions. The Senate has worked its will, and has assumed its constitutional responsibility to act in the important issue of war and peace.

This amendment provides solely that there shall be a withdrawal of all our American forces—land, air, and naval forces—from Indochina, South Vietnam, Cambodia, and Laos, within 4 months from the date of enactment, conditioned only upon the return of American prisoners of war and an accounting for our missing in action.

The amendment was first added to the foreign military assistance bill. This was the first time that the Senate had voted to cut off funds for the war in Indochina, conditioned solely on return of all American prisoners of war. But the foreign military assistance bill was defeated, and with it the so-called anti-war amendment.

After the defeat of the foreign military assistance bill I attached the same amendment to the military procurement bill. Again, after a very lengthy debate and notwithstanding 12 procedural votes of the Senate, the Senate then voted to cut off funds for the war in Indochina, conditioned again upon the return of American prisoners of war and an accounting of our missing in action.

The military procurement bill was passed by the Senate and went to conference with the House. I find no fault whatsoever, as I have said on this floor before, with what I believe to be the outstanding job of the chairman of the Committee on Armed Services and the Senate conferees in conference with the House. By an unprecedented move the Senate and House conferees invited my distinguished colleague from California (Mr. CRANSTON) and me to appear before the conference and to argue our case. This was done, Mr. President, because there were few members of the Senate conference who had voted in favor of this amendment. It was in a sense of fair play, and recognizing the responsibility of the Senate conferees to reflect the will of the Senate, that we were enabled to appear before the conferees.

There were few, if any, conferees on the House side who were in favor of this amendment. Furthermore, just prior to the conference there had been a vote in the House on an amendment which was not even as strong substantively as is this amendment, and it was defeated. Hence, the House conferees felt very strongly that they had a mandate from the House which prohibited them from working out any reasonable and acceptable compromise language with the Senate conferees. And so, Mr. President, this amendment was deleted, deleted in its entirety from the conference report.

Feeling as strongly as I do, and feeling as strongly as many of my colleagues do about this amendment, I then filed the same amendment. It was referred to the Committee on Foreign Relations to be considered by its chairman and its members, and to be included in this present foreign military assistance bill.

I wrote to the chairman of the committee and received a response from him that he would personally support the amendment and do all that he could to see that it was reported in the bill which, in fact, is the case. The amendment is now a part of the bill.

The distinguished chairman of the Committee on Armed Services has never been in favor of this amendment personally, and I understand that and I respect his right, certainly, to disagree or hold his very strongly felt views. And so he comes before the Senate now with a motion to strike this amendment from the bill.

That, in capsule form, Mr. President, is the history of the amendment.

Now, I have listened to the debate,

to the statements made by the distinguished proponent of this motion to strike, and by my colleague the Senator from California (Mr. CRANSTON), who has done such yeoman service in behalf of this legislation. I do not intend to get involved in any discussion of the politics of the day. The fact is that we are now engaged in a presidential election and the war has become, as we might reasonably expect, an issue in this campaign. Rather, Mr. President, the measure before us transcends all partisan politics. The Senate has adopted it on several occasions. There is no change in it. The language is identical. It is the same amendment which the Senate has voted on before, and voted on favorably.

The circumstances in Indochina have not changed substantially, though there are fewer troops than there were there when the amendment was first adopted. I believe there were some 46,000 troops there at that time. I believe there were close to 39,000 troops at the time the amendment was adopted the second time. I believe there are now some 36,000 troops, none of which, as we are told, are combat troops, all of which are support troops, supporting the South Vietnamese Army.

Mr. President, there can be no dispute about the Congress' constitutional responsibility on questions of war and peace. This question has been debated and debated, and I think even the proponent of the motion to strike would agree. If I recall correctly, on more than one occasion, he has personally said that he recognizes and respects the Congress' constitutional responsibility in this area.

So I do not propose to debate that constitutional responsibility. I think that it is there, that it has always been there, that the founders of this country and the writers of the Constitution intended that it be there. I think we would all hope and pray that it would always be there. For no matter who the President of the United States happens to be, never do we ever want to vest in any one man the sole authority to declare and to conduct war, and to have full responsibility for the extrication of American forces from war.

But, Mr. President, the war rages on, even though there have been serious and very welcome decreases in the casualty lists that have come in from Southeast Asia. Just last week it was reported that there was not one single American death from combat in a week. I think that was later corrected to read one, with five killed in noncombat related incidents. But despite the decline in casualties, we are still risking the lives of 36,000 land troops and untold thousands of naval and Air Force troops that are still in Indochina. We are still losing pilots. We are still losing American planes. Killing is still going on in Southeast Asia. And even though I commend the President for what he has done in the deescalation of the violence of that war and in bringing troops home, I still believe the time is long past when we should bring back all our troops from Indochina, conditioned only upon the return of all American prisoners of war and an accounting of our missing in action.

I have no brief for the exchange of the three prisoners who are now flying back from prison camp and are expected to be in New York on Thursday, though I certainly commend the fact that they are coming home, and welcome them back. I think we all should welcome them back. Very obviously the manner in which it is being done is propaganda. But these are American men who were risking their lives and who have been in prison camp in Vietnam. All Americans, and certainly the President of the United States, are grateful for their return and welcome their return to our shores.

Mr. President, how long, again I ask, must we keep our forces in Indochina, in order to give the South Vietnamese an opportunity to defend themselves? Mr. President, this could go on for months, and conceivably for years, and we would still be stalemated in a war in Southeast Asia, a war which we made the mistake of getting into in the first instance, and a war in which bombing and killing is still continuing, and which at any moment might escalate rather than deescalate. At this very moment they are over there talking about an attack on Saigon. Some papers have allegedly been found that might indicate that the next move on the part of the North Vietnamese would be to attack the city of Saigon, where there are thousands of Americans, both military and civilian, at this moment, whose lives would be in jeopardy if such an attack were in any form or fashion successful.

There are risks in our continued presence there. There are risks to American planes every time they get airborne and drop their bombs on Vietnam. There are risks that the crews will be shot down and killed. There are risks that they will be shot down and be captured and remain for long periods of time in North Vietnamese prison camps.

In short, I am saying we have given Vietnamization all the time that they could reasonably ask for, and if they cannot do it now, query: Will they ever be able to do it?

It seems to me that a reasonable, conscionable course of action now would be to say to them, "Give us our prisoners of war, account for our missing in action, and we will get out of Indochina."

What are the risks we take by such a course, Mr. President? It has been suggested that this is a dangerous thing for the United States of America to do. Why is it a danger, Mr. President? I believe the contrary is true. There is no danger for us to leave Indochina at this time. There is no risk to the 36,000 troops that we have there in pulling them out, with the superior airpower we have to cover their withdrawal.

We have planes, we have ships, we have just about everything conceivable that any army or any nation could need and use in the proper and protective withdrawal of its forces.

So, Mr. President, there is no risk as such. Then why do we not do it? Why have we not done it? Why are we staying in Indochina?

If I might venture a guess—and I hope that it is an educated guess—it is because of the inability of the North Vietnamese and the United States of America to agree on a political solution in Southeast Asia. We have simply failed to agree on some type of coalition government which would take over until such time as there are free elections.

We have said that we would not get out and let the Communists take over the South Vietnamese Government. The North Vietnamese have said that there will be no successful negotiations as long as President Thieu is at the head of that government. And even now, we are told that Mr. Kissinger is having his 17th or perhaps 18th series of talks with the North Vietnamese in an attempt to bring about a negotiated peace.

I know of no one in the Senate or in Congress who has ever been opposed to a negotiated peace. We have all wanted a negotiated peace. We have prayed for a negotiated peace. We have all been hopeful, no matter on which side of the aisle, that Dr. Kissinger and the President would be successful in negotiations to bring about an end to the war.

Of course, it would be the best solution. But, Mr. President, it has not happened. There has been no negotiated peace, though we are constantly being told that there will soon be one. There may be one today, and I hope that there is. But if there is not, what do we do, continue to have the 18th, the 19th, the 20th, and maybe the 67th conference?

How long have the Paris peace talks been going on? What is the bottleneck? Why can we not come to some agreement with the North Vietnamese and end the war?

I have given what I suspect is the reason, but the important thing, Mr. President, is that we are tired of this war. It is not our war. It never should have been our war, and we should get out of there just as soon as we possibly can. Four months certainly is a reasonable time. It is more time than is necessary to withdraw 36,000 troops. We have withdrawn more troops in a less period of time than 4 months.

It has nothing to do with the outcome of the American presidential elections, because the 4 months would not begin to run until the date of enactment of the bill. Even if we passed it today, which we should, it still has to go to conference with the House of Representatives. We do not know what the outcome of that will be. But if we look back at the history of conferences on this particular amendment, we can reasonably expect that it will be unsuccessful. I am not naive about that; I know what our chances are in the House of Representatives at the present time. I disagree with their position, but I understand it.

Then why press this amendment? We press the amendment because it is important to the American people and the world to know that at least the Senate of the United States recognizes its responsibility and has the courage of its convictions, and has stood up for them again and again and again. Yes, even if it is a hundred times, we have to vote on it. We must let the Senate vote its will and pass this amendment. We must say to the world that we want to get out, and we are now only concerned about the return of

our American prisoners of war and an accounting for our missing in action.

Mr. President, we ought not to be fooled about what comes first, the release of the prisoners or the withdrawal of the troops. These are matters that governments work out. This amendment is clear. It starts at the date of enactment. Money can be used only for the withdrawal of troops. During that period of time, presumably, the North Vietnamese could release 100 prisoners, say, in the first month, and we could withdraw 5,000 or 6,000 troops. Maybe in the next month the North Vietnamese would not release any prisoners of war. We are not duty bound, the President is not duty bound, to withdraw any troops at that time. There is flexibility for both the North Vietnamese and the United States, and during that period of time they could work out the logistics of how many prisoners would be released and how many troops would be withdrawn.

Add to that, Mr. President, the fact that our President is committed to the continued withdrawal of American forces from Southeast Asia. It is to his credit that he has been living up to that commitment, because he has been withdrawing our troops from Southeast Asia to the point where they are down now to 36,000. But those are only the troops in South Vietnam, Mr. President. There is still the air war. There is still the Navy. The bombing still goes on. And what we are trying to do by this amendment is bring an end to that war as quickly as we can. If the President is able to do it more quickly, fine. We commend him, and we will be eternally grateful, as will millions of Americans and millions of people around the globe who have long wanted an end to this war in Southeast Asia.

Mr. President, I have recited the history of this amendment and explained the purposes of it and the mechanics of it. I am very hopeful that each and every U.S. Senator who stood on this floor not too many weeks ago when his name was called—49 of us, Mr. President—and voted "yea" on this amendment, will do so again. At that time, we sat here for hours as there were procedural attempts to reverse the outcome of that initial vote. But 49 men of strong convictions were not moved. I hope that these 49 men will act upon those convictions again. I implore them to show the same courage and commitment again. There is no change in the amendment. Therefore, when the rollcall comes on the motion to strike the amendment from the bill, we should vote "no" on that motion and leave this amendment in the Foreign Military Assistance Act, so that we can take it to conference. For who knows, something could happen which would produce a change of heart, a change of course, a change of direction in the House of Representatives.

In conclusion, Mr. President, for those who believe that to vote against this motion is to vote against the President, let me say that we are not opposing the President. We are sharing the burden with the President.

I do not believe that the votes we have had in the past have in any way adversely affected President Richard Nixon.

I support him, personally. I intend to vote for him. I think he has been an excellent President, even though I have disagreed with him on several occasions. We do not agree with everyone on everything. He certainly does not agree with me on everything. I certainly would not be on this floor today making a speech advocating and urging the defeat of the Stennis amendment, which, in effect, is a rejection of the so-called Brooke amendment, if it were for the purpose of adversely affecting Richard Nixon or in any form or fashion being critical of his administration.

So my amendment is not political. But, Mr. President, this war is above partisan politics. It must be above politics. It is a matter of life and death, a matter of peace and war. I strongly urge defeat of the Stennis amendment.

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

Mr. BROOKE. I am very pleased to yield.

Mr. JAVITS. Mr. President, I am brought to my feet by the observations of the Senator, by respecting his support of the President and the consistency of that support with the position he has now taken in the amendment which has been so widely known as the Brooke amendment.

I shall vote for the Brooke amendment. The Senator knows that, and I am sure the Senate knows that, as it has been my consistent position for a long time. But I have been faced time and again with this question, which is always asked in a challenging way: "How can you support the President of the United States if you take this position on Vietnam?"

In my judgment, I see no consistency whatever, for the following reasons:

First, the reason stated by the Senator. If we, as Senators of the United States, representing our people here, using our judgment and conscience in the interests of our people, agreed always with the President, we would be his apologists, not his advocates, and we could not possibly do that under our own oath of office. That is very evident.

But there is a deeper point than that which I should like to make with the Senator. I feel that if we are going to be pulled out of this war with a minimum of resentment and recrimination in this country, with the least danger of a reaction in this country which would be almost as divisive as the Vietnam war itself, only President Nixon can do it. His credentials now are so high with the American people that I think it is our duty to get him to extricate us from this quagmire which is Vietnam; and that is why I think it is so salutary and so useful to have a congressional declaration. This is the way in which, in collaboration between Congress and the President, the decision can be made and implemented—I use the latter words with great force—by a President whose credentials and whose standing with the country are so high that we will have a minimum of recrimination and aftermath if he does it. I believe that he should be persuaded, as this is by all odds the right course.

One last point. As a member of the Committee on Foreign Relations and as one who is deeply concerned with the foreign policy of the country, I am appalled by the capability which we are leaving in Southeast Asia, as the Senator has vividly described, to be drawn back in a massive way. We have got ourselves committed there, and we are simply engaging in a kind of euphoria if we think that the pullout of our troops on the ground and a zero casualty rate—which we have, thank God—are any insurance against reinvolvement. So long as American resources are committed there, even in an air or naval war, so long as there is extensive American personnel on the ground, we can be reinvolved at any time.

It took only 19,000 advisers, which President Kennedy put in, in order to bring in the 600,000 troops which President Johnson put in. The same is true today, and we have many more than 19,000 advisers there right now.

Second, I point out, again as one with a particular responsibility for foreign policy, that the armament and equipment which are being burned up in Vietnam and which are deployed there were not made with mirrors. They were drawn down from the Mediterranean, from the Indian Ocean, from the Atlantic, and from many other parts of the world. Those who oppose us in the world, in terms of the values of freedom, know it just as well as we do. They know exactly where we are drawn down and by how much. They know exactly how much they can poke and pry in the Middle East and in the South Atlantic and every other place in the world, based upon what we have been compelled to reduce in the way of our resources. In my judgment, this is a very dangerous situation, a very provocative situation, to the kind of dictatorships we face in the world.

For all those reasons, Mr. President, I see that our only course as intelligent men of conscience—and a course entirely consistent with support of the President, as I have explained—is to support the Senator's amendment and to do our utmost to defeat the effort to strike it.

Mr. BROOKE. Mr. President, I thank my distinguished colleague, the Senator from New York (Mr. JAVITS), who has certainly spoken with a loud and clear voice on this very vital question and who has been so helpful in the Committee on Foreign Relations and in the Senate in our attempt for adoption of this amendment in the past. I am very pleased that he has joined in this colloquy today in order to pinpoint the consistency with the course we propose and the course that the President of the United States has followed.

The Senator from New York and I are both particularly concerned with the lives involved, the lives of the men who are in Southeast Asia. And the lives of the Vietnamese people certainly are very, very important to us as well. They are human beings and they have suffered, I am sure, more than we have suffered in this long turmoil that has taken place in

their land. But I am sure that the Senator also shares my concern for the economics of the war. It is still costing us billions of dollars annually, even at the present lower level of involvement. Literally billions of dollars are being spent in this war, money that could be used to solve some of the problems that cry out for solution here at home.

This war continues to go on. As the Senator from New York has well pointed out, we could be reinvolved in this war at any time. As I said earlier, for example, if there is an attack upon Saigon, where there are thousands of Americans at the present time, I am sure that we will not sit idly by and let the North Vietnamese massacre Americans, nor should we sit idly by. But that is the risk we take by being there. I hope that the North Vietnamese are not foolish enough to make an attack upon Saigon at the present time and escalate the war and cause us to be further involved or reinvolved in that war. But that is a chance we are taking every day we remain there.

It seems to me that the fewer troops we have there, the greater the risk really is; 36,000 troops, none of them combat troops, are certainly not able to engage in any meaningful combat activity in South Vietnam. Those 36,000 troops, as I understand from the best information I have been able to receive from the Pentagon, are support troops for the South Vietnamese. This means that we are risking the lives of 36,000 Americans, hoping and praying that, at some time—and no one has put a time on it at all—the South Vietnamese will be able to stand up and defend themselves. I do not know how long that will be. All I am saying is that it is a possibility that it could go on for months and years. All that means is that the risks that come with it—the possibility of loss of lives, the tremendous expenditures of our resources—could continue if we do not make the decision to get out of Indochina and to get our prisoners of war back and to get an accounting to give to our people of our MIA's.

Thus, Mr. President, I reiterate, I hope, and urge, and pray, that the Senate will defeat the Stennis motion to strike this amendment from the Foreign Military Assistance Act of 1973.

Mr. STENNIS. Mr. President, how much time remains, please?

The PRESIDING OFFICER (Mr. STEVENSON). The Senator from Mississippi has 23 minutes remaining and the Senator from Arkansas has 5 minutes remaining.

Mr. STENNIS. Mr. President, on my time, 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. SCOTT. 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. STENNIS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Mississippi has 7 minutes remaining.

Mr. SCOTT. Mr. President, will the Senator from Mississippi yield me 3 minutes?

Mr. STENNIS. Mr. President, I yield the Senator from Pennsylvania 3 minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 3 minutes.

Mr. SCOTT. Mr. President, the amendment submitted as a substitute to my amendment by the Senator from Idaho (Mr. CHURCH) is the use of the same tactic that was used once before. And it is being used by one who has announced himself as against the foreign aid bill. He desires to defeat the entire bill. A vote for his amendment may well be a step toward that end since, if the amendment of the Senator from Idaho were adopted all it would do would be to adopt the part of my amendment that would restore certain funds for Israel, and strike out the restoration of all other funds. The purpose is to defeat the restoration in my amendment by removing from that amendment any additional aid to Israel. Senators will feel that they should vote for the amendment of the Senator from Idaho. If the Senator from Idaho acts as he has in the past, he will vote against the entire bill.

However, Senators who want the bill and think they will get something by voting for the amendment of the Senator from Idaho, will find that in due course the Senator from Idaho will vote to defeat the bill. They will achieve exactly the same purpose by supporting a motion to table the substitute of the Senator from Idaho because by tabling it they will get the same opportunity to vote increased funds for the State of Israel in my amendment plus restoration of the other funds.

When the Committee on Foreign Relations met last week it did not give the same careful consideration—in fact, it gave no consideration—to the sums of money which had been carefully considered and voted on when the bill was first sent to the floor of the Senate. This second time around—and I see one of the Senators from the committee in the Chamber, and other Senators who were there recall—about all that was done was a determination to get the bill on the floor somehow, never mind the figures, and "then we can dispose of it one way or another." So this second time I think this arbitrary cut does not represent the intent of the Senate; it does not represent the intent of the Senate 60 days ago; and it does not represent the intent of the Senate now.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. SCOTT. I thank the Senator from Mississippi. I hope Senators vote to table the substitute motion.

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

Mr. SCOTT. I have no time remaining.

Mr. STENNIS. I have only a few minutes.

Mr. BROOKE. I yield 1 minute to the Senator from Kentucky.

Mr. COOPER. Mr. President, I wish to comment on what the Senator from Pennsylvania said. It is correct that the bill which was before us earlier in the session had been considered item by item by the Committee on Foreign Relations, and decisions made by the committee on the provisions of the bill.

The bill which is now before us had, I suppose, about 2 hours of discussion, and maybe 3. There was no actual consideration in depth and decisions made on various provisions of the bill. We decided in the short time left we would vote it out and to bring it before the Senate for the Senate consideration and action.

I am not bound, and none of us in committee is bound by any of the positions taken in the bill, even the inclusion of the Brooke amendment.

Mr. SCOTT. I thank the Senator.

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

The PRESIDING OFFICER. The Senator from Massachusetts has 4 minutes remaining. Who yields time? The time running will be equally charged against opposing sides.

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

The PRESIDING OFFICER. The Senator from Mississippi has 3 minutes remaining.

Mr. STENNIS. Mr. President, I yield myself 1 minute. I wish to reserve 2 minutes in order to close.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, I point out that this provision states that all this must be done within 4 months, provided that during that 4 months there is a release of all American prisoners. I pose this question: One month passes and no prisoners are released; 2 months pass and no prisoners are released; 3 months pass and no prisoners are released; 3 months and 15 days pass and no prisoners are released; 3 months and 25 days pass and no prisoners are released. Then, 3 months and 28 days pass, prisoners are released, and there are 2 days remaining. The President of the United States in 2 days would have to get all forces withdrawn from all of Indochina. It just illustrates how impossible and impractical the proposal is, and I say with all deference that this amendment is unworkable and it is a delusion. It cannot possibly work.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. STENNIS. Mr. President, I yield the floor.

Mr. BROOKE. Mr. President, this is an amendment in the bill which the Senate has voted on favorably twice before. There is no change in the amendment at all. There is no delusion whatever. If the North Vietnamese do not return the American prisoners of war and give us an accounting of our missing in action, then all bets are off and the President has entire flexibility and does not have to withdraw our American troops. He can withdraw American troops at the rate he decides. He already has established his own rate of withdrawal. There is nothing in this amendment which mandates the President to withdraw those remaining 36,000 troops at any particular point. He has entire flexibility so far as the withdrawal of the troops and he can negotiate, as I said earlier, for the withdrawal

of American forces and for the return of our prisoners of war, something that will go on between the two nations.

So I think the Senate again has an opportunity to exercise its constitutional responsibility to vote on an antiwar amendment. Irrespective of what its fate may be in conference, it is incumbent upon the Senate to stand up and courageously vote, as it has in the past, to end the war in Vietnam.

I yield 2 minutes to the Senator from Oregon.

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. HATFIELD. Mr. President, it is hard to know how to enliven the American conscience to the continuing tragedy and horror of this war.

We read or hear routinely of B–52 raids conducted over South and North Vietnam. But what does that mean? A typical B–52 mission inundates more than a square mile with high explosives in a few seconds time. Normal life in that area has no chance of being sustained. It has been estimated that four such B–52 missions are the approximate equivalent of the atomic bomb we dropped on Hiroshima.

We have been averaging about 16 such B–52 missions each day. Further, more than half of our total bombing in Indochina consists of B–52 saturation bombings. These are not smart bombs. They are deadly, blind, indiscriminate bombs. The other bombs we drop are often tragically indiscriminate in the targets that bear their explosive power.

We are told that such bombing is done in order to save lives. But in the name of saving lives, thousands upon thousands have been lost.

If it is American lives we want to save, then they can all be brought home in a matter of a few weeks—as could have and should have been done long ago.

We are told we bomb to get our prisoners of war back. But our bombing creates more prisoners each day. Since the resumption of the heavy bombing over North Vietnam on May 8, over 100 more Americans have been added to the rolls of those missing in action or taken prisoner.

In truth, we are bombing to support a military dictator and his regime. Remember that President Thieu was reelected in a one-man election reminiscent of the political process in Communist countries. His chief opponent from his previous election has been a prisoner because he was for peace. Thousands of South Vietnamese students and others suffer in prison because they oppose the government. And in recent weeks that regime has taken censorship of the press to even new extremes, and have abolished all local elections. That is the regime we are bombing for.

The statistics give some measure of the scope of destruction and suffering we are inflicting on Indochina. We have dropped over 14 million tons of explosives on that area. That is 70 times the total of all the bombs, including the atomic bombs, that we dropped on Japan in World War II. Further, half of all those explosives have been used on Indochina since the beginning of 1969, when the current administration took office.

According to Department of Defense figures, over a million soldiers have died in this war. One million. And the majority, by far, have been soldiers of North Vietnam. The counters at the Defense Department do not keep as careful a tabulation of civilian deaths. The best estimates indicate that 400,000 have died in South Vietnam alone, which is where the majority of our bombs have fallen during this war. No one can say for sure how many tens of thousands have died in North Vietnam, Cambodia, and Laos.

And then there are the hundreds of thousands who are wounded, and the millions who have been made refugees.

American casualties have dramatically decreased. But Asian casualties continue. And as long as we continue our bombing, more Asians will perish.

The blood bath is now. And those concerned about a future bloodbath need to reread their history books. Recent historical articles point out that there is no precedent in the history of North Vietnam for the kind of daily bloodbath occurring now.

It is true that as of September 1, there were only 39,000 Americans in South Vietnam. But there are a total of 134,000 Americans on the lands and seas of Southeast Asia prosecuting this war. And we have heard nothing about when our aircraft carriers will come home, when our pilots will come home, and when the Americans at airbases in Thailand will come home.

On the day before the Cambodian invasion the first amendment to cut off funds for the war was introduced in the Senate. In September of 1970, that amendment, which I had the opportunity to coauthor and cosponsor, received the support of 39 Senators. By next June, 42 Senators agreed with that proposition, and voted for such an amendment. And after many more months of debate, a majority of the Senate agreed to cut off funds for war. For the Senate to turn its back on that decision now would be a tragic reversal of a historical movement that has begun to restore Congress' constitutional authority over this war.

In conclusion, I would remind the Members of the Senate of what Capt. George Alan Rose, a flier who was shot down over North Vietnam and captured on June 21 of this year, said, as recorded in yesterday's Post in an interview with Richard Dudman in North Vietnam:

I would like for all the Americans to ask themselves where this country has gone in the last four years, in the war, in the economy, and in the eyes of the world, and ask them if they can tolerate another four years of this . . . I'm sure if they'll—if they read about the war and all the problems that are facing America to come together and time for a change our course, towards peace and good will to all mankind.

Mr. STENNIS. Mr. President, I yield 1 minute to the Senator from Kentucky. May we have quiet, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

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

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOPER. Mr. President, I recognize the deep feeling of the Senator from Massachusetts and all those who are associated with him. Many times in the past I have been associated with them in the introduction of similar amendments and amendments which I sponsored. But, as I said in the last debate, these amendments offered as so-called end-the-war amendments and received by and believed by the people as such—by providing conditions before they can become effective are in fact prescriptions for continuing the war. In fact, they go further. They are authorizations for continuing the war. I have come to the conclusion that they are not end-the-war amendments, but prescriptions, authorizations to continue the war. They offer no substantial hope for the release of the prisoners of war.

It is my view that the North Vietnamese will not seriously negotiate until after our presidential election in the hope that Senator McGOVERN will be elected and that he will accede to all the requests of the North Vietnamese. I have no doubt that they are mistaken—that President Nixon will be reelected and the North Vietnamese will be required to negotiate with President Nixon. If they were sensible they would negotiate now.

Under these circumstances, I think the President of the United States, who has the power of negotiating, and who has made offers to withdraw all forces upon release of our prisoners has a much better opportunity to end the war than these conditional illusory amendments. I have come to the belief that they are illusory amendments. In explanation, I ask unanimous consent to have printed in the RECORD, the discussion by the Senator and myself in the Brooke amendment, and an amendment which I had previously offered on July 24, a prior discussion on July 19, and later on August 2.

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

[From the CONGRESSIONAL RECORD, July 19, 1972]

FOREIGN ASSISTANCE ACT OF 1972

Mr. COOPER. Mr. President, I send to the desk an amendment to S. 3390 and ask unanimous consent that the reading of the amendment be dispensed with, but that the amendment be printed at this point in the RECORD.

The ACTING PRESIDENT pro tempore. The amendment will be received and printed, and will lie on the table; and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 1325) reads as follows:

"On page 10, beginning with line 18, strike out all down through line 18, on page 11, and insert in lieu thereof the following:

"SEC. 12. (a) Funds authorized or appropriated by this or any other Act for United States forces with respect to military actions in Indochina may be used only for the purpose of withdrawing all United States ground, naval, and air forces from Vietnam, Laos, and Cambodia and protecting such forces as they are withdrawn. The withdrawal of all United States forces from Vietnam, Laos, and Cambodia shall be carried out within four months after the date of enactment of this Act.

"(b) It is hereby declared to be the policy of the Congress that negotiations be continued with the Government of North

Vietnam for a cease fire, to secure the return of all United States prisoners of war held by the Government of North Vietnam and its allies and an accounting of those missing in action, and to seek an end to all hostilities in Indochina."

Mr. COOPER. Mr. President, I have sent to the desk an amendment to section 12 of S. 3390, the section known as the Mansfield amendment.

I offer the amendment with some regret for I can recall only one occasion when I have been separated from Senator MANSFIELD on the war in Vietnam. He has been consistent, utterly conscientious, and without any partisan consideration in his efforts to enlist the Congress in its necessary and constitutional duty to assist in bringing the war in Southeast Asia to a close. He has believed, as he has said so often, that the Congress and the Executive should work together to that end.

But, Mr. President, I have held always and have so stated on the Senate floor in speeches and by way of amendments that the participation of the United States in the war can only be ended by negotiation, or by the total withdrawal of U.S. forces, without conditions, except that they must be protected as they are withdrawn.

What I say now is not intended to question in any way the purposes of those who have introduced and fought for legislative enactments to deny funds for our continued participation in the war. I have never questioned their purposes.

But amendments have been introduced and which have received a great deal of popular support in the country have included a condition precedent—the condition that our forces shall not be withdrawn until there is an agreement to release our prisoners of war or until their release is actually accomplished.

On one hand these amendments have provided that all funds shall be denied except for the withdrawal of our forces. Then in contradiction, they provided implicitly that funds for our participation in the war shall continue, that the United States will continue to fight in Vietnam from other countries, from the air, or from the seas, until our prisoners are released.

I can understand that it is difficult for the Congress to support an amendment which does not have the usual prisoner-of-war condition. It can be said that an amendment without such a provision indicates a lack of concern for those who have fought and who are held by North Vietnam in violation of the Geneva Convention and human decency.

But we must face this issue—how can the release of our prisoners be brought about? Our continued fighting has not secured their release. It is evident that we cannot by force, cause North Vietnam and its allies to release the prisoners. We must look for other ways. It seems to me that there are, at minimum, two prospects for their release.

The first prospect, is that their release will be secured by negotiations. President Nixon has made a serious and responsible proposal to North Vietnam to end the fighting, for the withdrawal of all our forces in 4 months, and the release of prisoners of war. North Vietnam, if it truly desires peace, ought to negotiate seriously and substantively so that agreement will be reached.

If negotiations are not successful, I see no hope of the release of our prisoners and the ending of the war except by the withdrawal of our forces. When our forces are withdrawn, I think it reasonable to believe that, as has occurred in past wars, our prisoners will be released. With our forces withdrawn, the good offices of many countries and of world opinion will urge upon North Vietnam this international and humane duty. Experience has shown that no country will intervene in a serious way on behalf of our prisoners as long as American forces are fighting in Vietnam.

These are the means, as I see it, to move toward the release of the prisoners and the ending of the war. First and most important is negotiations and the success of the negotiations now taking place in Paris. The second way I suggest for which my amendment calls, is the assurance of withdrawal of our forces.

The amendment establishes a period of 4 months from its enactment for withdrawal of U.S. forces and the end of our participation in the war. This is the same period of time which the President proposed in his speech of May 8. It would give time for safe and orderly withdrawal. It would give time for the necessary adjustments and preparation that South Vietnam must make. If this can be accomplished earlier, it will be all for the good.

It will be argued that to propose such an amendment, or to approve it, may undercut or hinder negotiations now taking place in Paris. I do not think this is correct. The amendment presents to North Vietnam the assurance that the Congress can give, as the President has given, that our forces will be withdrawn. No reason would remain for North Vietnam to hold our prisoners as hostages.

The amendment I offer is more direct than the amendments which have been proposed in past years. They have provided for the withdrawal of all our forces conditional upon the release of the prisoners. It is a condition which North Vietnam can accept or reject, one which enables them to hold our prisoners as hostages upon their terms.

This amendment is consistent with the national commitments resolution which the Senate adopted by a large majority. It is consistent with the War Powers Act initiated by Senator Javits and which the Senate approved by a large majority. I think it is clearly constitutional.

The amendment is consistent with amendments which, with others, I have introduced in the past. All but one were approved by the Senate. None of these amendments carried any conditions which would nullify its purpose.

I want to say that it is my desire to assist President Nixon in his continuing efforts to withdraw American forces, to bring the war to a close, and to secure the release of our prisoners of war. He has reversed past policies. He has done his best. As I said earlier in this statement, he has made an exceedingly fair proposal to North Vietnam, and if North Vietnam desires peace and will negotiate seriously, the war can be ended.

I do not believe that this amendment or any amendment can promise absolutely the release of our prisoners of war. I do not believe that any individual can promise the release of our prisoners of war. I can only say that, in my view, negotiations and withdrawal offer the best chance to secure their release.

The purpose of this amendment is to propose to the Congress such a course of action. It expresses a view that the Congress and the President should join in the policy of withdrawing our military forces completely from South Vietnam, Laos, and Cambodia, and cease military action from other countries and from the sea. It would give the people of those countries a chance to live in some kind of peace, and an opportunity to establish their own governmental systems and relations. It will save lives and provide a better chance for the release of our prisoners of war and their return to their families.

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

Mr. COOPER. Mr. President, I yield to the distinguished majority leader.

The PRESIDING OFFICER. (Mr. PASTORE). The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, I want to commend the distinguished Senator from Kentucky, than whom there is no more conscientious Member of this body, for the forthright proposal which he has just presented to the Senate for consideration.

As he states, if a solution could be found, "It would give the people of those countries a chance to live in some kind of peace, and an opportunity to establish their own governmental systems and relations. It will save lives and provide a better chance for the release of our prisoners of war and their return to their families."

As long as the war goes on I would say the chances of the release of our prisoners of war and recoverable MIA's remain remote. This is a proposition which faces up to the situation very directly, again to quote from the Senator's remarks:

"The amendment I offer is more direct than the amendments which have been proposed in past years."

There is no question about that.

Furthermore, the Senator states, and again I quote him:

"I do not believe that this amendment or any amendment can promise absolutely the release of our prisoners of war."

I would be prone to agree with that. As I understand the distinguished Senator's amendment, what he is offering is a two-prong proposal. One prong is in line with the President's suggestion that within a 4-month period, it may be that negotiations can bring an end to this horrible war. In that respect, may I quote a remark made by Dr. Henry Kissinger on his return from his latest trip to China, in which he said:

"We expect that when the war is finally settled it will be through direct negotiations between the North Vietnamese and American negotiators."

The other prong is withdrawal with no ifs, ands, or buts, but on the supposition that if our withdrawal is complete, then, as a matter without absolute guarantee, our prisoners would stand a better chance to be released.

I may say to my distinguished colleague, while I appreciate his kind words about me in the beginning of his remarks, and we have been together on many facets of the Vietnam situation seeking a solution, it would be my present intention to stick with the proposal contained in the foreign aid bill and to change the date from August 1 to October 1. But I want to assure the distinguished Senator that should that proposal now incorporated in the Foreign Aid Act be nullified, diluted, or killed, I would give most earnest and serious consideration to this direct and clear-cut proposal which seeks to bring about an end to the war in Southeast Asia.

I commend the distinguished Senator for making this suggestion and for giving to the Senate his reasons therefor.

Mr. COOPER. Mr. President, I thank the distinguished majority leader for his remarks. I, too, recall the long association we have had together in Congressional action to end the war in Vietnam.

I recall in 1954 when it was proposed that the United States should intervene in the war in South Vietnam after the fall of Dienbienphu, the majority leader and I spoke against that intervention. Since that time we have joined in amendments and in many efforts concerning an end to the war.

I would like to say that it has been a matter of concern to me for many years that amendments which have been offered to halt the war in Vietnam and which called for the withdrawal of forces—have provided in the same amendment conditions, precedent, including the condition that prisoners must be released. The effect of such conditions, of course, has been to vitiate the amendments.

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

Mr. COOPER. Mr. President, will the Senator yield to me for 2 additional minutes?

The PRESIDING OFFICER. Under the previous order the period for the transaction of routine morning business is now in order, for not to exceed 30 minutes, with remarks therein limited to 3 minutes.

Mr. MANSFIELD. Mr. President, I have asked unanimous consent and I believe it has been granted, that the unfinished business to be laid before the Senate immediately after the time allotted to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator is correct.

FOREIGN ASSISTANCE ACT OF 1972

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business, S. 3390, which will be stated by title.

The assistant legislative clerk read as follows:

"A bill (S. 3390) to amend the Foreign Assistance Act of 1961, and for other purposes."

Mr. MANSFIELD. Now, the Senator from Kentucky may speak as long as he wishes.

Mr. COOPER. I shall be brief.

The PRESIDING OFFICER (Mr. HART). The Senator from Kentucky is recognized.

Mr. COOPER. Mr. President, as I noted before, what has concerned me and concerned me a great deal, is that amendments called "end the war amendments," provided for denial of funds to continue the participation of American forces in the war and conversely, and in contradiction, included the provision that our participation should continue until our prisoners of war were released.

Of course, the effect of the precondition was to vitiate the end-the-way amendments.

The amendment I offer today does not contain any preconditions for withdrawal. It simply states that the United States shall withdraw its forces from South Vietnam in 4 months from the enactment of this bill; that it shall not continue its participation in the war in Indochina; it means the end of our participation in the war. If this course were followed, we would have a better chance, perhaps the only chance other than through negotiations, to obtain the release of our prisoners.

Mr. President, I shall speak later on this amendment. I intend to press the amendment to a vote.

[From the CONGRESSIONAL RECORD, July 24, 1972]

FOREIGN ASSISTANCE ACT OF 1972

AMENDMENT NO. 1325 AS MODIFIED

Mr. COOPER. Mr. President, I call up my amendment. I had proposed it as an amendment to the section 12 of the bill, known as the Mansfield amendment. But I can say I think I will speak only 10 or 12 minutes. I ask Senators to read amendment No. 1325 I offer to S. 3390, which reads as follows:

"On page 10, beginning with line 18, strike out all down through line 18 on page 11, and insert in lieu thereof the following:

"SEC. 12. (a) Funds authorized or appropriated by this or any other Act for United States forces with respect to military actions in Indochina may be used only for the purpose of withdrawing all United States ground, naval, and air forces from Vietnam, Laos, and Cambodia and protecting such forces as they are withdrawn. The withdrawal of all United States forces from Vietnam, Laos, and Cambodia shall be carried out within four months after the date of enactment of this Act.

"(b) It is hereby declared to be the policy of the Congress that negotiations be continued with the Government of North Vietnam for a cease-fire, to secure the return of all United States prisoners of war held by the Government of North Vietnam and its allies and an accounting of those missing in action, and to seek an end to all hostilities in Indochina."

This is the change: On page 10, beginning with line 18, strike out all down through line 18, on page 11, and insert a new section, section 13, and new language. Then the language remains the same as in the amendment which I offered on July 19, 1972.

The PRESIDING OFFICER (Mr. HANSEN). The amendment will be stated.

The assistant legislative clerk read as follows:

"On page 10, beginning with line 18, strike out all down through line 18 on page 11, and insert in lieu thereof the following new section 13:

"SEC. 13. (a) Funds authorized or appropriated by this or any other Act for United States forces with respect to military actions in Indochina may be used only for the purpose of withdrawing all United States ground, naval, and air forces from Vietnam, Laos, and Cambodia and protecting such forces as they are withdrawn. The withdrawal of all United States forces from Vietnam, Laos, and Cambodia shall be carried out within four months after the date of enactment of this Act."

Mr. COOPER. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 10 minutes.

Mr. COOPER. Mr. President, my amendment No. 1325, as modified, to S. 3390, was submitted on July 19. Its text and the statement I made at the time are printed in the RECORD on pages 24317–24319. I ask unanimous consent that it again be printed in the RECORD.

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

FOREIGN ASSISTANCE ACT OF 1972

Mr. COOPER. Mr. President, I send to the desk an amendment to S. 3390 and ask unanimous consent that the reading of the amendment be dispensed with, but that the amendment be printed at this point in the RECORD.

The ACTING PRESIDENT pro tempore. The amendment will be received and printed, and will lie on the table; and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 1325) reads as follows:

"On page 10, beginning with line 18, strike out all down through line 18, on page 11, and insert in lieu thereof the following:

"SEC. 12. (a) Funds authorized or appropriated by this or any other Act for United States forces with respect to military actions in Indochina may be used only for the purpose of withdrawing all United States ground, naval, and air forces from Vietnam, Laos, and Cambodia and protecting such forces as they are withdrawn. The withdrawal of all United States forces from Vietnam, Laos, and Cambodia shall be carried out within four months after the date of enactment of this Act.

"(b) It is hereby declared to be the policy of the Congress that negotiations be continued with the Government of North Vietnam for a cease fire, to secure the return of all United States prisoners of war held by the Government of North Vietnam and its allies and an accounting of those missing in action, and to seek an end to all hostilities in Indochina."

Mr. COOPER. Mr. President, I have sent to the desk, an amendment to section 12 of S. 3390, the section known as the Mansfield amendment.

I offer the amendment with some regret for I can recall only one occasion when I have been separated from Senator MANSFIELD on the war in Vietnam. He has been consistent, utterly conscientious, and without any partisan consideration in his efforts to enlist the Congress in its necessary and constitutional duty to assist in bringing the war in Southeast Asia to a close. He has believed, as he has said so often, that the Congress and the Executive should work together to that end.

But, Mr. President, I have held always and have so stated on the Senate floor in speeches and by way of amendments that the participation of the United States in the war can only be ended by negotiation, or by the total withdrawal of U.S. forces, without conditions, except that they must be protected as they are withdrawn.

What I say now is not intended to question in any way the purposes of those who have introduced and fought for legislative enactments to deny funds for our continued participation in the war. I have never questioned their purposes.

But amendments have been introduced and which have received a great deal of popular support in the country have included a condition precedent—the condition that our forces shall not be withdrawn until there is an agreement to release our prisoners of war or until their release is actually accomplished.

On one hand these amendments have provided that all funds shall be denied except for the withdrawal of our forces. Then in contradiction, they provided implicitly that funds for our participation in the war shall continue, that the United States will continue to fight in Vietnam from other countries, from the air, or from the sea, until our prisoners are released.

I can understand that it is difficult for the Congress to support an amendment which does not have the usual prisoner-of-war condition. It can be said that an amendment without such a provision indicates a lack of concern for those who have fought and who are held by North Vietnam in violation of the Geneva Convention and human decency.

But we must face this issue—how can the release of our prisoners be brought about? Our continued fighting has not secured their release. It is evidence that we cannot by force, cause North Vietnam and its allies to release the prisoners. We must look for other ways. It seems to me that there are, at minimum, two prospects for their release.

The first prospect, is that their release will be secured by negotiations. President Nixon has made a serious and responsible proposal to North Vietnam to end the fighting, for the withdrawal of all our forces in 4 months, and the release of prisoners of war. North Vietnam, if it truly desires peace, ought to negotiate seriously and substantively so that agreement will be reached.

If negotiations are not successful, I see no hope of the release of our prisoners and the ending of the war except by the withdrawal of our forces. When our forces are withdrawn, I think it reasonable to believe that, as has occurred in past wars, our prisoners will be released. With our forces withdrawn, the good offices of many countries and of world opinion will urge upon North Vietnam this international and humane duty. Experience has shown that no country will intervene in a serious way on behalf of our prisoners as long as American forces are fighting in Vietnam.

These are the means, as I see it, to move toward the release of the prisoners and the ending of the war. First and most important is negotiations and the success of the negotiations now taking place in Paris. The second way I suggest for which my amendment calls, is the assurance of withdrawal of our forces.

The amendment establishes a period of 4 months from its enactment for withdrawal of U.S. forces and the end of our participation in the war. This is the same period of time which the President proposed in his speech of May 8. It would give time for safe and orderly withdrawal. It would give time for the necessary adjustments and prepara-

tion that South Vietnam must make. If this can be accomplished earlier, it will be all for the good.

It will be argued that to propose such an amendment, or to approve it, may undercut or hinder negotiations now taking place in Paris. I do not think this is correct. The amendment presents to North Vietnam the assurance that the Congress can give, as the President has given, that our forces will be withdrawn. No reason would remain for North Vietnam to hold our prisoners as hostages.

The amendment I offer is more direct than the amendments which have been proposed in past years. They have provided for the withdrawal of all our forces conditional upon the release of the prisoners. It is a condition which North Vietnam can accept or reject, one which enables them to hold our prisoners as hostages upon their terms.

This amendment is consistent with the national commitments resolution which the Senate adopted by a large majority. It is consistent with the War Powers Act initiated by Senator JAVITS and which the Senate approved by a large majority. I think it is clearly constitutional.

The amendment is consistent with amendments which, with others. I have introduced in the past. All but one were approved by the Senate. None of these amendments carried any conditions which would nullify its purpose.

I want to say that it is my desire to assist President Nixon in his continuing efforts to withdraw American forces to bring the war to a close, and to secure the release of our prisoners of war. He has reversed past policies. He has done his best. As I said earlier in this statement, he has made an exceedingly fair proposal to North Vietnam, and if North Vietnam desires peace and will negotiate seriously, the war can be ended.

I do not believe that this amendment or any amendment can promise absolutely the release of our prisoners of war. I do not believe that any individual can promise the release of our prisoners of war. I can only say that, in my view, negotiations and withdrawal offer the best chance to secure their release.

The purpose of this amendment is to propose to the Congress such a course of action. It expresses a view that the Congress and the President should join in the policy of withdrawing our military forces completely from South Vietnam, Laos, and Cambodia, and cease military action from other countries and from the sea. It would give the people of those countries a chance to live in some kind of peace, and an opportunity to establish their own governmental systems and relations. It will save lives and provide a better chance for the release of our prisoners of war and their return to their families.

Mr. COOPER. Mr. President, if the amendment is approved, it will strike out the language of section 12, on pages 10 and 11, known as the Mansfield amendment, and insert in lieu thereof the language of my amendment.

As I said on July 19, it is with regret that I differ with the distinguished majority leader, as we have seldom disagreed on issues concerning the war in Vietnam, have joined in amendments, and I hold his views in the highest respect.

But we have come to the critical time, when a fundamental question concerning U.S. participation in the war, must be squarely faced and voted upon. It is the question whether we shall support amendments whose language and purpose call unconditionally for ending our participation, or continue the support of so-called end the war amendments, whose conditions actually prescribe continued U.S. participation in the war.

A number of conditional amendments, some term "end the war" amendments, have been offered, and voted on in the Senate and some have received wide support throughout the country. I do not question the purpose of anyone who has offered or fought for these amendments. They have had value, certainly symbolic value, but I have come to the conclusion that they have held out hopes to the people of our country, which by their very terms could not be realized.

These amendments provide on one hand that our forces must be withdrawn by a certain date, and deny the use of funds except for withdrawal. But, conversely, and in contradiction, they include conditions precedent which must be accepted by the North Vietnamese and their allies.

Among these conditions is the condition that a cease fire must be agreed to by North Vietnam, or that an agreement to release, or the actual release of all American prisoners of war, must be accomplished. Some have added other conditions such as that satisfactory arrangements must be made for the evacuation of South Vietnamese who fear for their safety in the event of a North Vietnamese occupation.

Mr. President, I must say that I assume that the fear of the South Vietnamese is justified.

Mr. PASTORE. Mr. President, will the Senator yield for a question? I have to go to the mark-up session of a bill.

Mr. COOPER. Mr. President, I am glad to yield to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, in reading the amendment, particularly with reference to section 12(b), I do not see that as a condition precedent to section 12.

Mr. COOPER. The Senator is talking about my amendment?

Mr. PASTORE. That is correct.

Mr. COOPER. Section (b) would express the sense of the Congress.

Mr. PASTORE. But does the Senator mean by the amendment that we will shut off the money and withdraw our troops?

Mr. COOPER. We would withdraw in 4 months and end all participation in the war.

Mr. PASTORE. Whether or not the prisoners of war are withdrawn?

Mr. COOPER. Yes. I will address myself to the question of the Senator from Rhode Island later.

Mr. PASTORE. Mr. President, that is all I want to know.

Mr. COOPER. Mr. President, these conditions are humane in purpose. But, amendments including them do not call absolutely for the cessation of U.S. participation. They leave to North Vietnam the decision to accept or reject the conditions and upon North Vietnam's terms, and thus whether U.S. participation shall continue.

The McGovern-Hatfield, the Case-Church, the Cannon amendments, and others have prescribed one or more of these conditions. Paragraph (a) of section 12, of the amendment offered by the majority leader. Senator MANSFIELD, provides for absolute withdrawal of U.S. forces by a time certain without any condition. But I oppose the Mansfield amendment because its paragraph (b) would authorize and I emphasize "authorize," the continued shelling, strafing, and bombing of South and North Vietnam by U.S. forces from the seas, and by aircraft flying from territories outside Vietnam, unless and until North Vietnam and its allies agree to a cease fire, and the release of U.S. prisoners of war.

These amendments are a prescription for continuing U.S. participation in the war. They are not "end the war" amendments.

I will now address myself to the question which the Senator from Rhode Island raised, and I think very properly.

I know it is very difficult for any Member of the Congress to support an amendment which does not include the usual provision that agreement for the release, or the actual release of American prisoners must be secured. It can be said, and believed, that without such a provision, that we have no corner for, and that we are forsaking our fellow Americans held by North Vietnam under conditions in violation of the Geneva Convention and elemental human decency.

I face that problem because I have received letters upon that very issue. I want to face it today and ask the Senate to face it also.

We must face the question of our responsibility to assist in ending the war and the question of finding the best means to secure the release of American prisoners. We must ask what are the opportunities for their release and what is humane for them. I have said always that negotiations are the best means to secure their release, for the ending of all fighting and for settlement of the problems of Indochina. President Nixon has made a serious, a responsible and a humane proposal to North Vietnam to end the fighting. North Vietnam, if it truly desires peace—and in the whole course of the war, I have seen no evidence on its part that it desires peace—can negotiate seriously so that an agreement will be reached.

But absent such an agreement through negotiations, I see no prospect for the release of American prisoners and the ending of the war except by ending our participation in the war.

As for the release of American prisoners, continued fighting has not accomplished and will not accomplish their release. It only results in more American prisoners of war held by North Vietnam. It is more reasonable that when the war is ended, when our participation is ended, that as in past wars, our prisoners will be released. The help of many countries and of world opinion would urge upon North Vietnam this international and humane duty. As I said on July 19, this amendment and no other amendment can guarantee the release of our fellow Americans. No individual, no candidate for President can promise their release. I only urge that unless negotiations are successful, the end of our participation in the war offers a better chance for their release than exists today.

It is argued that this amendment will undercut the negotiations now taking place in Paris. I do not think so. If the North Vietnamese desire to end the war on the very favorable terms offered by President Nixon, they will do so, amendment or no amendment. If they have determined to withhold a decision until after the coming election, they will do so. I do not want my statement to be political, but I must say that the platform of the Democratic Party is ambiguous and ambivalent on the prisoner of war provision, and suggests that the ending of U.S. participation and the release of American prisoners shall be concurrent—the usual condition, which means nothing. I do not know the exact position of its nominee except that his past amendments provide that the release of prisoners of war must be accomplished if the U.S. participation in the war is to be ended. The argument that an amendment will undercut negotiations can always be used and could be a prohibition against ever debating or supporting such amendments.

I do know that Senator MCGOVERN in his speech in Miami, the Democratic nominee said:

"Within 90 days of my inauguration, every American soldier, every American prisoner will be out of the jungle and out of the cell and back home in America where they belong."

That does not state a clear-cut position. And as I have said earlier, no individual, no candidate for President can promise or guarantee that the prisoners will be released.

I must say that I have voted for past amendments of the majority leader, Senator Mansfield, which included the prisoner-of-war condition. But I have determined that this condition will never accomplish the end

of our participation in the war. I could not and will not vote for the current Mansfield amendment because its paragraph (b) would authorize the continuance of our participation in the war.

After the massive invasion of South Vietnam by North Vietnam in March of this year, I opposed any amendments concerning Vietnam except with conditions proposed by President Nixon because I considered that our forces were in grave danger and that President Nixon alone could act to protect our forces and negotiate. But that time has passed and I suggest that the 4 months—the same period proposed by the President but under different conditions—provides time for orderly and safe withdrawal of our forces and for South Vietnam to prepare for our withdrawal.

The President has reversed past policy. He has removed practically all U.S. forces from South Vietnam. I hope very much that his negotiations will succeed.

But the Congress has its responsibility to assist in bringing the war to a close.

We have the awesome task of determining the best way to secure the release of our prisoners of war. We have not been able to secure their release. We will not be able to secure their release by continuing the fighting.

For this reason, Mr. President, to bring this issue to a decision, I have offered my amendment.

Mr. SPARKMAN. Mr. President, I yield 2 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PASTORE. Mr. President, I have felt for a long, long time we should get out of Vietnam, lock, stock, and barrel. There is no question about its urgency. But we have this very difficult question of American prisoners of war. As I read this amendment, the release of our prisoners of war is not a condition of the withdrawal of American troops.

What is going to happen here if we withdraw all of our troops in 4 months, as the first part of this amendment provides, and only then we enter negotiations. Suppose we meet the same situation we have met over the past years in Paris, where they talk and talk and talk and those prisoners rot in their cells.

Mr. President, I cannot buy this kind of an amendment.

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

Mr. SPARKMAN. I yield 1 minute to the Senator from Massachusetts.

Mr. BROOKE. I submitted an amendment to provide for the withdrawal of all American troops from Indochina, conditioned upon the release of American prisoners of war. This is a perfecting amendment to the amendment offered by the senior Senator from Kentucky. I offer it because I agree with the distinguished senior Senator from Rhode Island that we should not be placed in position of having to ask for our prisoners of war after the fact. Under the amendment of the Senator from Kentucky, we would have no guarantee that we would get our prisoners of war back.

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

Mr. BROOKE. Mr. President, will the Senator yield to me for 2 additional minutes.

Mr. SPARKMAN. I yield 2 minutes to the Senator from Massachusetts.

Mr. BROOKE. My amendment to the Cooper amendment would strike out section (b) of the Cooper amendment and insert in lieu thereof,

"*Provided*, There has been a release of all American prisoners of war held by the Government of North Vietnam or any government allied with them."

Mr. PASTORE. That condition is satisfactory, but this idea that we are going to take the North Vietnamese on good faith and after we have withdrawn our forces have them tell us to go straight to Hades and have those American prisoners of war rot in those North Vietnam cells—I would be the last one to vote for this amendment.

Mr. BROOKE. To my knowledge, we have never had an antiwar amendment that did not provide for the return of our prisoners of war, and I do not think we should have one now. As I stated, I have submitted my amendment to the amendment of the Senator from Kentucky.

Mr. COOPER. Mr. President, the Senator from Rhode Island and the Senator from Massachusetts have, by their arguments, confirmed the issue I have presented to the Senate. It is a fact that previous amendments with conditions have not ended the war. They are not end the war amendments; they are amendments which by their terms continue the war.

They have not been able to secure the release of American prisoners of war. I was in World War II for 4 years, and spent nearly 2 years in Europe. American prisoners were released after the war.

I would like someone to explain how we will secure the release of American prisoners when the bombing, strafing, and shelling of North Vietnam and the war continue.

Mr. PASTORE. Mr. President, the Senator is talking about World War I and World War II. But we won those wars. We have not won this one. If we follow the course that is suggested here these prisoners will rot in those cells. The Senator cannot make that comparison.

Mr. COOPER. Let us not continue the pretext that we are trying to end the war, by these contradictory, conditional amendments then, and raise false hopes among our people.

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

Mr. COOPER. I yield 3 minutes to the Senator from New York.

Mr. BROOKE. Mr. President, will the Senator yield to me for one question?

Mr. COOPER. I yield.

Mr. BROOKE. I just ask the question in reverse. How are we going to get our prisoners out of Vietnam prison camps if we pull out of Southeast Asia?

Mr. COOPER. Does the Senator think we secure their release by continued fighting? All I am saying is that the record shows prisoners are released after a war is ended, and my amendment offers a better chance.

Mr. BROOKE. But the incentive for them to release American prisoners of war is removed once we pull all our troops from Southeast Asia. As long as we have the troops there, they will have an incentive to release American prisoners of war as a quid pro quo. It is something to be worked out between the two governments, but once we march out, sail out, or fly out, leaving our prisoners in those camps, what assurance do we have that they will release them?

Mr. COOPER. What does the Senator propose we do?

Mr. BROOKE. I propose we say to the North Vietnamese that we will take all of our troops from Southeast Asia, as my distinguished colleague proposed in the amendment, provided there is a release of all prisoners of war.

Mr. COOPER. We passed the Mansfield amendment with similar language and nothing happened—no prisoner has been released.

Mr. BROOKE. We never passed it.

Mr. COOPER. Mr. President, I yield 3 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I understand the difficulty Senators have with an amendment like the amendment of the Senator from Kentucky, and I understand the grave problems we have as Senators with the deep, humane feelings that animate so many breasts in our country, including the Senator from Kentucky and me, with regard to prisoners of war.

But I think the amendment which the Senator from Kentucky (Mr. COOPER) offered is an honest amendment because it recognizes facts instead of illusions and theories.

The fact is that we have always been ruined on the rocks of prisoners of war. Ever since the President put us on that wicket we have been stalemated.

The President made a liberal offer for settlement but it has not brought about a settlement or the release of our prisoners of war. The North Vietnamese themselves have said that if we would withdraw our forces they would release our prisoners of war, so it is one contract they have made in advance which the world has a good chance to observe.

Second, I say to Senators again that we have had 50,000 killed and over 250,000 casualties, we have had this country disrupted as never before, we have had tremendous inflation, seriously imperiling the economic foundations of our country, all because of the Vietnam war.

There must be in the consciences of Senators who are not running in 1972—as the Senator from Kentucky and I are not running in 1972—some evaluation as to the total future position of our country in terms of our security everywhere. Where do Senators think those enormous armaments are coming from? From other parts of the world? Where do Senators think the enormous defense bill is coming from?

We have stretched the fabric so it will cover the responsibility of the United States.

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

Mr. JAVITS. I shall yield to the Senator shortly, but not yet.

Therefore, it seems to me we have to evaluate our position, as deeply troubled as we are, as deeply troubled as all of us are, and as to whether this is not the only way to face it.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

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

The PRESIDING OFFICER. The Senator has 15 minutes remaining.

Mr. COOPER. Mr. President, I yield 3 additional minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 3 additional minutes.

Mr. JAVITS. Mr. President, what we have to do is to evaluate our position. I am trying to evaluate now whether we can face this position in the approximate future in any other way or whether we lose so much time going on forever, and whether Senator COOPER's proposal might not be as good as the suggestion of the Senator from Rhode Island or the Senator from Massachusetts on prisoners of war.

This may not be the only way to do it in the proximate future. I think we all owe a debt of gratitude to Senator COOPER because of his unique situation at a time when we are discussing this matter and he is making us face the true reality. The true reality is that running the risk which Senator Pastore in his usual, eloquent, colorful way pictured, the super responsibility of the United States is nonetheless to get out because of what Vietnam has done, is doing, and will continue to do in this country.

In my judgment I shall vote with the Senator from Kentucky because I think at long last we are at the moment of truth.

Mr. President, You either want to win the Vietnam war and stop giving illusory conditions that it can be ended on conditions, or you do not. I know what my decision is, but I do not quarrel with any Sena-

tor who thinks the other way. I hope he is right. I think we are facing the moment of truth and the greater responsibility of the United States is to get out of Vietnam. I believe that serves everybody—the prisoners of war, their families, and our country.

Mr. BROOKE. Mr. President, the Senator knows I have the greatest respect for him and for the Senator from Kentucky. I know that the amendment of the Senator from Kentucky is an honest amendment, as my distinguished colleague from New York has said. He has said that this is the moment of truth. But the truth is that there are perhaps thousands of American prisoners of war resting in North Vietnamese prison camps at this time. The Senator's amendment would ask us to pull out all of our troops from Southeast Asia——

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. BROOKE. May I have 2 minutes?

Mr. SPARKMAN. Mr. President, I will yield 2 minutes, but I will have to stop at that point.

Mr. BROOKE. Pull out all of our troops in Southeast Asia with the hope that the North Vietnamese would release our prisoners of war. He says it is an illusion if we do anything else other than adopt the Cooper amendment at this time.

Now, the fact is that the U.S. Government is being asked to take, on good faith, what the North Vietnamese will do after we have removed our American troops from all of Southeast Asia. It very well may be that the North Vietnamese may release our prisoners of war, but if they do not release our prisoners of war, what is our option? What is our alternative? What have we got left? We have absolutely nothing left with which to deal with the North Vietnamese other than, as the distinguished Senator from New York has said, world opinion. We do not know that world opinion means that much to the North Vietnamese.

I have voted for every antiwar amendment that has come on the floor of the Senate. I have sponsored some. I have cosponsored others. It grieves me to have to vote against an antiwar amendment, but I cannot, in good conscience, vote for an antiwar amendment which leaves it to good faith on the part of the North Vietnamese to release American prisoners of war. I just cannot do it. And I do not think it is the question as put by my distinguished colleague from New York at all. It is not an illusion. We are not asking too much to say to them, "Return our prisoners of war and we will pull all of our troops out of Southeast Asia." I think it is a good bargain, and I think it is a bargain which they would expect the U.S. Government, in all good conscience, to make.

Mr. PASTORE. Mr. President, will the Senator yield me some time?

Mr. SPARKMAN. Mr. President, will the Chair advise me how much time I have left?

The PRESIDING OFFICER. The Senator from Alabama has 24 minutes remaining.

Mr. SPARKMAN. I yield 2 minutes to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, the Senator from Massachusetts asks what we have left. We have something left—the shame of America. The argument is made that this is an honest amendment. I do not dispute its honesty; it is the judgment that I dispute. The Senator from New York said the President made a very generous offer. Yes, but in his offer he has always proposed a cease-fire. When the offer has been made it has been conditioned on the release of American prisoners of war.

That is what we are trying to do with the amendment of the Senator from Massachusetts.

I am for withdrawing from Vietnam. I am for withdrawing from Vietnam tomorrow. But make the condition, not upon a cease-fire, but upon the release of American prisoners of war. Why? Because this is not America's war. It is the war of the Vietnamese; since it is their war, it is a civil war. If North Vietnam wants to fight South Vietnam, let the North fight the South, but American boys should not die in the process.

All I am saying is that if we want to rescue our American prisoners of war, then make the withdrawal solely and strictly conditioned on the release of American prisoners of war.

Mr. SPARKMAN. Mr. President, I yield 2 minutes to the Senator from Vermont (Mr. AIKEN).

Mr. AIKEN. Mr. President, I think everyone here knows how much I would like to cooperate with my colleague from Kentucky, because we have both been consistent in wanting our disengagement in Southeast Asia at the very earliest opportunity and at the very earliest feasible moment.

It appears that 4 years ago we had in South Vietnam 543,500 military men. Today we have 43,500. Last week there were eight Americans killed in South Vietnam. There were 57 Americans murdered in New York City. So it looks to me as if we have something to do here at home.

Last Friday a dispatch that I fear many people did not see came over the wires. The substance of this report was to the effect that Hanoi authorities had stated the United States would be permitted to withdraw from Indochina only after we had thrown out the government in Saigon and helped establish one which was more compatible to the policies of North Vietnam.

Although this dispatch was only a news report, I have some reasons to believe it was a correct statement of the Hanoi position. There is no question in my mind that the North Vietnamese intend to hold American prisoners hostage until we have complied with their demand, which is to overthrow the government of Saigon and disarm the people of that country, or leave it to the government which we would establish there, suitable to them, to disarm the people of that country.

I think they have been encouraged by the prospects that if they can continue the war possibly as much as 90 days after the inauguration of the next President, they will then be able to secure compliance with their terms. I do not think we should encourage any prolongation of the war or give them false encouragement.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. SPARKMAN. Mr. President, I yield 1 minute to the Senator from Vermont.

Mr. AIKEN. We have had different statements from the candidates for the Presidency so far. About 15 minutes ago I read a United Press news item that:

"Senator GEORGE MCGOVERN today said his pledge to keep a residual force in Thailand if North Vietnam refuses to release U.S. prisoners is only a 'gesture' and he acknowledged that it probably would not force Hanoi to release the POW's."

I do not think we should encourage the continuation of the war in this way. I think there is a possibility that if the Senate stands firm there will be some more feasible way of bringing our involvement over there to an end. I do not think we can stop the fighting among them over there. They have been doing it for 200 or 300 years and I do not think we can stop it now. Regardless of who the next Preident may be, I do not think we will be able to do it then.

I believe that our best recourse now would be to leave the situation with our Government, which I understand will have another secret meeting with the North Vietnamese within the next few days. Let us see what will happen. But I feel very strongly that unless this country does back our Government at this time, there is no prospect for success at a secret meeting or any other kind of meeting, and that the North Vietnamese will hold our prisoners not only until next spring but for an indefinite period beyond, if they think that by so doing they can get all their terms complied with. I believe these are much better prospects of ending our involvement if we can end this encouragement to continue the war.

Much as I would like to support Senator COOPER I do not feel that approval of his amendment would enhance the coming of peace in Indochina.

Mr. SPARKMAN. Mr. President, I yield 5 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I believe that the pending amendment requiring complete and unconditional withdrawal from Vietnam within 4 months if the war has not been brought to an end by negotiation is an extremely unwise and irresponsible proposal. I urge my colleagues to consider all the implications of this amendment most carefully as I believe that sound reasoning based on the best interest of the United States in securing a lasting peace in Southeast Asia will lead this body to reject this amendment. In my judgment, rejection of this amendment by the Senate is imperative for the following reasons.

First, this amendment completely undercuts the President's well thought out and thus far successful program to achieve a just peace in Vietnam. In 1968, American troops in Vietnam reached a level of 549,000. By August of this year there will be 39,000 American troops in Vietnam. The President has succeeded in removing more than one-half million men from Vietnam.

In addition, the United States is now spending less than one-third of the 1968 budget figure for our Vietnam effort. It is also noteworthy that no draftees are currently being sent to Vietnam and that draft calls for 1972 have averaged less than 5,000 men a month. It is also gratifying that American casualties have been drastically reduced. Even with the present North Vietnamese invasion considered, our casualties have been reduced by 95 percent from the level we reached in 1968. This outstanding record of reducing American involvement in Vietnam deserves the support of the Congress rather than an irresponsible attempt to second guess the President and thus torpedo his extremely effective program for Vietnam.

Second, the pending proposal has no guarantee whatsoever that American prisoners of war now held by North Vietnam will be returned. The President has pointed out that, even though the French withdrew completely from Vietnam, there are still thousands of French servicemen completely unaccounted for. Neither the President nor the Congress can afford to leave the fate of our POW's up to the discretion of the North Vietnamese Government.

Third, this amendment would leave our loyal allies, the South Vietnamese, completely at the mercy of an aggressive, cruel and totalitarian enemy. We are fighting in Vietnam to prevent Communist aggression from succeeding. The sacrifices of the American people on behalf of this important goal must not be in vain.

Fourth, President Nixon has stated time and again that the goal of his administration is to create a lasting and just peace. Were we to merely bring an end to any American involvement in military hostilities in Vietnam, yet create a situation which results in new aggression, new wars, and new demands on the American people and the American conscience to halt these new acts of Communist expansionism, we would have sacrificed much and gained nothing. Peace requires strength and the willingness to use that strength to defend world peace

against those who would disturb it. Peace requires that an end to the Vietnam war discourages new aggression in its wake.

Fifth, and last, this amendment would signal a new and dangerous retreat into isolationism and away from the position of leadership of the forces of liberty and of peace in today's troubled world. If the United States heeds the voices of those who counsel retreat, surrender, and acquiescence then the entire free world will be at the mercy of powerful totalitarian and imperialistic nations. Our retreat from world leadership would create a vacuum which would not go long unfilled. A stable peace for the world and an optimistic future for the humanitarian ideals for which the United States has always stood require our leadership and our sacrifices. Vietnam has put us to the test. I believe our Nation has the mettle to survive this test.

Mr. SPARKMAN. Mr. President, I yield 3 minutes to the Senator from Ohio.

Mr. TAFT. Mr. President, I think the position in which the Senate finds itself today demonstrates the unwisdom of putting conditions upon the event of peace in Vietnam. I want to commend the distinguished Senator from Kentucky for, I think a very honest approach to the problem. I think it is not surprising also that the Senator from Massachusetts has indicated that if we go the direct route or the absolute route that is proposed by the amendment of the Senator from Kentucky, the enemy would feel that they absolutely must go ahead and start to prescribe conditions.

The distinguished Senator from Vermont, with whom I find myself very much in agreement, has indicated that he feels that an additional condition may well be put upon any termination of the war, and he certainly is in a position to know as well as any of us whether or not that is the case. Very delicate negotiations are going on. The President wants to end this war as much as anyone does. Unfortunately, the circumstances of our own political life seem to indicate that the chances of that perhaps may not be too good because of the way in which the issues have been drawn between the parties in this country and in the current political situation.

I wonder why the North Vietnamese would settle at this time, if they felt that there is a chance for the success of the opposition to the President getting into office, and that under those conditions they would be able, perhaps, to demand such conditions as the removal of the Saigon government with our cooperation and our support.

I feel that we have to act, in these circumstances, with great restraint in the Senate, leaving the President the broadest unconditional power to try to work for peace. That is the direction in which I think success lies, and the only direction in which I think success lies at this point. Creating doubts and encouragement in the heart of our enemy by the debate in this body today, I think, is a disservice to the prospects of peace, and I hope we will end up with no such encumbrance in this bill whatever.

Mr. COOPER. Mr. President, I yield 3 minutes to the Senator from Illinois.

Mr. PERCY. Mr. President, I intend to vote for the Cooper amendment, as I have voted for every amendment in an attempt to bring an end to American military involvement in the Vietnam war. In good conscience I cannot do otherwise. The war continues to take its toll of American lives. The number of Americans taken prisoner continues to rise. Thousands upon thousands of Vietnamese civilians are added to the rolls of the war dead and the war wounded every month. Despite the best efforts of President Nixon to end the war by negotiation, no end is yet in sight.

Negotiations between the North Vietnamese and the United States have been underway since May 9, 1968. Since that time officials of two administrations have counseled that Congress should not act to end American involvement in the war, because congressional action might hamper the executive branch in negotiating a settlement. But it is now 4 years later. Twenty thousand more Americans have died in Vietnam. No settlement has been achieved. Therefore Congress has a duty to share responsibility and to do what it can, and more than it has done before, to bring our men home.

I share the concern of all Americans that the prisoners should be released and the missing fully accounted for. But we have seen that having more than 500,000 American troops in Vietnam did not secure their release and accounting, and it is highly unlikely that having 46,500 American troops—our current strength—in Vietnam will accomplish what 500,000 troops could not accomplish. Nor can we be optimistic that the bombing of North Vietnam today will be any more effective in obtaining prisoner release than did the bombing from February 1965 through March 1968.

Our best hope of obtaining the release of our imprisoned men and an accounting of the missing must be in ending American involvement in the war. Then the North Vietnamese and the Vietcong would have no reason to deny further these simple humanitarian actions. To do so would bring the condemnation on Hanoi of the entire world community.

Since July 4, 1966, I have worked for peace in Vietnam. After an in-depth, on-the-ground assessment of the American involvement in Vietnam in December 1967, I said:

"I am more firm than ever in my conviction that we cannot win this war for the South Vietnamese. We can help, but ultimate victory—military, economic, political and social—must be won by them."

Last year I voted that the American military involvement should be ended by December 31, 1971. Today, by my votes, I reaffirm my conviction that the United States should end this tragic involvement and that Congress has an obligation to help bring this about.

Mr. SPARKMAN. Mr. President, I yield 30 seconds to the Senator from California.

PRIVILEGE OF THE FLOOR

Mr. CRANSTON. Mr. President, I ask unanimous consent that two members of my staff, Mr. Murray Flander and Miss Ellen Frost, be permitted the privilege of the floor during the consideration of all Vietnam amendments.

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

Mr. COOPER. Mr. President, I intend to yield back the remainder of my time in a few moments, but first I will respond to some arguments against my amendment that have been made.

First, I speak to the argument made by one of my closest and dearest friends in the Senate, Senator AIKEN, for whom I have the greatest respect: He believes that negotiations may be successful this time, and therefore we should should not do anything which might upset those negotiations. I hope with all my heart—as all of us do—that negotiations will be successful, because that is the best way to end the war, stop the fighting, and get the prisoners home. I support the President's efforts, but I have pointed out that if the North Vietnamese desire to end this war, the amendment will not influence them.

When we make an effort to discharge our constitutional duty, we are faced with the argument that it will upset negotiations. If we accept this argument for all times, we will have placed upon ourselves a condition, a prohibition which would forbid us from ever exercising our constitutional responsibility.

I will not spend much time answering Senator THURMOND's suggestion that somehow this may be giving some service to the North Vietnamese. I have never believed that North Vietnam desired peace. They are the aggressors. I have no sympathy or support for them in any way. But I have sympathy for our own prisoners of war and concern for this country.

To my good friend, the Senator from Massachusetts (Mr. BROOKE), who proposes to offer an amendment, to my amendment which, if approved, would weaken it, with his condition, to the same amendments we have had throughout the years, and which have accomplished nothing, I have this to say to inform him of its purpose, because it seems to be misinterpreted: My amendment would stop the fighting in every area—from the sea, on the land, from the sky—it would withdraw our forces within 4 months, the time which the President has suggested, from Cambodia, Laos, and South Vietnam. It does not provide for withdrawing our fleet from the seas or our forces from Southeast Asia, other than South Vietnam, Laos, and Cambodia.

If after our withdrawal, the prisoners were not released the President and Congress should decide to take action to secure the release of the prisoners, there is nothing in my amendment to prevent that from being done. I make this point, however: If action were taken, it would be done constitutionally, with the assent of Congress, and not by the determination of the Executive alone.

I have presented the case. I hope that the Senator will not offer his amendment. I would like to see the Senate vote up or down my amendment. I hope that it would approve, and say that, so far as the Senate can have an influence, we want to end participation in the war, to bring our forces out within 4 months, in a reasonable and secure time, and with a better opportunity of securing the release of American prisoners. Past amendments have never secured the release of prisoners and never will, in my opinion. I have said that my amendment and no amendment can guarantee their release. No man, no candidate for President, and no President can guarantee it. My amendment has the strength of saying that, after all these years, the loss of life, the divisions in our country, we will look the issue in the face and we will make a decision on my proposal.

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

Mr. COOPER. I yield.

Mr. BROOKE. I think that the distinguished Senator from Kentucky has made a great contribution by offering his amendment. Very honestly, Mr. President, I want to vote for the Senator's amendment. As I have said, I have voted for every antiwar amendment that has come to the floor of the U.S. Senate. But I propose my amendment to the Senator's amendment because I do not believe that we should leave the return of our prisoners of war to the good faith of the North Vietnamese.

The Senator's amendment has made a contribution. It is the first time we have had any amendment on this floor which has called for the withdrawal of American forces not only in Vietnam but also in Thailand, Laos, and Cambodia.

Mr. COOPER. Not Thailand.

Mr. BROOKE. Cambodia and Laos. For the first time. So it is an extension of all the amendments that heretofore we have been asked to vote upon. That, in itself, is something for which we in the Senate should be grateful and for which I am sure the American people would be grateful, because it would speed up not only an end to the war in Vietnam but also a disengagement of

American forces in Laos and Cambodia as well.

Mr. COOPER. Mr. President, can the Senator secure time from the other side? The time remaining is almost gone.

Mr. BROOKE. May I have 1 minute?

Mr. SPARKMAN. I yield 1 minute to the Senator from Massachusetts.

Mr. BROOKE. The only fault I find with the Senator's amendment is that it does not provide for the return of American prisoners of war. I think the Senator's amendment would have a greater chance of adoption by this body if it did provide for the return of American prisoners of war.

I do not know how many of my colleagues will vote for the Cooper amendment. I do not know how many would vote for the Cooper amendment as amended. But I certainly believe that more Senators would vote for the Cooper amendment with the provision that there be a return of American prisoners of war than not. So the voice of the Senate would be loudest if it did have in the amendment a provision for the return of American prisoners of war. I think that is what the distinguished Senator from Kentucky wants, and I quite agree with him that the legislative branch of the Government does have a joint responsibility with the executive branch of the Government in the conduct of this war. We have been saying that time and time again—with the McGovern-Hatfield amendment, with the Mansfield amendment, with the Cooper-Church amendment with all the amendments we have been asked to vote upon. But all of them, to my knowledge, have contained some provision for the return of American prisoners of war.

Mr. COOPER. The Cooper-Church amendment had no such condition, either with respect to Cambodia or the one we voted on last year for withdrawal from Vietnam.

Mr. BROOKE. I stand corrected, if the Cooper-Church amendment did not have a provision for the return of American prisoners of war. But the other amendments certainly did. I think that the amendment I propose, Mr. President, would strengthen the Cooper amendment. I hope that, rather than asking me to withdraw my amendment or not offer my amendment, the distinguished Senator from Kentucky (Mr. COOPER) would accept it, because I do not think it differs much from the spirit and the letter of the amendments he has sponsored, cosponsored, and voted for in the past.

Mr. PASTORE. Mr. President, will the Senator from Massachusetts yield?

Mr. BROOKE. I yield.

Mr. PASTORE. Does the distinguished Senator from Massachusetts know of anything new at the peace talks whereby an official proposal was made by the U.S. Government to withdraw by a time certain which withdrawal was predicated solely and strictly on the release of our American prisoners of war?

Mr. BROOKE. I do not.

Mr. PASTORE. Is that not what we are trying to do with this amendment?

Mr. BROOKE. That is it exactly.

Mr. PASTORE. And that is the reason why, then, this is a new thought. We get the argument that we have tried everything—but not this. So I say, try this.

Mr. BROOKE. I agree with my colleague from Rhode Island. The Senator from Kentucky has misunderstood the purpose of my amendment when he says that it completely wipes out the force of his amendment. It does not do that at all. His amendment will be strengthened by it. I hope that he will seriously consider accepting my amendment to provide for the return of the American prisoners of war. If North Vietnam has good faith and if we have good faith, certainly the executives of those two Governments can get together and work out the logistics of the return of our prisoners of war and the withdrawal of our forces from Cambodia, Laos, and Vietnam. This is a matter of logistics. We do not need to worry about those negotiations. But we do have to make it a condition precedent to withdrawal of our forces that we make provision for the return of our American prisoners of war.

Mr. KENNEDY. Mr. President, will the Senator from Kentucky yield me some time?

Mr. COOPER. I promised to yield to the Senator from New Jersey——

The PRESIDING OFFICER (Mr. HANSEN). The Chair would inform the Senator from Kentucky that 2 minutes remain to him.

Mr. COOPER. How much time have I got remaining?

The PRESIDING OFFICER. Two minutes.

Mr. KENNEDY. Mr. President, will the manager of the bill be willing to yield me some time?

Mr. MANSFIELD. Mr. President, I will be glad to yield 3 minutes to the Senator from Massachusetts under the bill after the Senator from Kentucky (Mr. COOPER) has completed his remarks.

Mr. COOPER. Mr. President, I promised to yield first to the Senator from New Jersey (Mr. CASE).

Mr. KENNEDY. Mr. President, after the Senator from New Jersey has been recognized, I will be entitled to 3 minutes as yielded to me by the distinguished majority leader—is that correct?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. I thank the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 2 minutes.

Mr. CASE. Mr. President, I thank the distinguished Senator from Kentucky for yielding me this time. He has rendered a great service to all of us. He has caused us again to consider what American policy in Indochina should be. I shall support his amendment, and I shall also vote against the amendment which the Senator from Massachusetts (Mr. BROOKE) is considering introducing, if he has not already done so.

Mr. President, it is true that the Case-Church amendment did include the prior condition of an agreement for release of prisoners of war. But I want to say frankly to the Senate that the purpose of this precondition was to prevent the absence of such a condition from being used as an argument against an amendment which people wanted to vote against for fundamental reasons. We did not include the precondition because we thought it was necessary to bring the war to an end. I do not think any preconditions are necessary. I have come to the conclusion that the Cooper amendment gives me a chance to vote for what I have always thought was the purest expression of my own views.

Now we shall be considering an amendment offered by the distinguished Senator from Massachusetts (Mr. BROOKE). In consideration of his amendment, we shall see whether Members of the Senate want a precondition, and whether the absence of such a precondition would be disabling insofar as passage of the Cooper amendment itself goes.

The PRESIDING OFFICER. The time of the Senator from New Jersey has expired.

Mr. CASE. Mr. President, may I have 1 more minute from whomever has got some time?

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

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

Mr. CASE. The Senator from Kentucky is absolutely right when he says we are not abandoning our prisoners of war or those missing in action. If they are not released when our troops are withdrawn from the three Indochinese countries, we shall still have forces in that region which can be, so far as the Senator from New Jersey is concerned, and should be applied in whatever manner and in whatever degree and to whatever extent necessary to accomplish the release of our prisoners of war and the accounting for those missing in action. But in the meantime, we will no longer be sanctioning the slaughter of innocent people. That is the primary advantage of the course of action that the Cooper amendment would bring about.

It is time we took this action in Congress because it seems it will not be taken otherwise.

I am very grateful to the Senator from Kentucky for giving us this chance.

Mr. SPARKMAN. Mr. President, may I say that the Senator from Massachusetts is recognized on my time. How much time did the Senator want?

Mr. KENNEDY. Three minutes.

Mr. SPARKMAN. I yield 3 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 3 minutes.

Mr. KENNEDY. Mr. President, I think the Senator from Kentucky has explained fully and adequately the reasons for his amendment. For many years, he has been one of the most articulate, sensitive, and outspoken opponents of the war in Vietnam. I commend him for the important amendment he has brought before the Senate today, and I hope that it will be accepted.

Mr. President, although there are perhaps few times when I have disagreed with my distinguished colleague from Massachusetts, I disagree with him here this afternoon.

By voting for the Cooper amendment, I do not vote to turn my back on the hundreds of American prisoners of war in North Vietnam. To the contrary, I believe the amendment offers the best opportunity we have to bring them home. I believe that the amendment offered by the Senator from Kentucky will bring our American prisoners back home far more rapidly than the conditions which have been established by the administration for a Vietnam settlement—conditions like a guarantee that the Thieu government will remain in power, or a cease-fire throughout Indochina, or many of the other conditions the administration seeks to impose.

Mr. President, I do not see how we advance the cause of the American prisoners of war by killing more Americans in Vietnam.

The President says he wants to end the war. He says he is concerned about our American prisoners of war. There are over 450 American prisoners in North Vietnam. But in the first 3 years of this administration, 20,000 Americans have been killed in Vietnam. The casualty toll is climbing every day. Thousands more Americans have been wounded, and hundreds of thousands of Vietnamese civilians have been killed or maimed. And each day the killing goes on, more American fliers are taken prisoner.

We need a new avenue to end the war and bring the American prisoners home. For nearly 4 years, we have been negotiating in Paris to reach these goals, and we have not succeeded. I believe the amendment offered by the Senator from Kentucky offers us the most hopeful chance we have to reach our goals. As he has clearly stated, if this step does not succeed, we will still have at our disposal whatever steps the Senate and Congress and the President wish to take to insure that our prisoners will actually be released.

No one can be sure that the Cooper amendment will succeed in bringing the prisoners home, but it offers us a new and hopeful opportunity. One thing we do know, however, our American prisoners of war are not coming home under the present policy. The Cooper amendment will stop America's involvement in the killing in Indochina, and it will give us a very real chance to bring the prisoners home. I hope that the amendment of the Senator from Kentucky will be adopted.

Mr. TUNNEY. Mr. President, I support the amendment of my able colleague from Kentucky. That amendment poses to the Congress for the first time the stark issue of whether we in the Congress will take unto ourselves the responsibility for imposing a quick and unconditional end to the American involvement in the Vietnam war.

We must accept that responsibility. We have tried through almost every conceivable means to end this ghastly war. We have voted upon a variety of measures. We have protested the bombing. We have decried the destruction. But we have not succeeded in ending this military adventure.

We should enact the strongest legislation possible. It must be unequivocal and unambiguous. We must create still any effective laws which will force the President to get the message that the American people want out of Vietnam.

The Washington Post this morning editorialized against the Cooper amendment. It stated that:

"The Senate cannot undo the bombing and the mining and the Cambodian and Laotian "incursion" and all the rest of Mr. Nixon's three-and-a-half-year performance in the conduct of our Vietnam war effort—including some 20,000 American dead. . . . He does not need Congress to tell him that the great majority of Americans expect that promise [to end the war] to be kept."

It appears, however, that the President does need the Congress to tell him that America wants out of Vietnam. It appears that the President, in the absence of legislation forcing him to act will not make good that promise.

While the Senate admittedly cannot undo the tragedy of Indochina, it can act effectively to deter more of the same. What can we expect in the future from a policy which has ordered in the past 3 years more bombs dropped upon Indochina than have ever been dropped in any other presidential term in history? Congress must act to stop that policy.

I for one, Mr. President, have little confidence that, in the absence of strong congressional action, the policy will soon be changed. It is imperative that the strongest possible action be taken. The Cooper amendment provides us with that opportunity. I shall support it.

Mr. TOWER. Mr. President, what the amendment before us seeks to achieve—an end to our involvement in the Vietnam war and the release of American prisoners of war held by Hanoi is unexceptionable. We all want that. But it is imperative that we consider carefully how likely this unilateral legislative approach is to achieve these purposes.

It may be helpful for us to try and put ourselves in the other side's place—to consider the view from Hanoi. How do the North Vietnamese see the situation that now confronts them?

First of all, Hanoi must feel deeply disturbed by the strength of South Vietnamese resistance to their vaunted offensive. The massive invasion is in deep trouble—despite the fact that no U.S. forces are now engaged in ground combat. Hanoi has been forced to commit almost its last reserves to hold Quang Tri, the only provisional capital it succeeded in seizing.

Beyond this, Hanoi must see the measures we have taken to interdict movement of military supplies into the north and from the north to the battlefields as casting serious doubt on their ability to continue their offensive with any hope of achieving military success. Hanoi must also, as a result, be impressed with U.S. determination to continue to support South Vietnam's resistance to their military initiatives.

Looking to their own resources for continuing this increasingly useless blood-letting, the leaders in Hanoi must find further cause for doubt and concern. Neither Moscow nor Peking gives any evidence of being willing to continue unlimited support to Hanoi's ambitions in the South. Indeed, there seems to be some reason to believe both are counseling a negotiated end to hostilities.

Under these circumstances, what can be running through the mind of Le Duc Tho, Hanoi's principal negotiator in Paris? Where can he see prospects for achieving a breakthrough for his masters in Hanoi? I regret to say that he can see those prospects only in the deliberations of this body. Only if we decide to give him unilaterally what he is in Paris to negotiate can he possibly see a light at the end of the tunnel.

And this, I fear, would be precisely the effect of our passage of the amendment before us. Hanoi would suddenly be guaranteed the very aims it seeks. The abrupt unconditional departure of U.S. forces from Vietnam and the inevitable demoralization of South Vietnam. What impulse to negotiate would still motivate Le Duc Tho? None that I can see.

It is likely that, following this incredible achievement of their main aims by our decision in this Chamber Hanoi's leaders would, as the sponsors of this amendment apparently believe, then magnanimously release our prisoners? I rather doubt it. It is far more likely that the desire to humiliate a beaten foe would prevail.

Does anyone seriously believe that Hanoi would do any less than return joyfully to the assertion of its maximum demands now that victory had fallen so unexpectedly in its lap? I, for one, do not. And I am not prepared to abandon the prospect of a serious negotiation of an end to the war and to rely upon an incredibly naive prospect of North Vietnamese generosity.

I shall vote for the Stennis amendment to strike the Mansfield provision and I believe every sensible and thoughtful Member of this body should join me in support of it.

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

AMENDMENT NO. 1327 AS MODIFIED

Mr. ALLEN. Mr. President, I call my amendment and ask that it be stated and that it receive immediate consideration.

The PRESIDING OFFICER (Mr. WEICKER). The amendment will be stated.

The legislative clerk read the amendment as follows:

"In lieu of language proposed to be inserted by the Senator from Kentucky (Mr. COOPER), insert the following:

"That it is the sense of the Congress that at a time certain, not later than four months following the establishment of an internationally supervised cease-fire throughout Indochina and the return of all American prisoners of war and an accounting of Americans missing in action in Indochina, a complete withdrawal of all American forces from Vietnam shall be accomplished."

Mr. ALLEN. Mr. President, I submitted this amendment last week. It was printed as amendment No. 1327. It has had to be changed on account of the change in the parliamentary situation.

I yield myself 7 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 7 minutes.

Mr. ALLEN. Mr. President, this language is, in effect, the President's language in his speech and offer of May 8.

I do not favor the amendments that the distinguished Senator from Massachusetts (Mr. BROOKE) plans to offer. I do not favor the language of the amendment of the distinguished Senator from Kentucky (Mr. COOPER), nor do I favor the language of the committee substitute which embraces the original Mansfield amendment.

Mr. President, let us analyze the language of the committee substitute which is the original Mansfield amendment as to the withdrawal from South Vietnam. No preconditions whatsover are set. Withdrawal must be made by August 31. How in the world is that going to be done? They would have to fight their way out of South Vietnam if they ever were to come out of there.

Mr. President, as to the second phase of the Mansfield amendment—and I call it that even though it comes to us as a part of the committee substitute—there is a provision for withdrawal from all of Indochina. There is a cease-fire proposal, not on the entire front, but a cease-fire as between American troops and the troops of North Vietnam and of the Vietcong. In effect, that is a separate peace. And I could not support that proposal.

We are not engaged in a war with the South Vietnamese. We owe it to the South Vietnamese to see the matter to a successful conclusion.

If we have a cease-fire with North Vietnam and with the Vietcong, what else could we expect than that the South Vietnamese would turn on us if the battle were to continue between North Vietnam and South Vietnam.

Then we have the condition about the release of the prisoners of war and the accounting for the missing in action. I call attention to the fact that these conditions apply, not the withdrawal from South Vietnam, not to a cessation of hostilities in South Vietnam, but both of those conditions are predicated upon or have to do with the withdrawal from all of Indochina.

Now as to the amendment of this distinguished Senator from Kentucky which this language is offered as a substitute to, that amendment provides for a withdrawal from Vietnam, from Laos, and from Cambodia within 4 months without any preconditions whatsoever. It does provide for going on with the efforts to get a cease-fire and to go on with the efforts to achieve peace and to go on with the efforts to get the return of our prisoners of war. However, that is not a precondition. And if we withdraw from South Vietnam and have not been able to accomplish or obtain a peace and have not been able to get a cease-fire, with our troops there and not being able to get our prisoners of war with our troops there, how in the world will we get them released after we have pulled out?

If there was ever a time when unity in this country was absolutely essential, now is the time. We are engaged in a presidential election, and there is certainly a tendency on the part of many to seek to divide some of our people. However, here is an opportunity for the Senate to stand behind the President and not run off in three or four different directions as the Mansfield effort, the Cooper effort, and the Brooke effort would do.

Mr. President, by the adoption of this amendment we stand foursquare behind the President of the United States in the offer he has made to the North Vietnamese.

If this amendment is adopted as a substitute for the Mansfield amendment, which is now incorporated in the substitute, it would follow that the people of the United States, and certainly the Senate itself, are united behind the President.

This exact language was adopted by the House Foreign Relations Committee in the military authorization bill, I believe, just before the recess for the Democratic Convention. This would be in line with the sentiment of the House. It would be in line with the President's recommendations. It would show unity on the part of the Senate and unity on the part of Congress behind the President.

I believe it would contribute a great deal toward the success of the secret and open peace negotiations now underway in Paris.

Mr. President, I reserve the remainder of my time.

Mr. PASTORE. Mr. President, may I have 4 or 5 minutes?

Mr. MANSFIELD. Mr. President, I yield the Senator from Rhode Island 5 minutes.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 5 minutes.

Mr. PASTORE. Mr. President, I think we are losing sight of the very root of this controversy. The question here is, is it America's war or not America's war? Apparently the administration has decided that this is not America's war, because we have had a policy of withdrawing.

Some people have been critical of the fact that the withdrawal has been too slow. Other people have been critical of the fact that the withdrawal has not been completed. However, presumably—and I think it has to be understood by all—the American policy with respect to Vietnam is to withdraw our troops.

The reason we mined Haiphong and began the bombing of the north again is the incursion of the north into the south. That was the justification for it. Now, whether that judgment was wise or unwise is not the question before us today.

What is it we are met with? We are met here with two extremes. One extreme is on the amendment of the Senator from Kentucky who is saying: "Let us withdraw all of our troops in 4 months in the hope" and that is what it is, "that through negotiations we can get a general cease-fire and can bring our prisoners of war back home."

I do not know who is looking into what crystal ball. I do not know how it is that all of a sudden we can trust the North Vietnamese in this month of July more than we could have a month or a year or 2 years ago.

All we know is that we have been in Paris trying to negotiate peace on the terms of the President. And those terms have not worked. The terms of the President are contained in the sense of the Senate resolution now being proposed by the Senator from Alabama. That has not worked up to now. It is my judgment that it will work in the future.

Against that we have the proposition of the Senator from Kentucky who goes to the other extreme. He says: "Let us forget any conditions precedent. Let us agree to withdraw and maybe through negotiations—maybe through negotiations—we can get a cease-fire or at least we will get the return of our American prisoners of war."

That is where we stand now. What does the Senator from Massachusetts try to do? He is trying to innovate he has new propositions. It is new because this administration has never said that we will withdraw completely from Southeast Asia if our prisoners of war are returned. To date we have never made that proposition.

We have always tied our deal with it to a cease-fire. What is wrong with a cease-fire? We all hope that we can get a cease-fire and that the conflict can come to an end. However, Thieu and Ky have told us time and time again: "You Americans won't stop us. We are going to keep on fighting." So we are at the mercy of Saigon and the Government of South Vietnam as to whether we will continue.

What are we being told by North Vietnam? North Vietnam has told us time and time again: "You will get out lock, stock, and barrel, or it is no soap."

That is what we are up against. What does this all amount to? Take a good look at it. Here we are. We are hoping and praying that if we withdraw our troops in 4 months, maybe through possible negotiations the North Vietnamese will, release our prisoners of war.

What does that do to that poor woman whose husband has been agonizing in a North Vietnamese jail? What will she think of us? The minute she picks up the paper tomorrow morning, she finds out that our American Government, the Senate of the United States, is saying: "Let's get out of South Vietnam and let's take our chances on whether or not North Vietnam has compassion enough to send our prisoners of war back."

Why, if I had a son in a prison in North Vietnam, I would think America had betrayed him, in doing such a dastardly thing.

That is all we are saying here today, that is all we are saying: let us trust North Vietnam to return our prisoners of war in the hope that the North Vietnamese are people of good faith—that they are people of conscience and that they will return our imprisoned Americans home.

That may be all right for you and for me. We have no one immediately at stake. But I wish we could take a plebiscite among wives whose husbands are there and mothers whose sons are there. I wish we could see their reaction when they pick up the paper tomorrow and read that we declared in the Senate this afternoon, "Go ahead and withdraw the troops and maybe Hanoi will be kind enough to send the prisoners home." That would bring a shadow of shame on the conscience of America.

Mr. COOPER addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky has no further time remaining.

Mr. ALLEN. The Senator from Montana is in control of the time in opposition on my amendment.

The PRESIDING OFFICER. The time is to be controlled by the mover of the amendment or the majority leader.

Mr. MANSFIELD. Mr. President, I yield 15 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOPER. Mr. President, I oppose the amendment proposed by the distinguished Senator from Alabama. He is very forthright in his statement. But for the same reasons I have given before I oppose it.

I also say to my friend from Rhode Island that he is very eloquent and he touches our hearts, as he intends to touch the hearts of the American people.

The Senator asks what we gain. We gain an end to the fighting. We gain, as the Senator from New Jersey Mr. CASE, has said, the opportunity to save American lives. We would gain a foreclosure of more prisoners of war being taken. We would gain an end of the slaughter of human life in Indochina. We could gain again the unity of the American people.

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, I appreciate the remarks of the distinguished Senator from Rhode Island in pointing out the need to defeat the Cooper amendment. He did not say he was for the substitute amendment that has been offered by the junior Senator from Alabama, but one might conclude that.

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

Mr. ALLEN. If I may, I would like to finish, and then I shall be glad to yield to the Senator from Rhode Island.

Mr. PASTORE. Very well.

Mr. ALLEN. But he did make a great argument in favor of the adoption of the substitute amendment because it is quite obvious from remarks of the distinguished Senator from Rhode Island that the amendment offered by the distinguished Senator from Kentucky does not fill the bill.

This language that is being substituted is going to boil down, in effect, to a sense of the Senate resolution, no matter what language is agreed to. We know that is true from a practical point of view. So what we are doing, if we do adopt the substitute amendment is to adopt the proposals of the President of the United States in this matter which gives us an opportunity not to go off and chase every will-o'-the-wisp that Senators think of as conditions to impose or nonconditions not to impose.

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

Mr. COOPER. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. ALLEN. But it gives us an opportunity to stand foursquare behind the President of the United States. In my mind at this time that is something this Senate should do.

I, therefore, urge the Senate to agree to the substitute amendment.

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

Mr. ALLEN. I yield the Senator such time as may be required.

Mr. SCOTT. Mr. President, I express my appreciation to the distinguished Senator from Alabama for having offered this amendment. It is representative of what the President has offered in good faith. It is representative of what we are presenting through negotiators in Paris. It is representative of the American will to get out of Vietnam, and to get out as soon as we can, consistent with our obligation to our prisoners of war and our missing in action.

It is an amendment which expresses the belief of the country and I would, therefore, like to see it as the sense of the Senate, as it has been expressed as the sense of the House. In this way we are expressing a unifying desire on the part of the American people. They desire that we move together, both executive and legislative, to perform that which is our clear duty, namely, to find the most feasible way by which opinion can be mobilized and by which action can be implemented to remove us from involvement in a war which has gone on too long, and which all Americans want us to bring to an end as honorably as we can.

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

Mr. ALLEN. I yield to the Senator from Arkansas.

Mr. MCCLELLAN. The last two lines of the amendment referred to a complete withdrawal of all American forces from Vietnam shall be accomplished.

Mr. ALLEN. That is what the President said, with these two conditions.

Mr. MCCLELLAN. That includes the Air Force?

Mr. ALLEN. Yes.

Mr. MCCLELLAN. It does not include a withdrawal of them from Indochina. They could be stationed anywhere else and be engaged in the fighting over there.

Mr. ALLEN. That is what the amendment provides and that was the subject of the President's address to the Nation.

Mr. MCCLELLAN. Is that identical to the previous Mansfield amendment passed here?

Mr. ALLEN. I do not believe the previous Mansfield amendments have called for a cease-fire. I could be mistaken. This is, in effect, as far as the President has ever gone in this regard.

Mr. MCCLELLAN. I wish to say to the distinguished Senator from Alabama that I support generally this amendment. I do not know that I would want to go further, though, and withdraw all of our forces from Indochina. Under the proper conditions I would want to withdraw our forces. I think I shall support the amendment.

Mr. ALLEN. I thank the Senator.

Mr. President, I yield such time as I have remaining to the distinguished Senator from Mississippi.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. STENNIS. Mr. President, I hate to use all of the Senator's time. I understand this is a complete substitute for the Cooper amendment.

Mr. ALLEN. The Senator is correct.

Mr. STENNIS. I have consistently opposed all of these amendments. Last year we had one voted on the draft bill and the Military Procurement Act. I was opposed to it but I represented Senator MANSFIELD as best I could in conference and brought back something.

The basis for my opposition is that Congress has no negotiating power. That power rests with the President. We have no negotiating team.

This does express the sense of Congress. It is not an invasion of the executive branch. It is counsel and advice. Certainly it is near enough to what the executive has proposed so as not to cripple, hinder, embarrass, or blockade him in these sensitive, delicate negotiations going on now.

No one knows what they will bring, but we all pray they will bring something.

So in that sentiment, as a chance for the Senate to express itself within the confines of what I think are its powers, and not derogating or in any way limiting or embarrassing the Executive or encouraging the enemy. I am going to vote "Aye" for the substitute for this amendment.

Mr. ALLEN. I thank the distinguished Senator from Mississippi.

The PRESIDING OFFICER. There are 8 minutes remaining to the majority leader or his designee.

Mr. BROOKE. Mr. President, I have a perfecting amendment to the Cooper amendment which I think takes precedence before a vote on the substitute amendment.

Mr. ALLEN. Mr. President, a point of order. I believe this substitute is not amendable.

Mr. BROOKE. Mr. President, I have a perfecting amendment to the Cooper amendment, which I think takes precedence over the substitute amendment.

Mr. CANNON. Mr. President, a parliamentary inquiry. Has all time expired?

The PRESIDING OFFICER. No, it has not. The point the Chair has been trying to make is that there are 7 minutes remaining to the majority leader or his designee. Is all time yielded back?

Mr. ALLEN. Mr. President, a point of order. I ask for the yeas and nays.

Mr. PASTORE. Mr. President, will some Senator yield me some time for a parliamentary inquiry?

Mr. MANSFIELD. Ask the Senator from Kentucky. He has the time.

Mr. PASTORE. Will the Senator yield?

Mr. COOPER. I yield.

Mr. PASTORE. Mr. President, is it true that the amendment of the Senator from Massachusetts would be a perfecting amendment and therefore would take precedence over the substitute?

Mr. ALLEN. Mr. President, a point of order.

The PRESIDING OFFICER. If the Senator from Massachusetts offered a perfecting amendment to the amendment by the Senator from Kentucky, then it would be in order and would take precedence over the amendment of the Senator from Alabama.

Mr. ALLEN. Mr. President, a point of order. This is not a perfecting amendment which I have introduced; it is a substitute amendment. If it were a perfecting amendment, the amendment could be perfected, whether it be a perfecting amendment or a substitute to the Cooper amendment, but in my judgment it could not be because it is not a perfecting amendment.

The PRESIDING OFFICER. That is exactly the reason why the perfecting amendment to the amendment by the Senator from Kentucky would take precedence over the amendment of the Senator from Alabama.

Mr. ALLEN. It is not a perfecting amendment, I may point out.

The PRESIDING OFFICER. The Chair is discussing the amendment of the Senator from Massachusetts.

The Senator has the right, in other words, to bring about perfecting language prior to the vote on the susbtitute amendment by the Senator from Alabama.

The Chair recognizes the Senator from Nevada.

Mr. CANNON. Mr. President, I send to the desk a perfecting amendment to the amendment of the Senator, on behalf of myself, the Senator from Minnesota (Mr. HUMPHREY), and the Senator from California (Mr. CRANSTON).

The PRESIDING OFFICER. If the Senator from Nevada will suspend, does the Senator from Kentucky yield back his time?

Mr. COOPER. I would like to ask if this amendment is offered to the amendment 1325, which I offered. I yield myself 2 minutes. Is this an amendment to the amendment 1325, which I offered?

Mr. CANNON. I would like to have the amendment stated. Then I shall be glad to explain it.

The PRESIDING OFFICER. The Chair understands that the Senator from Kentucky has not yielded back all of his time, so the amendment of the Senator from Nevada would not be in order until such time.

Mr. COOPER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. COOPER. Is the amendment of the Senator from Nevada an amendment to the amendment I offered, amendment No. 1325?

The PRESIDING OFFICER. The Senator from Kentucky is inquiring as to whether the amendment of the Senator from Nevada is an amendment to his amendment. Would the Senator from Nevada care to respond?

Mr. COOPER. I made a parliamentary inquiry. Is it?

The PRESIDING OFFICER. There has been no amendment offered yet by the Senator from Nevada. The Senator from Kentucky has control of the time. He still has some 4 minutes remaining.

Mr. CANNON. Mr. President, if the Senator from Kentucky would yield me some time, I shall be glad to explain it.

The PRESIDING OFFICER. The Senator from Kentucky has 4 minutes.

Mr. COOPER. I yield 3 minutes to the Senator from Nevada.

Mr. CANNON. Mr. President, the perfecting amendment which I propose to offer to the amendment of the Senator from Kentucky would strike out section 13(a) of the Senator's amendment No. 1325 and insert in lieu thereof the following:

"Notwithstanding any provision of this or any other Act, all United States military forces, including combat and support forces, stationed in South Vietnam, shall be withdrawn in a safe and orderly manner from South Vietnam 90 days after the date of enactment of this act. No funds shall be authorized, appropriated, or used for the purpose of maintaining any United States military forces, including combat and support forces in South Vietnam 90 days after the date of enactment of this act. The provisions of this subsection shall not be effective unless there shall have been entered into an agreement providing for the release of all United States prisoners of war held by the Government of North Vietnam and forces allied with such Government and an accounting for all Americans missing in action who have been held by or known to such Government or such forces."

That issue has not been voted on today during the parliamentary maneuvering. I may say this gets to the point the Senator from Rhode Island was making and give us an opportunity to vote on whether we want to provide for the prisoners of war by an agreement to get them back rather than turning around and saying we are going to walk off.

I am remaining firm on the POW language; I cannot support legislation to bring the war to an end that does not provide effective protection for our prisoners of war and those missing in action. Once before this country made the mistake of not demanding a full accounting of our men prior to the cessation of hostilities in North Korea. This failure resulted in the nonaccountability of 389 men. Eighteen years later North Korea still refuses to discuss the fate of these men, although evidence exists that they were prisoners from that conflict. We must not become so impatient and propose withdrawal legislation that offers no measure of protection for the release of prisoners and the accountability of those missing.

The amendment that I offer here today makes our withdrawal from South Vietnam contingent upon an agreement for the release of our prisoners and accounting of our missing.

The PRESIDING OFFICER. The time of the Senator from Nevada has expired. The Senator from Kentucky has 1 minute remaining.

Mr. COOPER. I yield the 1 minute to the Senator from Montana.

Mr. MANSFIELD. Mr. President, it is my intention when the opportunity offers itself to vote for the substitute offered by the Senator from Kentucky. I think he has faced up to the issue in a clearcut fashion. If we want to end the war, this is the ultimate step for doing it and goes beyond anything which we have attempted to do in this body up to this time.

There always have been precedents, there always have been conditions, but the prisoners of war are increasing, the number of casualties is increasing, the costs are increasing and there is no end in sight.

It has been said that the Congress has no negotiating power. That is right. But the distinguished Senator from Kentucky said, "But the Congress has the responsibility to assist in bringing the war to a close," and for this reason I am glad the Senator has offered this amendment.

The purpose of these amendments, substitutes, perfecting, secondary, or whatnot amendments, is not to embarrass the President, is not to impair his ability or to hinder his efforts, but to work, if we can, in tandem with him. After all, in the field of foreign policy there is a duality of responsibility between the executive and the legislative.

I shall support the substitute offered by the Senator from Kentucky because I believe he is facing up to this issue honestly and squarely.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. CANNON. Mr. President, I offer a perfecting amendment, which is at the desk, in behalf of Senator HUMPHREY, Senator CRANSTON, and myself. I ask unanimous consent that the amendment not be read—I have already read it—and that I may yield to the Senator from Rhode Island.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The amendment will be printed in full in the RECORD.

Mr. CANNON's amendment is as follows:

"Strike Section 13(a) of Amendment 1335 and insert in lieu thereof 'Notwithstanding any provision of this or any other Act, all United States military forces, including combat and support forces, stationed in South Vietnam, shall be withdrawn in a safe and orderly manner from South Vietnam 90 days after the date of enactment of this act. No funds shall be authorized, appropriated, or used for the purpose of maintaining any United States military forces, including combat and support forces in South Vietnam 90 days after the date of enactment of this Act. The provisions of this subsection shall not be effective unless

there shall have been entered into an agreement providing for the release of all United States prisoners of war held by the Government of North Vietnam and forces allied with such Government and an accounting for all Americans missing in action who have been held by or known to such Government or such forces.'."

Mr. PASTORE. Mr. President, the amendment of the Senator from Nevada meets the objection I had raised, and I would be honored to have my name added as a cosponsor.

Mr. CANNON. I thank the Senator very much. I will be delighted to have the Senator from Rhode Island as a cosponsor.

Mr. PASTORE. This is conditioned on an agreement that the American prisoners of war will be released, and that that agreement is carried out?

Mr. CANNON. The Senator from Rhode Island is correct. I am delighted to have him as a cosponsor.

Mr. MILLER. Mr. President, will the Senator yield for a question?

Mr. CANNON. I yield.

Mr. MILLER. The thing that disturbs me about the Senator's amendment is that it is operative on the basis of a mere agreement. What happens if the agreement is not carried out promptly?

Mr. CANNON. Well, I must admit that this does not go so far as the actual release, which some people would desire; but at least we have to have some good faith in negotiating, to try to get our people out. We have said to them, "If this amendment goes through, we will get out in 90 days' time, if you will enter into an agreement for the release of our prisoners."

This is much more conservative than the position of the Senator from Kentucky, who would have us withdraw and hope we will get some kind of agreement at a later date. This makes it contingent upon an agreement. That is a point that does not satisfy everyone, I must say, but we must have some attempt to make some movement in the face of the impasse which lies before us.

Mr. MILLER. Will the Senator yield further?

Mr. CANNON. I yield.

Mr. MILLER. I understand this is something more meaningful than merely an outright withdrawal, but my question still is, what happens if the agreement to which the Senator's amendment refers is not carried out? That gets us into the amendment that the Senator from Alabama was seeking to put in here as a substitute, which means that not only is there an agreement, but it is carried out.

This is the trouble that I have: What happens, may I ask my friend from Nevada, if the agreement is not carried out?

Mr. CANNON. Mr. President, this is simultaneous. If we get an agreement, we remove our troops. I think we would have the body of world opinion with us. We have the opportunity to get some movement in a very difficult situation, in which there is no movement now, simply because we say, "You must make the release now."

Mr. MILLER. But what happens if that agreement is not carried out?

Mr. CANNON. Then the provisions here for ending the expenditure of funds and the withdrawal of our troops would not be self-executing. It is concurrent.

Mr. MILLER. May I suggest that I do not believe there is any contingency in the Senator's amendment which indicates that if the agreement is breached all bets are off. That is what I am getting at; if the agreement is breached, does the Senator say the intention then is that the appropriation is contingent?

Mr. CANNON. I think the statement is quite clear. the amendment says:

"The provisions of this subsection shall not be effective unless there shall have been entered into an agreement providing for the release of all United States prisoners of war held by the government of North Vietnam and forces allied with such government."

Mr. PASTORE. Mr. President, will the Senator yield on that point?

Mr. CANNON. I yield.

Mr. PASTORE. If we can withdraw all our troops, air, land, logistic, combat, what have you, in 90 days, to be sure they can release our prisoners in 90 days. If they slow down, we slow down. After all, we are not fools.

Mr. MILLER. And what happens, may I ask, if that agreement is not carried out?

Mr. PASTORE. We are still there.

Mr. MILLER. That is not what the amendment says.

Mr. PASTORE. That is implied in this arrangement.

Mr. MILLER. Then I think it would be well to make it clear, as a matter of legislative history and preferably in the amendment, that if that agreement for the return of the prisoners is breached, the troops will not be out and the appropriations will not cease. That is not what I understand is in the amendment.

Mr. CANNON. I think that is what is implied in the amendment.

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

Mr. CANNON. I yield.

Mr. MCCLELLAN. If it is implied and intended that way, why not say so?

Mr. CANNON. This is a perfecting amendment, which is not subject to amendment at this point, as I understand the parliamentary situation.

Mr. MCCLELLAN. The Senator would have a right to amend his own amendment.

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

Mr. CANNON. I yield.

Mr. KENNEDY. Following the line of reasoning the Senator from Rhode Island has suggested, where are we going to draw the line? What if North Vietnam does not release the last 10 American prisoners? Are we going to say that where we had three aircraft carriers there before we will keep just one cruiser there in the future? Suppose they fail to give an accounting for the Americans missing in action in Laos? Will we keep bombing with one jet from Thailand? How can we talk realistically about a phased withdrawal from Indochina, keyed to the return of the prisoners?

This is a point that demonstrates the wisdom of the amendment of the Senator from Kentucky. It is a clear statement of policy by Congress, free of the confusing conditions we have tried to impose for too long.

Mr. PASTORE. Mr. President, if the Senator will yield, this shows how confused we are getting. We are beginning to talk out of both sides of our mouths. A short while ago we said we were willing to act even without an agreement. Now we have an agreement put in there, and they say this is not safe enough.

Mr. KENNEDY. The question is whether we are establishing the best way to end the killing and get the prisoners back. The administration insists that there must be major conditions for American withdrawal. The President says we need three conditions: a ceasefire, a guarantee of survival for the Government of South Vietnam, and the return of the prisoners. We have lost 20,000 Americans trying to achieve that, have spent $70 billion trying to achieve that, and we have not ended the war, we have not brought the prisoners home.

Now the question comes down to the proposal of the Senator from Kentucky. Since years of conditions have not worked, why not try the amendment he is proposing? If that does not bring the prisoners home, we shall still have whatever opportunities exist, but at least we can stop American involvement in the killing.

Several Senators addressed the Chair.

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

The PRESIDING OFFICER. The Senator from Nevada has 8 minutes remaining. There are 15 minutes remaining to the majority leader or his designee.

Mr. CANNON. I yield 2 minutes to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, in answer to my distinguished friend from Massachusetts, there is no one on this floor who has more admiration and respect for him than I have. The fact remains that the fly in the ointment has always been the condition of a ceasefire. I do not think Hanoi wants a ceasefire, and they have us caught in the middle. The minute the President takes that proposition out of his proposal, I think he will get somewhere. We keep saying "ceasefire," but Thieu does not want to end the war. Hanoi does not want to end the war. We ought to get out, and not be caught in the middle.

Mr. CANNON. We took the cease-fire out of this.

Mr. PASTORE. Yes, we took the cease-fire out of it.

Mr. CANNON. The second part of the amendment of the Senator from Kentucky states our policy with respect to the attempt to negotiate a cease-fire.

I yield 1 minute to the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, we also have removed from this amendment any reference at all to the composition of the Government of South Vietnam, and the cease-fire provision has been eliminated. The composition of the Government of South Vietnam has been eliminated. The whole purpose of this amendment has been for us at least to indicate, as the Congress of the United States, two things: number one, our total withdrawal from South Vietnam; second, that that be conditioned on the release of the prisoners.

It seems to me Congress has that much of an obligation to those men who are prisoners of war through no fault of their own, and this is a reasonable proposition. It does not go as far as many would want. It goes far enough, at least, to indicate a policy on the part of this body.

Mr. BROOKE. Mr. President, will the Senator yield for a question?

Mr. CANNON. I yield for a question.

Mr. BROOKE. Mr. President, I think the perfecting amendment of the Senator from Nevada answers the objection I had to the Cooper amendment, namely, that it provides for the release of the American prisoners of war. Does the Senator include the withdrawal of American forces from Laos and Cambodia as well as from South Vietnam?

Mr. CANNON. My amendment as such does not. The Senator from Kentucky states, in his second paragraph, which is not changed by my perfecting amendment:

"It is hereby declared to be the policy of the Congress that negotiations be continued with the Government of North Vietnam for a cease-fire, to secure the return of all United States prisoners of war held by the Government of North Vietnam and its allies and an accounting of those missing in action, and to seek an end to all hostilities in Indochina."

Mr. BROOKE. But it does not include Laos and Cambodia?

Mr. CANNON. It does not specifically. The Senator from Kentucky can answer that better.

Mr. BROOKE. Does the Senator's amendment include sea and air forces as well as land forces?

Mr. CANNON. All forces.

Mr. BROOKE. All forces, but it is limited to Vietnam?

Mr. CANNON. Limited to South Vietnam.

Mr. MCCLELLAN. Mr. President, will the Senator from Alabama yield me 2 minutes?

Mr. SPARKMAN. I yield 2 minutes to the Senator from Arkansas.

Mr. MCCLELLAN. I want to ask a question of the Senator.

We are talking about what the Senator's amendment implies. Does it in any way imply that we will retain any forces over there until this agreement is carried out?

Mr. CANNON. The amendment says that we would get our forces out and we will not provide funds for our forces after a period of 90 days, "provided you enter into an agreement for the release of our prisoners."

Mr. MCCLELLAN. Suppose there is an agreement but no prisoners have been released at the end of 90 days. Then what happens? We are out?

Mr. CANNON. Then this provision would not apply.

Mr. MCCLELLAN. We are already out.

Mr. CANNON. I do not think we are going to get completely out if we do not have some movement toward an agreement.

Mr. MCCLELLAN. I do not know. That requires them to get our forces out if they have an agreement.

The point I am making is that you can have an agreement. I do not have a great deal of confidence in their promises. I do not take their word for it. I cannot.

If they promise it, then we are bound—the President is bound—by the Senator's amendment to take the forces out within 90 days, whether they perform any thing or not, and I cannot agree with that.

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

Mr. CANNON. I yield.

Mr. HUMPHREY. This only applies to the forces of South Vietnam. Other forces are in the area, but this relates to the forces of South Vietnam, in relation to the prisoners of war.

Mr. MCCLELLAN. I would like to get all our forces out, if we are going to make a deal. I think we all want to get out of there. But this only confuses it, in my judgment.

I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. MCGEE. Mr. President, will the Senator from Alabama yield to me?

Mr. SPARKMAN. How much time does the Senator desire?

Mr. MCGEE. Two minutes.

Mr. SPARKMAN. I yield 2 minutes to the Senator.

Mr. MCGEE. Mr. President, I cannot fail to observe, as I listen to all sides, how really spasmodic and confused we have become as a body. We are not in Paris; we are not in Hanoi; we are not in Saigon. We have a negotiating team there. The problems that even the negotiators on the spot have must be compounded many times over by the ambiguities that have pervaded this body during this dialog.

I think it ought to say one thing to each of us in turn, and that is we, the Members of the United States Senate, are not going to negotiate anything. The very most we are going to do is to confuse and compound the simple effort that is underway.

We are all hoping to get out of there. We want to get out of there with all the honor we can retain. But we are not achieving it with the kind of shotgun approach we are trying here this afternoon. I say that with respect to all my colleagues, with all the perfecting and imperfect amendments we have submitted.

For that reason, I think we ought to do better by the kind of leadership we require in a Republic as diverse and as complicated as ours, with our size and our responsibilities, and at this very late date in this question, to try to be more restrained while we hope desperately and urgently that we will arrive at a successful termination. We are not going to end it here on this floor, and for that reason we ought not complicate the problems of those who are trying to end it.

The PRESIDING OFFICER. Who yields time?

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

Mr. SPARKMAN. I yield 2 minutes to the Senator.

Mr. BROOKE. Mr. President, when I offered a perfecting amendment to the Cooper amendment, I did so only for the purpose of including in that amendment a provision for the return of all American prisoners of war. I applauded and was very grateful for the fact that Senator Cooper had extended the withdrawal area of all American forces from Southeast Asia not only to South Vietnam but to Laos and Cambodia as well.

This is the first time that the Senate has been called upon to vote on that particular issue. It is an important issue, because we are concerned with more than South Vietnam. We are concerned with Laos and Cambodia as well. That is the great contribution that I think the distinguished senior Senator from Kentucky has made in his amendment.

In good conscience, I could vote for that amendment if only it provided for the return of American prisoners of war. It does not matter to me whether it is upon release or upon an agreement, as the Senator from Nevada has stated. But I do believe that we should have a vote on that particular issue as framed by the Senator from Kentucky.

I would like to support the Senator from Nevada, but I would prefer to see us stand up and vote, and vote affirmatively for the withdrawal of all American forces from Southeast Asia, which would include Laos and Cambodia as well as South Vietnam. That is contained in the Cooper amendment. The only addition that I would suggest thereto is that we provide for the return of American prisoners of war.

I do not question the good faith of the North Vietnamese. I do not know what they will do. But neither do the opponents, who say that we should give good faith to the North Vietnamese. I do not believe that we should say that we are going to bring back our forces, until we are assured that we have the return of the American prisoners of war. Therefore, I offered a perfecting amendment to the Cooper amendment which I think would be the strongest amendment we could vote upon in this session of the Senate.

I would like to support the amendment of the Senator from Nevada. But I am concerned that it restricts itself to South Vietnam, and I think we are beyond South Vietnam at this time.

If the Senator from Nevada would accept an amendment to his amendment—if he can do it—to include Laos and Cambodia as well, coupled with the agreement on the return of the prisoners of war, then I think it is an amendment that should be accepted by the Senate.

Mr. TUNNEY. I cannot support an amendment which will impose more stringent conditions upon American withdrawal from Vietnam.

The way to insure the release of our prisoners is to terminate our involvement in Vietnam. Attaching conditions upon our withdrawal will not enhance the goal of the return of our POW's and MIA's.

Accordingly, I shall oppose the change suggested by my distinguished colleague from Nevada. It will weaken the congressional mandate to leave Vietnam. Accordingly, I am convinced that it will prolong the ultimate return of our POW's. I believe that it is a counter-productive suggestion.

Mr. SPARKMAN. Mr. President, I am prepared to yield back the remainder of my time.

Mr. MAGNUSON. Mr. President, will the Senator yield me a minute and a half?

Mr. SPARKMAN. I yield.

Mr. MAGNUSON. I am a little confused about whether the purpose of this amendment, as amended, deals only with ground troops.

Mr. CANNON. If the Senator is directing that statement to me, no, the amendment does not deal only with ground troops.

Mr. MAGNUSON. It deals with the Navy and the Air Force?

Mr. CANNON. U.S. military combat and support forces.

Mr. MAGNUSON. Because "withdrawing the Navy" is a pretty loose term. It depends upon where the President orders the Navy to be. The Navy may be cruising up and down the coast of South Vietnam, perhaps not doing anything, unless we stop the appropriation from being used for any purpose of bombardment. That is what bothers me. You can get the ground troops out, every last one of them. But what about the Air Force and the Navy? You cannot move them out. You can just stop any appropriation from being used for bombardment. Is that correct?

Mr. CANNON. Under this amendment, it would be possible, if the forces were not in South Vietnam, to have troops in other areas.

Mr. MAGNUSON. I am talking about the Navy and the Air Force.

Mr. CANNON. The Navy is in international waters.

Mr. MAGNUSON. The Navy could be any place they wanted to be. The Senator is not going to abolish the bases for the Air Force in the Philippines or in Guam.

Mr. CANNON. No.

Mr. MAGNUSON. That is what I wanted to get clear.

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

The yeas and nays were ordered.

Mr. COOPER. Mr. President, will the Senator yield me 10 seconds?

Mr. SPARKMAN. I yield 30 seconds to the Senator.

Mr. COOPER. Mr. President, I oppose this amendment, for the reasons I have stated before.

Mr. SPARKMAN. Mr. President, I yield back the remainder of my time.

Mr. CANNON. 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 Nevada. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative desk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Louisiana (Mr. ELLENDER), the Senator from Georgia (Mr. GAMBRELL), the Senator from North Carolina (Mr. JORDAN), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

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

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 40, nays 55, as follows:

[No. 293 Leg.]

YEAS—40

Anderson, Bayh, Bentsen, Bible, Brooke, Buckley, Burdick, Byrd, Robert C., Cannon, Chiles, Cook, Cranston, Fong, Hatfield, Hollings, Hughes, Humphrey, Inouye, Jackson, Long, Magnuson, Metcalf, Mondale, Montoya, Muskie, Packwood, Pastore, Pearson, Pell, Randolph, Ribicoff, Schweiker, Spong, Stafford, Stevens, Stevenson, Symington, Taft, Talmadge, Williams.

NAYS—55

Aiken, Allen, Allott, Baker, Beall, Bellmon, Bennett, Boggs, Brock, Byrd, Harry F., Jr., Case, Church, Cooper, Cotton, Curtis, Dole, Dominick, Eagleton, Eastland, Ervin, Fannin, Fulbright, Gold-

water Gravel, Griffin, Gurney, Hansen, Harris, Hart.

Hartke, Hruska, Javits, Jordan, Idaho, Kennedy, Mansfield, Mathias, McClellan, McGee, McIntyre, Miller.

Moss, Nelson, Percy, Proxmire, Roth, Saxbe, Scott, Smith, Sparkman, Stennis, Thurmond, Tower, Tunney, Weicker, Young.

NOT VOTING—5

Ellender, Gambrell, Jordan, N.C., McGovern, Mundt.

So Mr. CANNON's amendment was rejected.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Alabama.

Mr. BROOKE. Mr. President, I call up my perfecting amendment to the Cooper amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Strike out paragraph (b) and insert in lieu thereof the following:

"(b) provided that there has been a release of all American prisoners of war held by the Government of North Vietnam or any Government allied with them."

Mr. BROOKE. Mr. President, this is a very simple amendment. The amendment provides that the American prisoners of war be released prior to the withdrawal of all American Forces from Vietnam, Laos, and Cambodia.

We have debated this amendment, even though the amendment has not been called up, for a good part of the afternoon. And I believe that my colleagues are well aware of what the amendment does.

Mr. President, let me first say that I commend the distinguished Senator from Kentucky for having introduced his amendment which calls for the withdrawal of all American Forces from Vietnam, Laos, and Cambodia within 4 months after enactment.

Mr. President, we have had many dates set in the amendments offered before the Senate. The first, I believe, was the Hatfield-McGovern amendment which called for a withdrawal of American Forces in the fall of 1971.

I believe the second was another amendment calling for withdrawal of forces by December 31, 1971.

The first Mansfield amendment called for withdrawal of American Forces by August 31, 1972: the modified amendment set a date of October 1, 1972.

The Cooper amendment provides for withdrawal of all our forces within 4 months after enactment. If we had enactment in the latter part of August, which is realistically the first that we could have enactment, it would mean that the American forces would not be withdrawn from Vietnam, Laos, and Cambodia until the beginning of 1973, long after the election is over, and many, many years too long after the start of this war in South Vietnam and Southeast Asia.

Mr. President, the only fault I found with the Cooper amendment was that it did not provide for the withdrawal of American prisoners of war. I do not believe that we can afford to allow our American prisoners of war to stay in North Vietnamese prison camps dependent upon the good faith of the North Vietnamese to permit their release. It is as simple as that. Maybe they are acting in good faith. Maybe they will return the American prisoners of war. However, the risk is just too great to take.

I do not believe that the North Vietnamese expect us to take such a risk. I believe that they would expect us more if there were a provision included in the measure, so that the leaders of the North Vietnamese could get together with our President and negotiate as to how we would withdraw the troops and how many prisoners would be let out, and so forth.

The fact is that once we give up the presence of our troops in Southeast Asia, we have nothing to bargain with and nothing to negotiate for. And we cannot be assured that the American prisoners will be returned to us.

As my very able and distinguished friend, the Senator from Rhode Island, said on the floor, I do not want to see the Senate go on record as voting to withdraw our forces and leave husbands, fathers, and sons of American wives, mothers, and children in North Vietnamese prison camps dependent upon the good faith of the North Vietnamese.

Mr. President, that is the sole reason for perfecting amendment to the Cooper amendment. I ask the distinguished Senator from Kentucky to consider it, because I think he has a good amendment if he would only provide for the release of American prisoners of war.

My amendment does not call for an agreement nor any negotiations. It sets as a condition precedent that we will get back our prisoners of war before we withdraw all of our forces from Southeast Asia.

I want to make this celar. My amendment provides for withdrawal from South Vietnam, Laos, and Cambodia, as set forth in the amendment of the distinguished Senator from Kentucky. If there are any questions on the amendment I will be pleased to answer them. I think we have had enough debate on it. All I am asking is that the Senate vote favorably on the withdrawal of our forces, conditioned on returning American prisoners.

The PRESIDING OFFICER. Who yields time?

Mr. COOPER. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 3 minutes.

Mr. COOPER. Mr. President, we are back at the very point where we were when I called up the amendment about 2½ hours ago.

The Senator is correct in his statement as to the purpose of the amendment. The amendment I have offered has no condition. It provides that in 4 months after the enactment of the bill all U.S. forces in Laos, Cambodia, and South Vietnam would be withdrawn, and our participation in the war, whether from the air, from other territories, or from the sea, or from the land would end. The issue is drawn clearly. I am sure every one of us has great concern for the prisoners of war, for their families, their fathers, mothers, wives, and children. All of us have been visited by them and all of us have talked to them. Many live in my State.

I offered the amendment, as I argued in my opening statement, for two purposes. One purpose was to determine whether the Senate was ready to vote for the ending of the war, the end of our participation in the war. We have never done so. Always a condition precedent has been included in an amendment, which denied the objective which the amendment proposed. I thought we should face that issue by an amendment without conditions.

The second issue is the release of prisoners of war. We can move in this circle for years by saying we will not withdraw until our prisoners of war are released, and the fighting goes on, the slaughter goes on, and the killing goes on, and more and more prisoners of war are taken.

I did not see anything about the good faith of the North Vietnamese. I do not have any regard for them. I have considered them the aggressors in the war from the very beginning. I do not have any regard for the Government of North Vietnam, that many in this country have expressed.

But, Mr. President, there are, as of July 8, 518 prisoners of war, according to the Department of Defense, and 1,243 missing in action. The prisoners have not been released and they will not be released and no accounting of the missing will be made while we are engaged in war. It is a matter of commonsense.

Is it inhumane to seek some other way to secure this release? I have said negotiation is the best way and I support the President. The North Vietnamese will do what they want to do. If this fails, I think moving out is the only chance we will have to get our prisoners of war back. We cannot guarantee it.

But what we have done has not brought them back to their families and children. We should know that as long as we are shelling, strafing, and bombing, they will not be returned.

I urge the defeat of this amendment. I thank Senator Javits, Case, Percy, Kennedy, and Mansfield for supporting me in this matter.

Mr. BROOKE. Mr. President, I am certainly aware that the distinguished senior Senator from Kentucky is as much concerned about the lives of the American prisoners of war as any man or woman in the Senate, or in the United States, or elsewhere. That is not the question at all. We are concerned, about the return of American prisoners of war. The question before us is: What is best? What can we do to assure that American prisoners of war will be returned? Do we take all of our troops out of South Vietnam, Laos, and Cambodia, and then say that because we have done that the North Vietnamese are duty bound to return our prisoners? Maybe they are; maybe they will; but do we want to leave it to chance? Should we leave it to chance? Can we take this chance with the lives of those men who are resting in North Vietnamese prison camps? Can we in good conscience do that?

My able colleague from Rhode Island said it is not question of honesty; it is a question of judgment. Is that the best judgment?

I have heard many other Senators argue today, and my own senior Senator from Massachusetts said, "What can we do? It has not worked so far."

Maybe it has not, but that does not mean that it will not work. This is the first time, as pointed out today, that we have ever said to the North Vietnamese that we would withdraw all American forces from South Vietnam, Laos, and Cambodia if they will return every American prisoner of war. It is the first time. We do not know whether they will accept or not. But why should we give up everything we have, until we have explored the possibility of such an agreement?

We always talk about our good faith. Why do we not ask about the good faith of the North Vietnamese? Both parties must have good faith. We could not ask for a better quid pro quo than that.

This amendment states "all land, all sea, and all air forces." That is everything—out of three countries, South Vietnam, Laos, Cambodia. It does not say anything about the Thieu government, or a ceasefire. It says all we want is the return of all, every American prisoner of war.

Mr. President, I ask: Is that too much to ask of the enemy, the North Vietnamese? I think the answer is obvious. Of course it is not too much to ask. It is just a question of judgment.

If my distinguished colleague could give us assurance that if we pull out all of our forces from these three countries we could have a return of our prisoners of war, I would not be arguing for my perfecting amendment. But he cannot. I cannot give him an assurance either that we will get our prisoners of war back based on the offer contained in my amendment.

I agree with my distinguished colleague. We have a responsibility, as well as the Executive, to make known our views on this

war. I think we should have done so long ago. I think we should have been out of Vietnam a long time ago. As I said earlier, and some Senators present now were not then in the Chamber, I have voted for every antiwar amendment that has been on the floor of the Senate. I just voted for the Cannon amendment even though I did not think it went far enough, because I thought it might have a chance of passage, and at long last the Senate would have gone on record stating its position on this disastrous war in Southeast Asia.

But this is a simple amendment. As I said in my opening remarks, if we agree to the Cooper amendment, and I hope and pray we do, and I will vote for it. I hope it will have added on to it the simple provision for the return of American prisoners of war.

I think my distinguished colleague voted for a similar amendment before, because that amendment was contained in the McGovern-Hatfield amendment. I cannot see how the distinguished Senator from Kentucky can fail to vote favorably on this amendment when consistently he, himself, has called for the return of American prisoners of war.

I cannot understand it, Mr. President. I hope he changes his mind, because I would like to see him support this amendment. I would like to see him accept this amendment. But be that as it may, I trust the Senate will accept this amendment, because I think the Senate wants to go home tonight having said to all the American people that we will not at any time pull out all of our forces until we are assured that every American prisoner of war has been returned.

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

Mr. BROOKE. I yield.

Mr. HUMPHREY. Is it not true that the bill, as reported by the Committee on Foreign Relations, on page 11, reminds us that the involvement of the U.S. military forces, land, sea, or air for the purpose of maintaining, supporting, or engaging in hostilities in or over Indochina shall terminate after—line 8—"the release of all United States prisoners of war held by the Government of North Vietnam and forces allied with such government?"

So the Senator's amendment relates to what was the considered judgment of the Foreign Relations Committee itself. It also relates to practically every move we have approved in the Senate, including the Mansfield amendment a year ago, including the so-called Vietnam Disengagement Act. So the Senator's amendment is consistent with determined efforts in this body to get a cessation of our involvement in all of Indochina on the one hand, and the removal of all our forces, but also a release of our prisoners of war?

Mr. BROOKE. I thank the distinguished Senator from Minnesota for calling the attention of the Senate to that provision of the Foreign Relations Committee bill. I do not recall any time when the Senate has acted otherwise. I would like to see us get out of Southeast Asia—land, sea, and air. But we have never voted to do so without first getting assurances that we would have the return of our prisoners of war.

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

Mr. BROOKE. I yield.

Mr. ALLEN. I notice that in the question that the Senator from Minnesota propounded to the Senator from Massachusetts it was with respect to section 12(b), providing that one of the conditions for withdrawal of U.S. military forces from Indochina would be the release of U.S. prisoners of war; but he neglected to mention that it also contains two other conditions. One is a ceasefire between U.S. forces and the Vietcong and North Vietnam, and the other is an accounting for all Americans missing in action who have been held by or known to such government of such forces. But the amendment offered by the distinguished Senator from Massachusetts does not contain these two additional preconditions to withdrawals from Indochina; does it?

Mr. BROOKE. I thank the Senator from Alabama for calling that to my attention. I think the Senator from Minnesota was merely addressing his remarks to the amendment before us. The language of the committee bill does go further, and includes conditions not included in my amendment. The Senator from Minnesota was only calling attention to the fact that the Foreign Relations Committee did include in the bill a reference to the return of all prisoners of war.

Mr. ALLEN. Plus the two other preconditions.

Mr. BROOKE. Yes; but that is not before us in this amendment.

WHY MUST WE SNATCH DEFEAT FROM THE JAWS OF VICTORY?

Mr. DOLE. Mr. President, I rise to express my opposition to the pending amendment. This provision is in conflict with the much broader proposals advanced by our President, proposals which, if accepted, would provide a cessation of killing and warfare throughout Indochina. However, the pending amendment offers no solution for the peoples of Southeast Asia. It merely requires unilateral American withdrawal from Vietnam, and cessation of all support for our friends in Indochina—giving Hanoi no incentive whatsoever for the release of American prisoners of war and MIA's.

Mr. President, we have seen this plan presented on several occasions in recent years, but never has it appeared at a more unfortunate time than today. It is presented to this body in the place of a generous and comprehensive peace offer set forth by our President. In this context, the amendment has the appearance of an attempt to embarrass the President at the expense of orderly American disengagement from Vietnam.

LET US CONSIDER THE CONSEQUENCES OF OUR ACTIONS

Mr. President, crucial to our discussion of legislation requiring American withdrawal from Vietnam and Indochina are consequences which the legislation will have upon both American policies and the area in question. Permit me to analyze the consequences which will most likely arise if we follow the course set by our President on one hand, or that set by the pending amendment on the other.

President Nixon intends to bring about complete American withdrawal from Vietnam in the context of a peace settlement extending to the entirety of Indochina. He has offered Hanoi attractive terms in exchange for a cease-fire. He has committed himself to withdraw American troops within 90 days of the cease-fire and return of our prisoners. The return of our prisoners and accounting for our MIA's would be a crucial element to such a settlement. This accounting and cease-fire would be confirmed by an international agency or organization.

The acceptance and compliance with these modest terms would leave the North Vietnamese and South Vietnamese free to negotiate a political settlement to the war. The outcome of these negotiations would be an essentially Vietnamese solution to a Vietnamese problem. President Thieu has acted to assure South Vietnamese self-determination by pledging to step down from the Presidency, permitting the South Vietnamese people to exercise a fresh mandate as to who will be his successor and deal with the North in the development of an Indochinese political settlement.

What would be the effect of the amendment before us? It would have us withdraw our remaining forces unilaterally, a simple act, requiring no commitment whatsoever of the Communists in return. Having deserted the South Vietnamese at the very point when they have held a vicious and massive invasion by a more numerous and heavily armed foe, we would then proceed unilaterally to negotiate a cease-fire with that foe's puppet representatives. We would not feel worthy to look to Hanoi as the source of overt aggression, but rather to that small band of "chicken thieves" in the South, their Vietcong supporters, who are now so weak as to have been quite inactive during the present invasion. Indeed, they were so weak as to have even given the lie to General Giap's vaunted doctrine of revolutionary warfare, which calls for the "people" to rise up in the cities during "set piece battles." Failure of this doctrine will have caused some wonderment among the faithful of General Giap. But, nevertheless, we would somehow find these pillars of popular strength and in effect make our peace with them.

Our prisoners would be truly made hostages by this amendment. But, that is not all. The amendment would not insure our prisoners' release, even after our men had been withdrawn. That is to say, the amendment assumes they would be released. The pending amendment would gratuitously terminate all American air-sea activity in the entirety of Indochina, giving the North Vietnamese "open season" in Cambodia. Thailand, Laos, Malaysia, and South Vietnam. This amendment proposes that we abandon our allies on a subcontinent, and not content with this, it proposes that we desert our prisoners and MIA's in return for a nonexistent commitment that Hanoi would negotiate the issue. Why should they do so? They would have us on the run, but not by military prowess. They lost that throw decisively. But they know that if the United States gives in at the very point that our allies appear to be within reach of self-sufficiency, why could they not suppose that we would not give in to further demands?

One needs to look no further than the plight of 85,000 Pakistani prisoners of war, who are being held "ransom" to a political settlement today, more than 9 months after the "cease-fire" in that war. The Senator from Kansas is not persuaded that we could expect the North Vietnamese to be any more magnanimous than the Indians. Indeed, they would be much less so. We cannot remove all incentives from our position at the negotiations in Paris. If we did, the American prisoners in Hanoi and elsewhere would then truly be deserted hostages, left utterly at the mercy of an enemy whose respect for prisoners of war and the obligations of international law is virtually nonexistent.

THIS IS A POOR ALTERNATIVE TO THE PRESIDENT'S PROPOSAL

The pending amendment comes as an alternative to the President's own comprehensive peace plan. Its timing is close enough to the deliberations on the strategic arms limitations agreements to create uneasiness among those nations whose security is linked to our policies. Finally, the amendment comes before us at a time when the North Vietnamese are still pressing a massive invasion upon the people of the south, an invasion which has been supplied with overwhelming amounts of heavy, sophisticated offensive Russian equipment, equipment which is far more poweful than what we had provided the South Vietnamese.

THIS BILL WEAKENS THE POLITICAL FRAMEWORK FOR "SALT"

We are now at a stage in our dealings with the Russians when it is more important than ever that we act responsibly. A move such as is proposed here, which would

undercut the President's withdrawal policy in Vietnam, could hardly contribute to the credibility of our diplomacy in the eyes of the Russians.

Our President has taken tremendous strides in his quest for a more peaceful world. He has achieved increased understanding and agreements with nations which have been our adversaries for the past 25 years. This body has given him every encouragement in these undertakings. It has thereby helped him to take first steps toward healing problems which he inherited from recent history. The Senator from Kansas is disturbed by the apparent unwillingness of many Members of this body to encourage our President in his efforts to terminate a war, which he also inherited. Particularly, since he has demonstrated his determination to eliminate direct American involvement.

THIS AMENDMENT WOULD BE AN INVITATION TO FURTHER DEMANDS

Mr. President, the pending amendment would weaken the negotiating position of the United States in Paris and in other forums. If we were to unilaterally withdraw, we would be showing weakness to an enemy which respects only strength. We would be opening wide the door for further unilateral concessions and demand for such concessions. Perhaps Hanoi's next demand will be for "war crimes" trials of American officers, or reparations. We cannot permit ourselves to be maneuvered into such a position.

THE CREDIBILITY OF OUR FOREIGN POLICY WOULD BE UNDERMINED

The language of the pending amendment would have serious consequences for the conduct of American foreign policy far beyond Vietnam. It would set a precedent which would undermine the commitments of the United States and undercut the Nixon doctrine, which is the basis of our future relationships with friendly nations of the developing areas of the world. The Nixon doctrine in Asia and throughout the world must be sustained by the credibility of our policies in Vietnam. If we are forced to cut short our effort to sustain the South Vietnamese in their struggle against a powerful, Soviet-supplied invasion, how are we to convince other nations of the region or the world that we will honor our commitments to them? In so much as Russian armaments have provided the North Vietnamese invaders with superior firepower and force, the United States is bound by the spirit of the Nixon doctrine to equalize the contest by the use of our air and sea forces, until the South Vietnamese can meet the new threat, through their continued improvement, and the attrition of the enemy's advantages in the area of heavy armaments.

THE WORLD IS WATCHING OUR POLITICAL WILL TO ACHIEVE PEACE

The world is watching carefully as we choose our course in Vietnam. Our choice on the pending amendment is between orderly application of our declared foreign policy and departure from this policy in favor of short-term domestic political expediency.

The Russians will be watching us, weighing our resolution to remain strong in the post-summit environment. They will be watching for advantages which could serve their interests in the longer run. Weakness in Vietnam could suggest to them the likelihood of dispute and indecision in the event of future local conflicts in which our interests are involved. The proxy war which the Russians have sustained against us has been a political windfall for them.

The Japanese, now at a cross-roads themselves, will be watching our behavior, thinking of their own defenses and political and economic interests. Our performance in Vietnam will suggest the value and consistency of our commitments to them.

The Chinese are watching us with cool anxiety, for they, more than many nations, believe they have cause to fear the Russians. They would be discomforted by inconsistent American behavior and weakness, perhaps almost as much as they would welcome a Communist victory in Vietnam itself.

In the Middle East, too, the consistency and resolve of the United States will be examined. For if we lack the internal resolve to pursue an honorable and orderly withdrawal from Vietnam, what comfort could the moderate Arabs or Israelis draw from our assurances?

Europe, and especially Germany, will also be watching our behavior on the Vietnam withdrawal question. If we choose the path set forth in this amendment, it will not be lost on the Europeans that the Members of this body who now press to undercut the President's policies in Southeast Asia also are the persistent advocates of unilateral American withdrawal of forces from NATO. The Europeans have seen the pall of isolationism fall over the United States before. They would sense the erosion of our political resolve. They would foresee the possibilities of trade barriers and protectionism. At a time when Germany has made dramatic moves toward better relations with the Soviet Union and the nations of Eastern Europe, a strong sign of inconsistency and weakness on the part of the United States would have disastrous effects. The memories of America's isolationist part would be evoked, and prospects for Russian concessions leading to mutual, balanced, force reductions—MBFR—in Europe would be reduced accordingly. "Ostpolitik" in Europe is a policy based upon calculated risk and strong American support. Should Germany sense a weakening of American resolve, her position will be dramatically weakened vis-a-vis the U.S.S.R., and the political reactions will scarcely be to our liking.

The nations of the world are watching the United States, for the stability of the international scene depends to a large extent upon the consistency of our foreign policy The Senator from Kansas strongly believes that the pending amendment is clearly inconsistent with our foreign policy and that it would be harmful to American interests in Asia and elsewhere. The advances of modern technology have boosted communications to an extent to which the actions of a major nation anywhere on earth can have serious repercussions. We live on a shrinking planet and no longer can afford the luxury of capricious behavior.

STRENGTH AND CONSISTENCY ARE INDISPENSABLE COMPONENTS OF A SUCCESSFUL FOREIGN POLICY

The lesson of history is that success favors the nation which behaves with consistency of purpose. It also shows us that political consensus and a will to use strength when necessary are also consonant with national survival and success. The language of the pending amendment departs from our policy by giving an enemy something for nothing. It removes our troops while asking nothing in return. Further, it would leave the subcontinent at the mercy of Hanoi by pulling out our aid, sea, and air support for the free nations of the region, while not even requiring that they release our men held as prisoners of war and account for those who are missing in action.

The perils of such a policy reach even beyond the question of deserting our POW's or our friends on a subcontinent. The pending amendment would undermine the overall credibility of U.S. foreign policy by undercutting the President's own proposals and directly strengthening the hand of the enemy in Hanoi.

Mr. President, the language of the amendment before this body comes at a most unfortunate time. We have just begun to resolve our adversity with the Russians. Our friends in South Vietnam show signs of vast improvement and of turning back the invasion from the North. We have enjoyed a year of unprecedented successes in establishing a credible foreign policy for both now and the foreseeable future. These successes have, at least in part, been due to respect which our erstwhile adversaries in the international picture have shown for President Nixon's consistency of purpose and credibility. And in no small measure, the respect shown to President Nixon has arisen from his capacity to keep the United States strong in both a political and military sense. Strength and resolution of purpose made the President's journeys for peace possible. They led to arms limitation agreements. We cannot afford to be weak in the face of seeking a settlement to the Vietnam war. The pending amendment would be no less than an admission of weakness and a declaration of no confidence in our President at a time when he most deserves our confidence.

Mr. BROOKE. Mr. President, I would like to take this opportunity to clarify one point regarding my amendment to the Cooper amendment. Questions have been raised, by my colleagues and by members of the press, as to when the Cooper amendment, as amended, would take effect.

I intended to change nothing in section (a) of the original Cooper amendment. As I said in debate on the amendment, the 4-month period during which funds could be used only for withdrawal, or protection of the withdrawal, of American forces from Indochina, would begin on the date of enactment. I have only imposed the condition that, during the time when our troops were being withdrawn, comparable provision should be made for the return of American prisoners of war.

As I explained earlier in the colloquy on my amendment, the details of the return of our prisoners and the withdrawal of our troops could be worked out by the executives, the leaders, of the United States and the North Vietnamese, and their allies. But I want to make it absolutely clear that my intent in proposing the amendment, was that the troops would be withdrawn and the prisoners returned simultaneously.

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

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

I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having expired or having been yielded back, the question recurs on the amendment of the Senator from Massachusetts to the amendment of the Senator from Kentucky. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Louisiana (Mr. ELLENDER), the Senator from Georgia (Mr. GAMBRELL), the Senator from North Carolina (Mr. JORDAN), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

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

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The results was announced—yeas 63, nays 32, as follows:

[No. 299 Leg.]

YEAS—63

Allott, Anderson, Baker, Bayh, Bennett, Bentsen, Bible, Boggs, Brock, Brooke, Buckley, Burdick, Byrd, Harry F., Jr.

Byrd, Robert C., Cannon, Chiles, Cook, Cotton, Cranston, Curtis, Dole, Dominick, Fannin.

Fong, Griffin, Gurney, Hansen, Hartke, Hatfield, Hollings, Humphrey, Inouye, Jackson, Jordan, Idaho, Long, Magnuson.

McClellan, Metcalf, Miller, Mondale, Montoya, Moss, Muskie, Packwood, Pastore, Pearson, Pell, Percy.

Proxmire, Randolph, Ribicoff, Schweiker, Spong, Stafford, Stevens, Stevenson, Symington, Taft, Talmadge, Thurmond, Tower, Williams, Young.

NAYS—32

Aiken, Allen, Beall, Bellmon, Case, Church, Cooper, Eagleton, Eastland, Ervin, Fulbright.

Goldwater, Gravel, Harris, Hart, Hruska, Hughes, Javits, Kennedy, Mansfield, Mathias, McGee.

McIntyre, Nelson, Roth, Saxbe, Scott, Smith, Sparkman, Stennis, Tunney, Weicker.

NOT VOTING—5

Ellender, Gambrell, Jordan, N.C., McGovern, Mundt.

So Mr. BROOKE's amendment to Mr. COOPER's amendment was agreed to.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the Senator from Alabama.

Mr. ALLEN. Mr. President. I ask unanimous consent that the amendment be read again.

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

The assistant legislative clerk read as follows:

"In lieu of language proposed to be inserted by the Senator from Kentucky (Mr. COOPER) insert the following:

"That it is the sense of the Congress that at a time certain, not later than four months following the establishment of an internationally supervised cease-fire throughout Indochina and the return of all American prisoners of war and an accounting of Americans missing in action in Indochina, a complete withdrawal of all American forces from Vietnam shall be accomplished."

Mr. HUMPHREY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUMPHREY. As in the first reading of the amendment, the clerk mentioned "the amendment of the Senator from Kentucky (Mr. COOPER) "Does that mean the amendment of the Senator from Kentucky as amended by the Brooke amendment?

The PRESIDING OFFICER. That is correct. It would be the amendment of the Senator from Kentucky as amended by the amendment of the Senator from Massachusetts (Mr. BROOKE).

Mr. HUMPHREY. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUMPHREY. As I understand, the Allen amendment is a substitute for the Cooper amendment as amended.

The PRESIDING OFFICER. That is correct. As amended by the amendment of the Senator from Massachusetts.

The question is on agreeing to the amendment of the Senator from Alabama. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Louisiana (Mr. ELLENDER), the Senator from Georgia (Mr. GAMBRELL), the Senator from North Carolina (Mr. JORDAN), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

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

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 45, nays 50, as follows:

[No. 300 Leg.]

YEAS—45

Aiken, Allen, Allott, Anderson, Baker, Beall, Bellmon, Bennett, Boggs, Brock, Buckley, Byrd, Harry F., Jr., Byrd, Robert C., Cotton, Curtis.

Dole, Dominick, Eastland, Ervin, Fannin, Fong, Goldwater, Griffin, Gurney, Hansen, Hruska, Jackson, Jordan, Idaho, Long, McClellan, McGee.

Miller, Pearson, Roth, Saxbe, Scott, Smith, Sparkman, Stafford, Stennis, Taft, Talmadge, Thurmond, Tower, Young.

NAYS—50

Bayh, Bentsen, Bible, Brooke, Burdick, Cannon, Case, Chiles, Church, Cook, Cooper, Cranston, Eagleton, Fulbright.

Gravel, Harris, Hart, Hartke, Hatfield, Hollings, Hughes, Humphrey, Inouye, Javits, Kennedy.

Magnuson, Mansfield, Mathias, McIntyre, Metcalf, Mondale, Montoya, Moss, Muskie, Nelson, Packwood, Pastore.

Pell, Percy, Proxmire, Randolph, Ribicoff, Schweiker, Spong, Stevens, Stevenson, Symington, Tunney, Weicker, Williams.

NOT VOTING—5

Ellender, Gambrell, Jordan, N.C., McGovern, Mundt.

So Mr. ALLENS's amendment was rejected.

The PRESIDING OFFICER (Mr. CHILES). The question now recurs on agreeing to the amendment, as amended, of the Senator from Kentucky (Mr. COOPER).

All those in favor will say "aye"—

Several Senators requested the yeas and nays.

The yeas and nays were ordered.

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

The legislative clerk called the roll.

Mr. ROBERT C. BOYD. I announce that the Senator from Louisiana (Mr. ELLENDER), the Senator from Georgia (Mr. GAMBRELL), the Senator from North Carolina (Mr. JORDAN), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

I further announce that, if present and voting, the Senator from South Dakota (Mr. MCGOVERN) and the Senator from Georgia (Mr. GAMBRELL) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 50, nays 45, as follows:

[No. 301 Leg.]

YEAS—50

Anderson, Bayh, Bentsen, Bible, Brooke, Burdick, Cannon, Case, Chiles, Church, Cook.

Cranston, Eagleton, Fulbright, Gravel, Harris, Hart.

Hartke, Hatfield, Hollings, Hughes, Humphrey, Inouye.

Javits, Kennedy, Magnuson, Mansfield, Mathias, Metcalf, Mondale, Montoya, Moss, Muskie, Nelson.

Pastore, Pearson, Pell, Percy, Proxmire, Randolph, Ribicoff, Schweiker.

Spong, Stafford, Stevens, Stevenson, Symington, Talmadge, Tunney, Williams.

NAYS—45

Aiken, Allen, Allott, Baker, Beall, Bellmon, Bennett, Boggs, Brock, Buckley, Byrd, Harry F., Jr.

Byrd, Robert C., Cooper, Cotton, Curtis, Dole, Dominick, Eastland, Ervin, Fannin, Fong, Goldwater.

Griffin, Gurney, Hansen, Hruska, Jackson, Jordan, Idaho; Long, McClellan, McGee, McIntyre, Miller, Packwood, Roth.

Saxbe, Scott, Smith, Sparkman, Stennis, Taft, Thurmond, Tower, Weicker, Young.

NOT VOTING—5

Ellender, Gambrell, Jordan, N.C., McGovern, Mundt.

So Mr. COOPER's amendment, as amended, was agreed to.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

[From the CONGRESSIONAL RECORD, Aug. 2, 1972]

MILITARY PROCUREMENT AUTHORIZATIONS, 1973

AMENDMENT NO. 1347, AS MODIFIED

The PRESIDING OFFICER (Mr. ROTH). Under the previous order, there will now be 2 hours of debate on the amendment of the Senator from Massachuetts (Mr. BROOKE), to be equally divided between and controlled by the Senator from Massachuetts (Mr. BROOKE) and the manager of the bill (Mr. STENNIS).

The amendment will be stated.

The assistant legislative clerk read as follows:

"In lieu of the language proposed to be inserted by the amendment of the Senator from California, Mr. CRANSTON, numbered 1349, insert the following:

"SEC. —. Funds authorized or appropriated by this or any other Act for United States forces with respect to military actions in Indochina may be used only for the purpose of withdrawing all United States ground, naval, and air forces from Vietnam, Laos, and Cambodia and protecting such forces as they are withdrawn. The withdrawal of all United States forces from Vietnam, Laos, and Cambodia shall be carried out within four months after the date of enactment of this Act: *Provided*, That there is a release within four months period of all American prisoners of war held by the Government of North Vietnam and all forces allied with such Government."

Mr. COOPER. Mr. President, I did not intend to enter this debate, but because of the question being asked the distinguished Senator from Massachusetts (Mr. BROOKE) and the answers given, illustrates the dilemma of so-called end the war amendments with conditions precedent such as the Brooke amendment. The amendment which I offered last week and which has now been incorporated in the amendment of the distinguished Senator from Massachusetts (Mr. BROOKE) provided for the unconditional withdrawal of all forces not only ground forces in Vietnam but in Laos and Cambodia and also our naval and air forces from the war, starting immediately upon the enactment of this bill. In short, it meant to get all the way out, to end U.S. participation in the war.

Now the attacks being made on the amendment of the Senator from Massachusetts from all sides, indicates the uncertainty of its meaning. I respect his deep feelings and his convictions. But the fact stands out, that the war will not be ended and no one gets out of the war under this amendment. The amendment is designed to end the war; yet he is forced to convince Senators that his amendment does not stop the fighting. It not only tells the President that he can continue to fight through the 4 months, but also after the 4 months have expired. If our prisoners of war have not been released, the Senator's amendment would authorize the continuation of the use of the mighty power of this country to bomb from the air and from the sea to continue the war. The amendment goes far—it implicitly authorizes the war.

The Senator and the Senate cannot have it both ways. That is the point I tried to make last week. I am not complaining about the defeat of my amendment. The Senate did not want it. I can understand their humane reasons.

But it cannot be argued that an amendment which provides explicitly that no funds

shall be used except for the purpose of withdrawing all forces and that not a cent shall be spent from the time of the enactment of this bill for any purpose except to withdraw, authorize the continuation of the war. We cannot against that language say, "Yes, Mr. President. Our forces can continue to fight, to bomb, to strafe, and to shell for the next 4 months without any hindrance and from then on without and hindrance unless our prisoners are released."

I believe we would have a better chance to get the prisoners released if our participation in the war is ended.

I have great respect for my good friend Senator BROOKE. However, I do not agree with his interpretation of that portion of his amendment which I wrote. I think his amendment proposes something that we have not done before. We are proposing an authorization to the President to continue the war although we have complained about it all the time.

That is the defeat of so called end-the-war amendments. On the other hand, they give the impression that the Senate is voting to end the war, and then by adding a condition authorize its continuance.

Mr. MILLER. Mr. President, I believe there is a serious omission in the bill in the way the Senate has perfected it. I call up my amendment which is at the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

At the end of the bill, as amended, add the following:

"Notwithstanding any other provisions of this Act the withdrawal of United States forces from Vietnam, Laos, and Cambodia shall not be completed until there has been an accounting for United States servicemen missing in action by the Government of North Vietnam or any government allied therewith."

EXPLANATION OF A VOTE

Mr. COOPER. Mr. President, I have voted "no" on the Miller amendment for the same reason I voted "no" on the Brooke amendment, because it adds an additional condition precedent which vitiates the so-called "end of the war" amendment. I much prefer President Nixon's policy—as he can negotiate and can end the war—to these conditional amendments which raise hopes among the people which cannot be fulfilled.

THE SCOTT AMENDMENT

Mr. FONG. Mr. President, I rise to support the amendment of the distinguished senior Senator from Pennsylvania and to commend him for taking the initiative to restore realism and common sense into our country's military assistance programs.

Mr. President, as the ranking Republican member on the Foreign Operations Subcommittee of the Senate Appropriations Committee, I would be derelict in my duties if I did not speak out against the drastic and ill-advised cuts that the Foreign Relations Committee made in the President's requests of $780 million for grant military assistance programs; $844 million for supporting assistance programs; and $527 million for military credit sales. I firmly believe that the members of the Foreign Relations Committee have cut the President's request far too much—that they have been pennywise and pound foolish in their actions.

According to the committee's recommendations, they want to reduce funds for grant military assistance from the President's request of $780 million to $500—a reduction of $280 million or 35.9 percent. By a voice vote of the Senate on Friday, this sum was further reduced to $400 million—a reduction of $380 million or a whopping 48.7 percent. Such a drastic cut in the President's program is most irresponsible and untimely. However, while the amendment before us is designed to trim the fat from the grant military assistance program, it is meant to do it in a reasonable way. It will reduce the President's request to the level that was in the Senate bill 3390, which was defeated in this body several months ago. It will reduce the amount for grant military assistance from $780 million to $600 million—a reduction of $180 million or 23 percent. Such a cutback, I believe, is both substantial and, at the same time, reasonable.

Mr. President, in the field of supporting assistance, the Foreign Relations Committee has recommended a reduction in the President's request from $844 million to $550 million—a reduction of $294 million or 34.8 percent. The pending amendment hopes to increase the sum to $685 million. Such an amount will still reflect a cut of $159 million or 18.8 percent from the President's budget request.

Finally, Mr. President, the committee is recommending to the Senate that we cut the military credit sales program from $527 million to $400 million—a reduction of $127 million or 24.1 percent. The Scott amendment is designed to increase the recommended amount from $400 million to $435 million. Such a modest increase is still $92 million or 17.5 percent below the President's request.

Should the Senate, for some irrational or irresponsible reason, decide to reject the Scott amendment, and withdraw into a fortress America, I foresee great difficulty in the President being able to carry out the Nixon Doctrine to make the world a better and safer place to live.

Everyone of us is well aware that the grant military assistance program is the core of the Nixon doctrine. If fully implemented, it will allow the United States to withdraw American forces from around the world by enabling our friends and allies to field armed forces which can bear an increasing share of the common defense burden. For the first time since the conclusion of the Second World War, we can look to our allies to bear the primary burden of meeting nonnuclear threats to the peace and survival of the free world.

The millions we authorize and appropriate for these grant military assistance programs save billions of dollars for the American taxpayers. It is conservatively estimated that it costs $10,000 a year to keep an American soldier overseas, but only $500 a year to train and equip a foreign soldier to take his place.

Mr. President, the Scott amendment will also restore funds for supporting assistance programs from the Committee's recommended level of $550 million to $685 million. Although this is still a reduction of $159 million from the President's request of $844 million, it will at least give our country a continuing and viable program. Such an amount would give us the resources to provide the economic support which allied and friendly governments in Southeast Asia need to allow them to carry on with the primary burden of their own defense as our involvement in Vietnam winds down.

Funding at this higher level would also assure continued stability in the Middle East by promoting the economic viability of Israel and Jordan. There is no question in my mind that restoring these programs to respectable levels is not only justified but in our Nation's best interests.

Likewise, our military credit sales program is designed not only to assist and bolster the defense requirements of our allies, but to encourage the purchase of military hardware from U.S. manufacturers as against European or Soviet arms dealers.

Furthermore, the military credit sales program is just that—a credit program allowing our allies to purchase badly needed defense articles on credit. It is not a giveaway or grant program. All the money appropriated in this field is repaid to the U.S. Treasury in due time.

Mr. President, now is not the time to undercut President Nixon's peace plan. His administration has demonstrated that it has the capacity and foresight to devise new policies to meet the challenges of the 1970's. The administration's new policies in Asia and elsewhere are working and producing the climate for future successes in man's quest for a more peaceful and stable world order. Failure to provide the President with the bare minimum in resources to continue this progress for a better world could seriously jeopardize all the accomplishments of the past few years.

Although the funds in this amendment are still $431 million or 20 percent less than what the President requested for the above-mentioned programs, I believe that it restores a substantial portion of the drastic cuts that were made by the Foreign Relations Committee. Without the increases contained in the Scott amendment, the President's peace initiatives would wither on the vines and be totally ineffective in meeting our security needs around the world.

I personally believe that the President's request should be restored by a larger amount. However, I am satisfied that the sums contained in the Scott amendment are reasonable and adequate enough to meet the urgent needs for the current fiscal year.

I strongly urge my colleagues to support the Scott amendment to increase the funds for our military assistance programs to a more realistic level.

Mr. DOLE. Mr. President, I support the amendment proposed by the distinguished Senators from Pennsylvania and Wyoming to restore funding for security assistance programs. Many Senators and many Americans hold strong views about the foreign assistance program. We have expressed them in Senate debate and taken our stands when voting on different elements of the foreign assistance bill.

Insofar as program funding levels are

concerned, it should be recognized that the Senate has previously supported the figures in this amendment. No new reasons have been brought forward to support additional reductions in these authorizations, but the need for adequate support for these programs is still critical.

Security assistance programs are vital to the operation of the President's foreign policy which places primary reliance on the ability of our friends and allies to maintain their own strong defenses. With strong allies, the risk of aggression against them is reduced, and so is the danger of direct American involvement in defending them against aggression should it come.

The Senators from Pennsylvania and Wyoming have made a very clear case for the need to provide adequate support for our security assistance program. They are in effect restating the Senate's own position on the matter as expressed earlier in S. 3390.

I would point out that the funds specifically earmarked for Israel take on even greater significance in light of the recent increase in terrorist hostility against the Israelis.

The United States, through President Nixon's foreign policy, is actively pursuing a generation of peace for all the peoples of the world. The security assistance program is a basic element in that policy, and I urge the Senate to adopt the Scott-McGee amendment to fully restore the funding authorization which this body has previously approved.

THE STENNIS AMENDMENT

Mr. FULBRIGHT. Mr. President, I urge the Senate to reject the amendment offered by the Senator from Mississippi.

Last year the Senate went on record three times in favor of complete withdrawal of all U.S. forces from Indochina within a fixed time, conditioned only on the release of American prisoners of war. It approved the Mansfield amendment as an amendment to the Draft Extension Act by a vote of 61 to 28, as an amendment to the Defense Authorization Act by a vote of 57 to 38, and as a provision in the foreign assistance bill.

This year the Senate went a step farther. On two occasions it voted to cut off funds for continuation of U.S. involvement in the war. The Senate, which is often long on talk and short on action, in effect put its money where its mouth was. By adopting Senator BROOKE's amendment to the earlier foreign aid bill by a vote of 50 to 45 and to the military procurement bill by 49 to 47 it declared a clear national policy for Indochina: If American prisoners of war are released and the missing in action accounted for, U.S. involvement in the war—land, sea, and air—will be ended within 4 months. The amendment seeks only to establish a national policy for Indochina where responsibility is shared jointly by Congress and the President.

Perhaps the war will continue indefinitely after U.S. forces leave. No one can foresee the final military or political outcome in the area. But the continued involvement of our forces works to prevent the operation of natural political factors that might result in a settlement between the parties. And it assures the continued imprisonment of captured Americans.

Mr. President, five times within a period of little more than a year the Senate has voted to approve the basic policy set forth in the Brooke amendment. I am not optimistic that we can work out a meaningful compromise on the amendment in conference, get it through the House, and then get the President to sign it into law. There are many formidable obstacles between the Senate's adoption—again—of the Brooke amendment and its enactment into law. But the Senate should do its duty; it should not base its action on what the House or the President may or may not do.

I hope that the Senate will stand by its earlier decisions and reject the Stennis amendment.

Mr. KENNEDY. Mr. President, I oppose final passage of this measure reluctantly because it contains items of merit and value. However, the bulk of the bill represents another unwise extension of the view that national security is based solely on military force.

For this measure, with its $1.8 billion in military assistance and credit sales, including $585,000 for South Vietnam in security assistance and $150,000 worth of surplus weapons, is only part of the vast package of foreign military assistance proposed by this administration this year.

The administration proposed to grant or subsidize $8.5 billion in military assistance and arms to 63 foreign nations. And of those nations, 25 are controlled by military dictatorships or authoritarian regimes.

The bill as it now stands, therefore, is only one part of the total package of foreign military aid that this administration has endorsed. And it demonstrates again the distorted priorities of this administration. For it has requested nearly $2 billion more this year to be distributed to foreign nations than in fiscal year 1972 at the same time that the President has righteously vetoed a health, education, and welfare appropriations measure for being inflationary. I think it is far more in the Nation's interest to expend our resources on our citizens' health and welfare than on arming other nation's military forces.

Under this bill and others, Vietnam receives over $3 billion in direct military assistance from the United States. In addition, the United States is expending over $10 billion for U.S. forces in Indochina.

And despite the billions in foreign military aid and the billions spent in Vietnam, U.S. soldiers still brave enemy fire in Indochina and American fliers still risk being shot down by enemy rockets.

It was to end the fighting in Indochina and to return our prisoners of war that the Foreign Relations Committee had approved a cutoff of funds for Indochina after 4 months provided that U.S. prisoners of war are returned during that time period and an accounting of men missing in action is also given.

However, the administration succeeded in deleting that provision and it was that vote above all others which represents to me a justification for opposing this foreign military aid legislation.

Clearly, my vote does not represent opposition to all foreign military assistance. Some nations, such as Israel, richly deserve our support. In addition, the bill contains amendments which I introduced which provide refugee assistance in Bangladesh, South Vietnam, and Cambodia as well as authorizing postwar refugee planning throughout Indochina. All of these items could have been funded in separate legislation if we had been successful in defeating this measure.

However, the bill as it stood on final passage, represented an incentive to continue the fighting in Indochina and to continue a narrow view of foreign policy that assumes mounting military expenditures by the United States and by other nations will produce a peaceful world. I reject that view and, therefore, I voted against this bill.

Mr. DOLE. Mr. President, once again the Senate has before it the substance of another so-called end the war amendment. There have been many of them over the course of the past few years. They have been worded differently; they have mentioned different dates, different periods, different conditions. They have all pretended to be a means for the Senate or the Congress to put an end to the Indochina conflict. But none of them have brought about any positive progress toward peace. None of them have decreased the pace of the war. None of them have reduced the casualties inflicted on the American servicemen in Indochina.

I would point out that it is the President who is Chief Executive of our Nation. The President makes our foreign policy and conducts our diplomatic relations with other countries. The President is the Commander in Chief of the Armed Forces.

Congress does have a voice, a role to play in the affairs and policy of the U.S. Government, but the Congress is not the President, and it does not have nor does it share his constitutional powers and responsibilities in military and foreign policy.

The President has these powers and responsibilities, and he is aware of them. The American people are aware of them, too. And they know that the President, not the Senate or the House, has brought more than half a million servicemen home from Indochina. They know that the President, not Congress, has reduced American battle deaths to the lowest levels in 7 years, and that last week no Americans lost their lives in combat. The American people can see that the President's policies and decisions, not empty congressional resolutions and amendments, have made this progress possible.

These amendments serve no purpose. President Nixon is ending the war, the war he inherited when he took office. These amendments do not contribute to his efforts for peace, they do not enhance his efforts to bring the war to a close. To the contrary, any effect they might have on his policies would certainly be negative. And it would seem that they might place the Congress in the somewhat

questionable position of hindering, criticizing, and carping at the highly popular and effective policy which the President is pursuing.

So I commend the Senator from Mississippi (Mr. STENNIS) for his efforts to remove this so-called end the war language from the foreign assistance bill and urge the Senate to approve his motion to strike this portion of the bill.

Mr. BAYH. Mr. President, amidst the countless tragedies which stand out after more than a decade of U.S. errors and miscalculations in Vietnam there is a great irony. The ostensible reason for the sacrifice of 55,000 American lives and the injury of more than a quarter of a million GI's has been to provide an opportunity for the South Vietnamese to have a democratic government. But South Vietnam, under the ruthless dictatorship of President Nguyen Van Thieu, continues to move farther and farther from democracy toward oppressive totalitarianism.

Within the past month, we have had three more examples of the techniques employed by Thieu to sustain himself in power—at the expense of political freedom. As we look at these three examples, it is important to remember that they are but the latest in a series of such acts and that Thieu's reprehensible conduct is indirectly condoned by our Government as long as U.S. air power is used to sustain him in office.

The first example is President Thieu's decree doing away with the popular election of officials in South Vietnam's 10,000 hamlets. When hamlet elections were instituted several years ago, they were hailed as evidence of South Vietnamese progress toward democracy. Their abolition, then, strikes one as clear evidence of progress away from democracy. What this means is that at the local level the foundation for democracy has been destroyed, with the inevitable result that any attempt to build an open society on that foundation will be doomed to failure.

Under the new plan the hamlet officials will be appointed by province chiefs beholden to Thieu. It is as if all the cities and towns in this country were to be run by persons appointed by governors who, in turn, were appointed by the President. This is certainly a means of solidifying one's power, and probably is what we should expect from a President who assured his reelection by devising rules which left him the only candidate in the presidential election.

The second recent example of President Thieu's wanton use of his undue power, has been the overt attacks on Senator MCGOVERN in the government-controlled media, especially television and radio. This has included harsh personal attacks on Senator MCGOVERN, labeling him a "mad dog" and "traitor," and represents unconscionable interference in the domestic affairs of the United States. It reminds one of 1968 when President Thieu deliberately undermined peace negotiations until after our presidential election. President Thieu would have been the one to yell loudest had the United States attempted to make his reelection contingent on a true contest, yet he has shown no hesitation to jump into our presidential race. It cannot be forgotten, either, that this improper behavior is being subsidized by U.S. aid dollars.

The third example concerns a new law which requires newspapers to post a $50,000 bond with the government, the bond to be lost if the newspaper is seized twice because of government censorship. Since such undemocratic censorship is commonplace and many newspapers are seized on a regular basis this law left open the possibility of repeated losses of $50,000 bonds. The result has been that several newspapers, including the two leading opposition newspapers in Saigon, have had to shut down. This is an ingenious device for silencing a free press, and it is a not very subtle example of the totalitarian schemes which Thieu is using to increase and solidify his power base. It, too, can be expected of a regime which copes with opposition by incarcerating political prisoners.

What we are increasingly left with, Mr. President, is a regime in South Vietnam which is no more free than the regime in North Vietnam. Yet our Government perpetuates the Thieu regime with the extensive and expensive use of massive air power.

The steadily rising use of bombing as a means of preventing the collapse of the Thieu government must be cited time and again, lest the reduction in U.S. personnel in South Vietnam somehow delude the American people into thinking we are getting out of this war. Rather than end American involvement in Vietnam, as this administration promised it would, it has merely rolled back the clock 7 years to 1965 when, prior to the U.S. troop buildup in South Vietnam, U.S. air support was the means of sustaining various Saigon governments.

The bombing policy has lowered the number of U.S. casualities, but it must not be forgotten that more than 20,000 American lives have been lost since the present administration took office. Nor can it be forgotten that bombing sorties inevitably increase the number of Americans missing in action and the ranks of American prisoners of war. The increased bombing this year has resulted in 120 additional U.S. MIA's and more than 50 more POW's.

And despite the record number of bombing attacks in all parts of North and South Vietnam, the North Vietnamese and Vietcong are sustaining their positions on the battlefield. This is important to note, Mr. President, because it proves a point made by the State and Defense Departments in the so-called "Kissinger papers"—National Security Study Memorandum No. 1—assembled in 1969. The point is that bombing has always been of limited effectiveness in this war because it increases markedly the North Vietnamese resolve not to yield to the Americans and is irrelevant to the basic political nature of the struggle. This reality has been borne out by recent visitors to North Vietnam who report no substantial weakening of Hanoi's position.

What we need, Mr. President, instead of U.S. bombing raids to prop up Thieu's dictatorship, is a willingness to get out of this war conditioned only upon the release of U.S. POW's, something which could be reasonably expected once we set a date for the end of our involvement. Those who call this proposal unworkable are deluding themselves. First of all, we cannot know if it is unworkable if it is not tried, and setting a withdrawal date seems like a small price to pay to find out if North Vietnam will release our POW's. Moreover, all the experience of past wars and all solid information coming this way suggest that such a plan would probably work.

But the Nixon administration is unwilling to try this approach because of its mistaken commitment to President Thieu. Here, then, is the reason we are not out of this war, and here, then, is the reason that Americans continue to languish in North Vietnamese prison camps. Our Government wants to strike an agreement, something the other side can never do, which would practically guarantee the perpetuation of the corrupt dictatorship of Nguyen Van Thieu. To do this, we pay in American lives, a truly inconceivable waste in human life. The Thieu regime is not worth the life of a single GI; sustaining totalitarianism is a shameful way to throw away our Nation's young, our Nation's dollars, and our Nation's spirit.

This loss of spirit reaches into the very depths of our national conscience. The controversy surrounding General Lavelle and the alleged unauthorized bombing of North Vietnam is a perfect example—like Mylai before it—of how Vietnam has poisoned our society and rendered us insensitive to acts which previously would have horrified the Nation. The public loss of confidence in our institutions of government is not confined solely to the military, but it permeates our entire society with the constant erosion of our national spirit and purpose. Vietnam and its legacy will remain in the American bloodstream until we purge ourselves of this poison that has seeped deeply into our national life.

In his 1972 state of the world message, in an effort to justify the continued U.S. involvement in Vietnam, President Nixon said:

> South Vietnam has made remarkable progress building toward democracy in the midst of war.

He said this despite the fact that President Thieu ran unopposed for reelection last year, and despite the fact that the man who ran second to Thieu in his earlier election remains in jail, a political prisoner 5 years after the election.

The fact is, as President Thieu's recent activities have reminded us that South Vietnam is moving away from—not toward—an open democratic society. To suggest otherwise is to deny reality and to gamble American lives in the foolish game of saving face.

Mr. President, I request unanimous consent to include in the RECORD at this point an article from Monday's New York Times which explains in some detail how President Thieu has assumed greater and greater control of his government in recent months.

There being no objection, the article

was ordered to be printed in the RECORD, as follows:

THIEU'S RULE TIGHTER SINCE ENEMY'S DRIVE

(By Craig R. Whitney)

SAIGON, SOUTH VIETNAM, September 24.—President Nguyen Van Thieu has come out of the 1972 Communist offensive more powerfully in control of the machinery of Government here than ever before. But he seems to be less than sure of his own political strength and popularity among the people of his country.

Faced with both political and military problems of vast magnitude over the last six months, Mr. Thieu has dealt with both of them in the same way—by the direct exercise of personal power, dispensing with the encumbrances of American-inspired democratic institutions and governing instead through the army.

In the view of most American observers of the process and many Vietnamese, the 48-year-old President has so firmly established his power that he has left no room for an effective non-Communist opposition.

In fact, to outward appearances at least, the opposition has given up. Former Vice President Nguyen Cao Ky is living in opulent unemployment at Tansonnhut Air Base; General Duong Van Minh is spending his time at cocktail parties and receptions.

"Thieu has checkmated all the moves of the opposition," said one of General Minh's supporters, Ly Qui Chung, a member of the House of Representatives. "It is not possible to take power without the Americans."

One senior American official here said: "There's no sense in people at home kidding themselves. Thieu is the only man around."

Other Americans here are less enthusiastic about this than that official. But all of them agree there is no non-Communist alternative in sight.

HE MASTERS THE MILITARY

No South Vietnamese leader has ever mastered so firmly the country's military machine and its governmental administrative apparatus, which is also largely controlled and staffed by military officers.

No one since Ngo Dinh Diem's assassination in 1963 has become so independent of American control or influence while at the same time remaining so dependent on American support. Because he is confident that the support will continue—so confident that his national television and radio stations have been broadcasting blistering attacks on Senator George McGovern—he pays less attention these days to what the Americans want, even though the United States could theoretically cause his instant downfall by withdrawing its military, economic and moral support.

The fragility of this dependent relationship is apparent in the central role here of Ambassador Ellsworth Bunker, the only American official who sees Mr. Thieu frequently. Many Vietnamese regard the Ambassador as their President's alter ego, and a sudden departure by Mr. Bunker would be taken by politicians here as a sign that American support of Mr. Thieu could no longer be taken for granted.

Ambassador Bunker, who has been here since 1967, hoped to go home after the Presidential election here, last October, but after that turned into a one-man race, he stayed. Now, according to people close to him, he does not count on being able to leave until early next year.

LESS INFLUENCE ON THIEU

Yet, in recent months, either Mr. Bunker has not tried to exercise influence with President Thieu on critical issues such as politics or else Mr. Thieu has not listened to him as much as he used to.

Which is the case, it is impossible to tell, since when the two men meet they are usually alone. But Mr. Bunker is known to have been disappointed when President Thieu did not go out of his way to insure a contested election last October, and last month the President did not consult the Americans when he took the important step of abolishing elections of hamlet and village officials.

Since late June, Mr. Thieu has been bypassing the elected National Assembly, even though he controls a majority in both of its houses, and has been governing by decree in the fields of national defense, finance and economy. Last Wednesday, during a trip to the northern front, he told reporters that he would not ask for an extension of his authority to rule by decree when it runs out at the end of December.

Instead, he is working to further solidify his control of the Assembly. According to one Cabinet minister, he has asked several Government officials to run for the 56-member Senate in the election next September. His supporters now have 29 seats there.

HIS REMOVAL DEMANDED

Because of his controlling position in the South Vietnamese administration machinery, President Thieu's removal from the political scene has become the key demand of the Vietnamese Communists for a negotiated settlement of the war.

His American patrons, who deal with the North Vietnamese at the talks in Paris, have so far rejected this as an unacceptable precondition that would be tantamount to helping impose a Communist government on the South.

Mr. Thieu opposes that unconditionally, believing that to compromise with the Communists is to be defeated by them.

And in recent months he has taken steps with the effect of hedging against the possibility that the Americans might some day concede more politically than they have already in offering, last January, to have him step down one month before internationally supervised, nationwide elections.

HIS MEASURES OUTLINED

Since the North Vietnamese offensive began in late March, Mr. Thieu has taken these steps:

He has imposed martial law, allowing the national police to arrest suspected Communists or Communist sympathizers and detain or release them at will, without trial.

He has ruled by decree in the fields of national security and economy since the end of June.

He has closed all but two of Saigon's opposition newspapers by requiring publishers to deposit $47,000 with the national treasury.

He has decreed that most officials of villages and hamlets should not be elected but be appointed by the province chiefs, who are military men appointed by the Government.

He has replaced all but two of the South Vietnamese Army's division commanders with his own men, many of whom are considered to be more competent leaders than their predecessors. The replacements have gone a long way toward eliminating the independent warlordism that used to hamper the authority of all Saigon administrations and that established Mr. Thieu, himself a former general, in indisputable control of the army.

He has increased the penalties for a variety of common crimes such as robbery, assault and hijacking, has placed most of them under the jurisdiction of special military courts and has threatened severe punishment for corrupt officials or those who try to bribe them.

ACCEPTED FATALISTICALLY

Whatever the average Vietnamese citizen thinks of these measures—and there has been no organized or vocal opposition to them—the American establishment here regards some of them, such as the virtual closing down of the press, as "stupidly unnecessary," as one official put it, but fatalistically accepts them.

"Talking about making him 'broaden his political base' is an American concept that has no relevance here," one American said American officials did not make such statements in the nineteen-sixties, when they were giving South Vietnam a democratic form of government and when they thought they needed the support of American public opinion.

President Thieu does not seem to think he needs such support. He appears convinced that President Nixon will be reelected and will continue to support him. He makes little visible effort to win popularity among his people, nor does he often talk to the foreign press here. Last Wednesday he made some impromptu remarks to American and European reporters in Quangtri; it was the only time this year that he had granted an interview to resident correspondents.

Mr. Thieu said then: "I do not need to be a dictator." But he clearly feels that for South Vietnam in the midst of a war, democracy is dangerous. He has achieved control, therefore, not by appeals to the electorate, but rather by careful and methodical placement of people of unquestioned loyalty to him in all the key positions of government.

A COUSIN IS POWERFUL

One of his most powerful advisers, for example, is 30-year-old Hoang Duc Nha. His title, press secretary and secretary to the president, is deceptive. He is a cousin of President Thieu and has had a hand in naming many high officials in the government—often friends or former classmates of his at the Lycee Yersin in Dalat, where he studied in the nineteen-fifties before going to the University of Pittsburgh in 1966.

Mr. Thieu was commandant of the Vietnamese military academy in Dalat at that time and adopted Mr. Nha as a sort of surrogate son. Mr. Nha's brother, Col. Hoang Duc Ninh, is commander of the 44th Special Zone in the Mekong Delta and is reliably reported to be on the promotion list to take over command of the army's Seventh Division soon.

The two other most powerful officials in the Government—Premier Tran Thien Kheim and Lieut. Gen. Dang Van Quang—were trusted associates of Mr. Thieu through his years in the army. Mr. Khiem and he were both company commanders in the French Army in the early nineteen-fifties. General Quang, the President's special assistant for military and security affairs, used to have a reputation for corruption but is believed to be the figure through whom Mr. Thieu has consolidated his mastery of the army.

"Khiem is described by everyone as one of the Thieu's real friends, but I don't know how much real influence he has," said one American official who follows Vietnamese political developments. Another man—a Vietnamese and a Cabinet officer—said recently: "Oh, no, that guy has no friends."

HIS STYLE IS REMOTE

Mr. Thieu's style of government is remote. He seldom makes a public appearance. He has, in the course of the offensive, made several visits to exposed field positions to raise the morale of his troops—acts of considerable courage for a man in his position. Wednesday, he even came under shelling during his visit to the Quangtri front. And on Friday he made a tour of the northern Mekong Delta area, where Communist pressure has also been increasing in recent weeks.

But rarely does he venture among his civilian constituents or make a public speech. He waited for several weeks after the beginning of the enemy offensive last spring to proclaim a state of national emergency and to mobilize the population against the Communist attack, preferring instead to deal with the offensive more directly by issuing orders to field commanders by radio-telephone.

Seldom, either has he expressed the philosophy that leads him to govern as he

does, but in a speech on August 11, in Quinhon, he gave this exposition:

"The Communists dare to do everything," he said. "When I was young, in 1945, I went to the Maquis to co-operate with the Vietcong in resisting the French. I was deceived by them for several months. From that moment on, for 20 years, I have been fighting Communism.

"THERE IS NO HALF WAY

"The Communists have only one dogma. We must follow them or die. There is no half way. There is no neutrality. If we concede territory to the Communists, we will lose it and the people. If we agree to a coalition government, our 17 million people will be forced to follow the Communists.

"If we adopt neutrality, Communist-style neutrality, this means that we will tie our own hands and let the Communists eat us. And if we allow the Communists to operate openly in South Vietnam, we will lose the country. Because I have carefully thought about these four ways of losing our country to the Communists, I have advanced my four no's policy.

"I will continue to defend my four no's until death."

By "four no's," Mr. Thieu means no neutrality, no coalition government, no concession of territory and no open operations by the Communists permitted in the South.

"Our Government has allowed us to enjoy too much democracy too soon," he continued. "Every freedom must be recognized to the extent consistent with the situation of our nation.

"If our country were a secure, peaceful and prosperous nation like the United States, all our democratic rights and freedoms could be fully observed without any trouble at all," he said. "But our country is still on the path of development, with the Communists blocking our way and interfering with all our activities. We can find the Communists everywhere, under our beds, under our ancestors' altar, behind our backs and even among our ranks."

CHAU STILL IN JAIL

Mr. Thieu has been merciless with nationalists whom he has suspected of dealing with the Communists or of trying to build a middle way. One of the best-known, a former officer of the House of Representatives—Tran Ngoc Chau—has been kept in jail on charges of collaborating with the Communists even though the special military court that tried him was declared unconstitutional by the Supreme Court two years ago and his sentence was annulled.

His brother was identified as a Communist agent and Mr. Chau's crime was passing messages from him to the presidency.

A senior American adviser, the late John Paul Vann, called Mr. Chau "the greatest Vietnamese patriot I have ever known."

GAPS IN DEMOCRACY

"When an election is held," Mr. Thieu told his audience in Quinhon, "the Communists try to benefit from it. Indeed, after a country becomes Communist, its people can never topple its Communist leaders. In the countries which are pro-Communist, in Africa and South America, if their armed forces are abreast of the situation and take timely action, they will be able to overthrow their leaders. In the South here our political parties are small and disunited, we are too complacent, and most important, our democracy is disorderly, it presents many gaps."

The reason Mr. Thieu is anxious to close those "gaps" at this time is that both he and his ineffectual opposition see the coming years as the final confrontation with the Communists, after which they expect either some sort of compromise or a concession of defeat by one side or the other.

"The closer we get to the end, the worse things look for us," said Ly Qui Chung. "We are getting close to the end, with the rapprochement of the great powers, but we can't continue the war this way. The United States can't continue to support a regime incapable of standing by itself."

SAVING ITS ENERGIES

Another opposition figure, Ho Nghoc Nhuan, said: "What we in the opposition—and we believe most of the people—want is the departure of Mr. Thieu. Unfortunately for us, that is what the 'other side' wants, too."

So because the opposition has no other way of bringing about the change it wants under a presidential system so completely controlled by Mr. Thieu, the opposition is lying low and saving its energies for the "post-Thieu" phase they believe will come one day. That, everyone agrees, is not any time soon. Mr. Thieu believes that the current fighting will go on at least through next year and that the only way to ultimate peace is by military victory on the battlefield.

In a speech in Hue on Wednesday, he said: "We strongly reaffirm that any peace solution should start with an end to armed aggression and the withdrawal of all Communist troops and cadres to the North. The army should keep up the initiative and develop the present victories to wipe out the enemy. We will be able to do it and we will achieve total victory."

Mr. GAMBRELL. Mr. President, on the day I was named U. S. Senator for Georgia, I was asked what I considered to be the No. 1 problem facing the country. On that occasion, I stated that the war in Southeast Asia was that problem. I stated—

The war is draining the strength of our country, materially, spiritually and emotionally in such a way that we cannot get on with the solution of other serious problems with which we are faced.

To a large extent, this continues to be the case nearly 2 years later.

Last June, when the so-called Mansfield amendment was offered, I supported it. While refusing to place any mandatory requirements upon the President, I felt it important to urge him to announce to the world that the United States would withdraw from the war, if we could get our prisoners back, and if a cease-fire could be achieved. President Nixon and his administration opposed the adoption of this resolution, and although it passed the Senate, it was defeated through resistance in the House.

Some 7 months later, President Nixon disclosed that a proposal substantially along the lines of the Mansfield resolution had been privately offered to the North Vietnamese within a few weeks after the Senate vote on the subject. This offer received no response from the North Vietnamese for many months and subsequently was answered with a demand for a political capitulation by the South Vietnamese Government.

In my way of thinking, we would have been much better off for this offer to have been made publicly, before the world, so that the obstinate and contentious conduct of the North Vietnamese in dealing with it would have been apparent.

However, all of that is now in the past, and the United States has effectively "withdrawn" from ground combat in Southeast Asia. Last week it was reported that our forces suffered no ground combat casualties for the first time since 1965. In addition, the Government of South Vietnam has demonstrated an important degree of self-sufficiency in having conducted national elections last October, and with our air support and military material furnished by us, in successfully conducting the defense of the northern provinces during the past 6 months.

So far as I am concerned, in the present circumstances, there remains only one additional consideration of our complete withdrawal from Southeast Asia, and that is to get our prisoners of war back. As was the case when the Mansfield amendment was proposed, I think it important that we state positively, before the world, our determination in this respect, so that the responsibility for our continued military presence in Southeast Asia rests solely, clearly, and heavily upon the North Vietnamese. Should they refuse a clear-cut offer by us to withdraw upon return of the prisoners, then I would certainly favor a continued presence by U.S. forces in the Indochina area, continuation of our bombing, and continuation of our mining of their harbors.

If they want to end our active role in this war, they can deliver our prisoners of war back to us. I can think of nothing more reasonable and straightforward on our part.

In order to make our determination to withdraw as clear cut as possible, I support the Brooke-Cranston amendment when it was previously voted upon, and will do so again today. If its substance is offered to the North Vietnamese and they reject it, we will have a free hand to continue our limited but flexible participation in the defense of South Vietnam.

If on the other hand, the North Vietnamese elect to return our prisoners of war in exchange for an immediate termination of our role in the Indochina war, we could withdraw and I feel sure that news of this development would be received with a great sense of joy and relief throughout our country.

Mr. President, I do not see how this country could lose if the policy of the Brooke-Cranston amendment were to be followed.

As for the foreign aid bill itself, I plan to vote against it whether the "end the war" resolution is retained or not. The increased spending sought by the Nixon administration through the Scott amendment will result in an increase in the amount of foreign aid spending over last year's bill which I opposed.

Furthermore, the military assistance spending authorized by this bill, is in addition to more than $8 billion in foreign military assistance provided under other Government programs. The American people ought to know what an enormous part of our Federal budget for "foreign aid" goes out under departments other than the Department of State.

While I can see the value of some of our foreign assistance programs, both economic and military, I have supported drastic cuts in all of them; first, in recognition of our own budgetary limitations; and second, in an effort to require other countries in the world to support and defend themselves.

I see no sense or benefit in borrowing money for the purpose of giving it away,

particularly when the gifts are to those who should long ago have become able to support themselves.

Thus my vote on final passage of the foreign assistance act will be in the negative.

Mr. STENNIS. Mr. President, in the time remaining, I would like the clerk to read the amendment to tell us what section in the bill it refers to.

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

The Senate, under the unanimous-consent agreement, will now proceed to vote on the Scott amendment.

Mr. CHURCH. Mr. President, I send to the desk, under the rule, an amendment in the nature of a perfecting amendment to the Scott amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment, as follows:

On page 1, in lieu of the language proposed to be inserted in lines 6 and 7, insert "$585,000,000," of which not less than $85,000,000 shall be available solely for Israel".

On page 1, beginning with line 8, strike out through line 14 on page 2.

Mr. CHURCH. Mr. President, I ask unanimous consent——

Mr. SCOTT. Mr. President, I move that the amendment be tabled.

Mr. CHURCH. If the Senator will withhold that for a moment, I ask unanimous consent that a brief explanation of the amendment appear in the RECORD.

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

SEPTEMBER 26, 1972.

EXPLANATION OF CHURCH SUBSTITUTE FOR SCOTT AMENDMENT

The Church Substitute would add a total of $35 million to the pending bill for the purpose of increasing supporting assistance to Israel from $50 million to $85 million. Thus the Church substitute earmarks for Israel the same amount as provided by the Scott amendment. But, unlike that amendment, the Church substitute leaves unchanged the rest of the spending levels in the bill.

Total Increase under Church Substitute: $35 million—earmarked for Israel.

Total Increase under Scott amendment: $370 million (of which $35 million is for Israel).

Mr. CHURCH subsequently said: Mr. President, I ask unanimous consent that the names of the following Senators may be added as cosponsors of the amendment that I offered to the amendment of the Senator from Pennsylvania (Mr. SCOTT). The Senators are Senators KENNEDY, HART, MUSKIE, TUNNEY, CRANSTON, and CHILES.

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

Mr. DOMINICK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMINICK. I would like to know if the Church amendment is a substitute for the Scott amendment or is an amendment to the Scott amendment.

The PRESIDING OFFICER. The Church amendment is a perfecting amendment to the Scott amendment.

Mr. DOMINICK. It is not a substitute?

The PRESIDING OFFICER. That is correct.

Mr. DOMINICK. If it is adopted, we can still vote on the Scott amendment, as amended?

The PRESIDING OFFICER. That is correct.

Mr. DOMINICK. I thank the Chair.

Mr. SCOTT. Mr. President, a further parliamentary inquiry so that we may have this entirely clear. If the Church amendment is adopted, in which the $35 million is restored to the bill, does the vote then recur on the Scott amendment restoring the funds in the bill as stated in the Scott amendment, in addition to the $35 million?

The PRESIDING OFFICER. The question would recur on the Scott amendment as amended. The Chair does not interpret the effect of the amendment.

Mr. SCOTT. Then, may I again propound a parliamentary inquiry? If the Church amendment should be adopted, would a vote on the Scott amendment as perfected by the Church amendment, if the Scott amendment were adopted, result in the restoration of the funds obtained in the Scott amendment, as perfected?

The PRESIDING OFFICER. The clerk will read the amendment showing its effect on the Scott amendment.

The legislative clerk read as follows:

On page 1 of the Scott amendment, in lieu of the language proposed to be inserted in lines 6 and 7, insert "$585,000,000, of which not less than $85,000,000 shall be available solely for Israel."

On page 1, beginning with line 8, strike out through line 14 on page 2.

Mr. SCOTT. Mr. President, a further parliamentary inquiry. Then the effect of the so-called perfecting amendment is that it would perfect the Scott amendment out of business; in other words, it would remove all the features out of the Scott amendment except the $85 million. Is that correct?

The PRESIDING OFFICER. The Chair cannot interpret the effect of the amendment.

The question is on the motion of the Senator from Pennsylvania to lay on the table the amendment of the Senator from Idaho as a perfecting amendment to the Scott amendment.

Mr. FULBRIGHT and Mr. ROBERT C. BYRD requested the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays are ordered, and, under the previous unanimous-consent agreement, this rollcall will last for 15 minutes, and the rest for 10 minutes.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished Senator from Virginia (Mr. SPONG). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would change my vote to "yea." Therefore, I withdraw my vote.

Mr. HARTKE (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished Senator from Ohio (Mr. SAXBE). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Virginia (Mr. SPONG), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN) and the Senator from Wyoming (Mr. MCGEE) are absent on official business.

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

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senators from Ohio (Mr. SAXBE and Mr. TAFT) and the Senator from Vermont (Mr. STAFFORD) are absent on official business to attend the Interparliamentary Union meetings.

The pair of the Senator of Ohio (Mr. SAXBE) has been previously announced.

The result was announced—yeas 47, nays 40, as follows:

[No. 467 Leg.]

YEAS—47

Aiken	Dole	Miller
Allen	Dominick	Packwood
Allott	Ervin	Pearson
Baker	Fannin	Percy
Beall	Fong	Roth
Bellmon	Goldwater	Schweiker
Bennett	Griffin	Scott
Boggs	Gurney	Smith
Brock	Hansen	Sparkman
Brooke	Hatfield	Stennis
Buckley	Hruska	Stevens
Cannon	Jackson	Thurmond
Cook	Javits	Tower
Cooper	Jordan, Idaho	Weicker
Cotton	Mathias	Young
Curtis	McClellan	

NAYS—40

Anderson	Edwards	Montoya
Bayh	Fulbright	Moss
Bentsen	Gambrell	Muskie
Bible	Gravel	Nelson
Burdick	Harris	Pastore
Byrd,	Hart	Pell
Harry F., Jr.	Hollings	Proxmire
Byrd, Robert C.	Hughes	Randolph
Case	Inouye	Ribicoff
Chiles	Kennedy	Stevenson
Church	Long	Symington
Cranston	Magnuson	Talmadge
Eagleton	McIntyre	Tunney
Eastland	Mondale	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Hartke, against.
Mansfield, for.

NOT VOTING—11

Humphrey	Metcalf	Stafford
Jordan, N.C.	Mundt	Taft
McGee	Saxbe	Williams
McGovern	Spong	

So Mr. SCOTT's motion to lay Mr. CHURCH's amendment on the table was agreed to.

Mr. MANSFIELD. Mr. President, for the information of the Senate, I think the votes from now on will require only 10 minutes.

Mr. SCOTT. And, Mr. President, there are three more votes to come, as I understand it.

Mr. MANSFIELD. That is correct.

The PRESIDING OFFICER (Mr. STEVENSON). The question now recurs on

agreeing to the amendment of the Senator from Pennsylvania.

Mr. FULBRIGHT. 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 Pennsylvania. 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 negative). On this vote I have a pair with the Senator from Virginia (Mr. SPONG). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." After having voted in the negative, I would vote "yea." Therefore, I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Virginia (Mr. SPONG), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN), and the Senator from Wyoming (Mr. MCGEE) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from South Dakota (Mr. MCGOVERN) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senators from Ohio (Mr. SAXBE and Mr. TAFT) and the Senator from Vermont (Mr. STAFFORD) are absent on official business to attend the Interparliamentary Union meetings.

The result was announced—yeas 56, nays 32, as follows:

[No. 468 Leg.]

YEAS—56

Aiken	Eastland	Mondale
Allen	Edwards	Montoya
Allott	Fannin	Moss
Anderson	Fong	Packwood
Baker	Goldwater	Pearson
Beall	Griffin	Percy
Bellmon	Gurney	Ribicoff
Bennett	Hansen	Roth
Boggs	Hartke	Schweiker
Brock	Hollings	Scott
Brooke	Hruska	Smith
Buckley	Jackson	Sparkman
Cannon	Javits	Stennis
Cook	Jordan, Idaho	Stevens
Cooper	Long	Thurmond
Cotton	Magnuson	Tower
Curtis	Mathias	Weicker
Dole	McIntyre	Young
Dominick	Miller	

NAYS—32

Bayh	Eagleton	McClellan
Bentsen	Ervin	Muskie
Bible	Fulbright	Nelson
Burdick	Gambrell	Pastore
Byrd, Harry F., Jr.	Gravel	Pell
Byrd, Robert C.	Harris	Proxmire
Case	Hart	Randolph
Chiles	Hatfield	Stevenson
Church	Hughes	Symington
Cranston	Inouye	Talmadge
	Kennedy	Tunney

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, for

NOT VOTING—11

Humphrey	Metcalf	Stafford
Jordan, N.C.	Mundt	Taft
McGee	Saxbe	Williams
McGovern	Spong	

So Mr. SCOTT's amendment, as modified (No. 1573), was agreed to.

The PRESIDING OFFICER. The question now is on the amendment of the Senator from Mississippi, which the clerk will state.

The assistant legislative clerk read the amendment, as follows:

On page 19, line 11, strike all down to and including line 24, and renumber the succeeding sections accordingly.

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

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. The amendment as now refers, does it not, to section 13 on page 19?

The PRESIDING OFFICER. The Senator is correct.

Mr. STENNIS. To strike it out.

Mr. ROBERT C. BYRD. 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 Mississippi. 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. COOK (when his name was called). On this vote I have a pair with the Senator from Ohio (Mr. TAFT). If he were present and voting, he would vote "yea;" if I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. STEVENS (when his name was called). On this vote I have a pair with the Senator from Ohio (Mr. SAXBE). If he were present and voting, he would vote "yea;" if I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Virginia (Mr. SPONG), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN), and the Senator from Wyoming (Mr. MCGEE) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Virginia (Mr. SPONG) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senators from Ohio (Mr. SAXBE and Mr. TAFT) and the Senator from Vermont (Mr. STAFFORD) are absent on official business to attend the Interparliamentary Union meetings.

The respective pairs of the Senators for Ohio (Mr. SAXBE and Mr. TAFT) have been previously announced.

The result was announced—yeas 45, nays 43, as follows:

[No. 469 Leg.]

YEAS—45

Aiken	Baker	Boggs
Allen	Beall	Brock
Allott	Bellmon	Brooke
Anderson	Bennett	Buckley
Byrd, Harry F., Jr.	Fong	Roth
Byrd, Robert C.	Goldwater	Scott
Cooper	Griffin	Smith
Cotton	Gurney	Sparkman
Curtis	Hansen	Stennis
Dole	Hruska	Talmadge
Dominick	Jackson	Thurmond
Eastland	Jordan, Idaho	Tower
Edwards	Long	Weicker
Ervin	McClellan	Young
Fannin	Miller	
	Packwood	

NAYS—42

Bayh	Hart	Moss
Bentsen	Hartke	Muskie
Bible	Hatfield	Nelson
Burdick	Hollings	Pastore
Cannon	Hughes	Pearson
Case	Inouye	Pell
Chiles	Javits	Percy
Church	Kennedy	Proxmire
Cranston	Magnuson	Randolph
Eagleton	Mansfield	Ribicoff
Fulbright	Mathias	Schweiker
Gambrell	McIntyre	Stevenson
Gravel	Mondale	Symington
Harris	Montoya	Tunney

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Cook, against.

Stevens, against.

NOT VOTING—11

Humphrey	Metcalf	Stafford
Jordan, N.C.	Mundt	Taft
McGee	Saxbe	Williams
McGovern	Spong	

So Mr. STENNIS' amendment was agreed to.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

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

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the motion to table the motion to reconsider. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. STEVENS (when his name was called). On this vote I have a pair with the Senator from Ohio (Mr. SAXBE). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the Senator from Virginia (Mr. SPONG). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Virginia (Mr. SPONG), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN), and the Senator from Wyoming (Mr. MCGEE) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senators from Ohio (Mr. SAXBE and Mr. TAFT) and the Senator from Vermont (Mr. STAFFORD) are absent on official business to attend the Interparliamentary Union meetings.

The pair of the Senator from Ohio (Mr. SAXBE) has been previously announced.

The result was announced—yeas 45, nays 42, as follows:

[No. 470 Leg.]

YEAS—45

Aiken	Cotton	Long
Allen	Curtis	McClellan
Allott	Dole	Miller
Anderson	Dominick	Packwood
Baker	Eastland	Roth
Beall	Edwards	Scott
Bellmon	Ervin	Smith
Bennett	Fannin	Sparkman
Boggs	Fong	Stennis
Brock	Goldwater	Talmadge
Buckley	Griffin	Thurmond
Byrd, Harry F., Jr.	Gurney	Tower
	Hansen	Weicker
Byrd, Robert C.	Hruska	Young
Cook	Jackson	
Cooper	Jordan, Idaho	

NAYS—42

Bayh	Harris	Moss
Bentsen	Hart	Muskie
Bible	Hartke	Nelson
Brooke	Hatfield	Pastore
Burdick	Hollings	Pearson
Cannon	Hughes	Pell
Case	Inouye	Percy
Chiles	Javits	Proxmire
Church	Kennedy	Randolph
Cranston	Magnuson	Ribicoff
Eagleton	Mathias	Schweiker
Fulbright	McIntyre	Stevenson
Gambrell	Mondale	Symington
Gravel	Montoya	Tunney

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Mansfield, for.
Stevens, against.

NOT VOTING—11

Humphrey	Metcalf	Stafford
Jordan, N.C.	Mundt	Taft
McGee	Saxbe	Williams
McGovern	Spong	

So the motion to table the motion to reconsider was agreed to.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on final passage.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The VICE PRESIDENT. The question is on the engrossment of the committee amendment, as amended, and third reading of the bill.

The amendment, as amended, was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

The VICE PRESIDENT. 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 assistant legislative clerk called the roll.

Mr. STEVENS (when his name was called). On this vote I have a pair with the Senator from Ohio (Mr. SAXBE). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I withhold my vote.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the Senator from Virginia (Mr. SPONG). If he were permitted to vote, he would vote "nay." If I were permitted to vote, I would have voted "nay," after having voted in the negative. Therefore, I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Virginia (Mr. SPONG), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) and the Senator from North Carolina (Mr. JORDAN) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senators from Ohio (Mr. SAXBE and Mr. TAFT) and the Senator from Vermont (Mr. STAFFORD) are absent on official business to attend the Interparliamentary Union meetings.

If present and voting, the Senator from Ohio (Mr. TAFT) would vote "yea."

The pair of the Senator from Ohio (Mr. SAXBE) has been previously announced.

The result was announced—yeas 46, nays 41, as follows:

[No. 471 Leg.]

YEAS—46

Aiken	Dominick	Pastore
Allott	Eastland	Pearson
Baker	Edwards	Percy
Beall	Fannin	Ribicoff
Bellmon	Fong	Roth
Bennett	Goldwater	Schweiker
Bentsen	Griffin	Scott
Boggs	Gurney	Smith
Brock	Hansen	Sparkman
Brooke	Jackson	Stennis
Buckley	Javits	Thurmond
Cannon	Mathias	Tower
Case	Miller	Weicker
Cooper	Moss	Young
Cotton	Muskie	
Dole	Packwood	

NAYS—41

Allen	Ervin	Long
Anderson	Fulbright	Magnuson
Bayh	Gambrell	McClellan
Bible	Gravel	McIntyre
Burdick	Harris	Mondale
Byrd, Harry F., Jr.	Hart	Montoya
	Hartke	Nelson
Byrd, Robert C.	Hatfield	Pell
Chiles	Hollings	Proxmire
Church	Hruska	Randolph
Cook	Hughes	Stevenson
Cranston	Inouye	Symington
Curtis	Jordan, Idaho	Talmadge
Eagleton	Kennedy	Tunney

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Mansfield, against.
Stevens, against.

NOT VOTING—11

Humphrey	Metcalf	Stafford
Jordan, N.C.	Mundt	Taft
McGee	Saxbe	Williams
McGovern	Spong	

So the bill (H.R. 16029) was passed.

Mr. SCOTT. Mr. President, I move to reconsider the vote by which the bill was passed.

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

Several Senators requested the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider the vote by which the bill was passed. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS (when his name was called). On this vote I have a pair with the Senator from Ohio (Mr. SAXBE). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. MANSFIELD (after having voted in the negative). Mr. President, on this vote I have a pair with the Senator from Virginia (Mr. SPONG). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea," even though I have already voted in the negative. Therefore, I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Rhode Island(Mr. PELL), the Senator from Virginia (Mr. SPONG), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN), and the Senator from Wyoming (Mr. MCGEE) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senators from Ohio (Mr. SAXBE and Mr. TAFT) and the Senator from Vermont (Mr. STAFFORD) are absent on official business to attend the Interparliamentary Union meetings.

The pair of the Senator from Ohio (Mr. SAXBE) has been previously announced.

The result was announced—yeas 48, nays 38, as follows:

[No. 472 Leg.]

YEAS—48

Aiken	Curtis	Miller
Allott	Dole	Packwood
Anderson	Dominick	Pastore
Baker	Eastland	Pearson
Beall	Edwards	Percy
Bellmon	Fannin	Ribicoff
Bennett	Fong	Roth
Bentsen	Goldwater	Schweiker
Boggs	Griffin	Scott
Brock	Gurney	Smith
Brooke	Hansen	Sparkman
Buckley	Hruska	Stennis
Cannon	Jackson	Thurmond
Case	Javits	Tower
Cooper	Long	Weicker
Cotton	Mathias	Young

NAYS—38

Allen	Fulbright	McClellan
Bayh	Gambrell	McIntyre
Bible	Gravel	Mondale
Burdick	Harris	Montoya
Byrd, Harry F., Jr.	Hart	Moss
	Hartke	Muskie
Byrd, Robert C.	Hatfield	Nelson
Chiles	Hollings	Proxmire
Church	Hughes	Randolph
Cook	Inouye	Stevenson
Cranston	Jordan, Idaho	Symington
Eagleton	Kennedy	Talmadge
Ervin	Magnuson	Tunney

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Mansfield, for.
Stevens, against.

NOT VOTING—12

Humphrey	Metcalf	Spong
Jordan, N.C.	Mundt	Stafford
McGee	Pell	Taft
McGovern	Saxbe	Williams

So Mr. GRIFFIN's motion to lay Mr. SCOTT's motion to reconsider on the table was agreed to.

FOREIGN POLICY AND FOREIGN INVOLVEMENT

(The following proceedings, which occured during the debate on the Foreign Assistance Act of 1972, are printed at this point in the RECORD by unanimous consent.)

Mr. FULBRIGHT. Mr. President, by coincidence, in the Washington Post on September 24, two very significant books were reveiwed, and I ask unanimous consent that both of the reviews be printed in the RECORD.

Both reviews are extremely well written, one by Mr. Victor Navasky and the other by Mr. Richard Walton.

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

LUCE AND HIS EMPIRE—REVIEW

(By Victor S. Navasky)

When Henry Luce suffered a heart attack in February 1958, some nine years before he died, it was reported instead that his influenza had escalated into pneumonia. "News of his heart attack, it was felt, might affect Time stock adversely," explains W. A. Swanberg, biographer of Hearst and Pulitzer, in his excellent new biography, *Luce and His Empire*.

As everybody knows and as Swanberg documents in devastating and engaging detail, playing fast-and-Luce with the truth was an integral part of the system. In the words of one old Timer, "My writing was sent on to editors who rewrote it completely, turned it into sausage meat, so to speak, and then stuffed it into the magazine." Luce answered critics of Time's lack of objectivity by pointing out,

I am a Protestant, a Republican and a free-enterpriser, which means I am biased in favor of God, Eisenhower and the stockholders of Time, Inc.—and if anybody who objects doesn't know this by now, why the hell are they still spending 35 cents for this magazine?

So it was altogether fitting and proper on the possible eve of his meeting with the God that he prayed to every morning while soloriding the 36 floors to his office, that Time, Inc.'s spokesmen should reflexively place the interests of its shareholders ahead of any sissy commitment to so-called facts.

In fact, although no new journalist he, Henry Luce was on numerous occasions the opponent of mere objective fact ("the hell with objective facts," he once said), favoring a more long-range notion of truth. After the Eisenhower-Nixon landslide of 1952, for instance, he told the Union Club that the American press "shared the guilt on the loss of China to the Communists and the ensuing murders of fourteen millions by them, because the press had given the correct objective fact that the Chiang regime was corrupt and had failed to give the more vital value judgment that corrupt as it was, it was infinitely to be preferred over the Communist."

Luce's theory of the More Vital Value Judgment has, in the abstract, much to be said for it. But in the concrete, of course, it presents some problems. For one thing, how many Americans would spend 50 cents for "Time, the Weekly Vital Value Judgment Magazine"? For another, there is the tendency to permit Luce-values to infect Lucevision. Consider, for example, Luce's prediction (as revealed in one of the many previously unpublished memos unearthed by the author, who had access to many confidential Lucepress files) that, "After Chiang Kai-shek has landed and maintained himself for three months on the mainland, the Communist menace to Asia will be finished and the whole of Asia will turn anti-Communist."

As a matter of fact, consider Luce's and his magazines' Vital Value Judgments on any number of the major men and issues and events of our time: on fascism ("The moral force of fascism," predicted Luce, "appearing in totally different forms in different nations, may be the inspiration for the next general march of mankind"); on Mussolini ("The outstanding national moral leader in the world today is Mussolini," Luce told a group of Rochester businessmen in March of 1928); on Hitler (Time dismissed Winston Churchhill's warnings against Hitler and Naziism as the "verbal postures" of electioneering); on Munich (Time praised the pact, saying it was easy for those not threatened to criticize); on McCarthy (contrary to popular mythology, the Lucepress gave McCarthy more support than opposition throughout his career," concludes Swanberg. As late as 1952 Luce said, "If you find even one Red under the bed—or in the State Department you disqualify the term witch-hunt." He began to lose patience with McCarthy only after he hired Harvey Matusow, who charged "76 hardcore reds" on Time's staff, which Swanberg notes was just about as reliable as Matusow's charge that there were 126 dues-paying Communists on the Sunday staff of The New York Times, which actually consisted of 93 employees).

The Lucepress was anti-U.S. recognition of the U.S.S.R. long after it had been recognized by other major powers including Italy and Germany; its misleading and incessant propaganda over the so-called fall of China laid the foundations for the McCarthy era and contributed in a profound way to our involvement in the Vietnam war. As Swanberg demonstrates in brilliant detail, "In . . . Vietnam . . . the Lucepress had led, not followed, the nation into war.

. . . It was the propagandist voice of one man, not elected to office, speaking to fifty million people weekly. Not only was Time wrong on Vietnam, but it tampered with the copy of and lost the services of its field correspondents who were right (even as it had lost the services of Theodore White some years earlier for being right about the corruption of and lack of popular support for Chiang).

A lesser man might have had his faith in his ability to render Vital Value Judgments shaken by such a record, but not Henry Robinson Luce. He had, after all, survived life as a missionary's son in China, as a stammerer at Hotchkiss, as a Yalie Daily heeler and eventual managing editor, as a student in English 40 in competition with his partner-rival Briton Hadden (who was elected Chairman of the News), Stephen Vincent Benet, Thornton Wilder and Walter Millis; and a second marriage as husband to the editor-playwright-congresswoman-beauty, Clare Booth Luce (who on being asked whether Luce was leaving her for Lord Beaverbrook's 24-year-old granddaughter, Lady Jean Campbell, replied that if Luce married Lady Jean, "That I would marry Lord Beaverbrook and become my husband's grandmother"). Moreover, he had outlived Hadden and gone on to preside over the Lucepress with its 50,000,000 readers. In that capacity, at his peak, speculates Swanberg, Luce was "not entirely without justification in feeling that he was the best-informed man on earth." Anyway, far from harboring self-doubts in his last years, as Time drama critic Louis Kronenberger noted,

. . . when he expressed an opinion or came forth with an idea, he clearly expected to be agreed with; and should agreement be less than total, he was honestly surprised. There was nothing of the dictator involved, only of the sovereign—of, say, Queen Victoria.

This is more than a penetrating biography of Luce, giving a richer and more vivid picture of the Lucepress than we have had from the battalion of biographers, memorists, alumni-novelists, and even the official historian, who have come before, and yet it is less than a serious or systematic exploration of the critical issues it raises. Swanberg makes abundantly clear that the Luce news-machine recycled facts into propaganda. But what *is* the middle ground between illusory objectivity and camouflaged opinion? If it is something called "fairness" how is that achieved and what is the criteria for recognizing it? *Is* group journalism inherently irresponsible? Was news-slanting from the right an accidental or necessary-to-the-success part of the Time formula?

Could there have been a left-wing Luce in the thirties, forties and fifties—a liberal Time, Life and/or Fortune that would have spoken to 40 or 50 million Americans? What has been the impact of Time on American journalism? On overseas perspective on America? What, for that matter, has been the impact of Newsweek on Time? Will a Luceless Time/Life/Fortune empire respond to the whims of some future or perhaps present presslord, or is there some more profound journalistic principle at work in the interstices of the machinery and bureaucracy Luce created?

We know that after Luce's death the Lucepress abandoned the Vietnam war but we know that *before* Luce's death Time had abandoned the near anti-Semitism and paranoid anticommunism of the Laird Goldsborough and Whittaker Chambers eras. Was this primarily a matter of personnel, a response to the post-cold-war years, an inevitable-if-gradual assertion of the truth-value which lies at the core of the profession, a victory for the liberals who have populated Time Inc.'s middle and upper management levels, a generational phenomenon, or what? I wish that Swanberg had had the room or inclination to deal directly and in depth with matters like these, but never mind. He has avoided Timeglib and given us an honest book. No student of journalism can afford not to read this illuminating study, no reader of Time should be allowed to forgo it and no detractor will want to.

When T. S. Mathews, a trusted but tortured Time managing editor, selected a friend of Whittaker Chambers to review the former foreign news editor's controversial book, *Witness*, he took the reviewer (who like himself was the son of an Episcopal bishop) to early communion at the Church of St. Mary the Virgin on 47th Street, where they prayed that the review would be a worthy one. I'm not sure what plans if any Time Inc. has for reviewing *Luce and His Empire*, which is unquestionably not the book they expected when they let Swanberg into the files. But that being the case, perhaps this time the wiser course of action might be for the reviewer to forgo communion, write his review and then, if necessary, resort to confession.

HOW CHINA WAS "LOST"

(By Richard J. Walton)

John Paton Davies has written an absolutely superb book. Anyone who appreciated Barbara Tuchman's splendid *Stilwell and the American Experience in China* will find this at least as fascinating. Indeed, it is even more illuminating of the compound

of ignorance, illusion and dogma that led to the horror of Vietnam.

Davies, of course, is one of the Foreign Service officers whose careers were sacrificed by the Eisenhower-Dulles administration in a futile, and self-defeating, attempt to propitiate the insatiable Joe McCarthy and his cohorts. The irony is awful. What Davies and the others wanted to do was intended to keep China out of Stalin's camp, what the self-righteous anti-Communists did inevitably drove Mao into Stalin's arms. In short, the terrible agony of Korea and Vietnam *might* have been avoided if, instead of substituting doctrine for reality, the United States had faced the facts in China. This has long been clear but never have I read an account that so certainly documents it.

There is no trace of bitterness or of self-justification in Davies' memoir, an achievement as rare as it is welcome. Indeed, he doesn't even mention his mistreatment. He simply tells what happened during his long years in China in a graceful, literate prose that is balanced, ironic and often amused. These pages stand alongside the very best of George Kennan's and make me wonder again why America so often prefers the mediocre to the first-rate, why excellence is discarded and the inferior person rewarded for each disaster with the opportunity, seldom refused, for still greater disaster.

Davies' book is consistently superior. His reporting from China as a young Foreign Service officer is very good both in form and content, but it is his service as Joseph Stilwell's political officer that is of major historical importance. He dealt not only with Stilwell but with Roosevelt, Hopkins, Chiang, Soong, Hurley, Wedemeyer, Wallace, Willkie, everyone of importance to the war in Asia, and he discusses them all with cool appraisal, few of them admiringly. His perception of the chaos of war makes you wonder how anyone ever wins, and his picture of the Byzantine dealings and double-dealings, the posturings of the political and military potentates is almost as funny as it is melancholy.

But above all, Davies saw at the outset what was going on in China. It was clear to him that Chiang Kai-shek, despite his heroic image in the United States, was very little interested in fighting the Japanese but regarded the war as a providential opportunity to strengthen himself for the postwar struggle with the Communists. Thus, he drove every American who had to deal with him up the wall. But as Davies perceived, Chiang's slippery refusal to reform his corrupt and incompetent government—he was fearful that reform would weaken his grasp on so ephemeral an instrument—was the cause of his eventual downfall. Chiang's refusal to give Stilwell the authority to remake the Nationalist armies inevitably made those armies, despite their vast superiority in numbers and arms, ineffectual in combating the Communists who, for the first time in Chinese history, were identifying the governors with the interests of the governed. The uncritical support of Chiang by his idolators in the United States contributed not to his triumph but to his defeat.

Early in the war Davies and other realistic observers recognized that the trend was in Mao's favor and against Chiang. They advocated that the U.S. not tie itself to a sinking ship of state but take steps to develop a relationship with Mao that would keep him away from Stalin. For their part, Mao, Chou and other Communist leaders wanted to deal with the United States; they were not at all eager to fall into Stalin's grip. Their nationalism counted for more than their communism.

As Davies and his colleagues pointed out in their accurate reports, only America could keep the Chinese Communists from becoming Russian satellites. Stalin knew that too. He would have preferred a divided China (that long-disputed border)—which is why he supported Chiang—but he also knew that Mao would have no choice but to turn to him if the Americans supported a doomed Chiang. That, of course, is exactly what happened. As the war against Japan ended, the U.S., despite protestations that it was doing no such thing, intervened on the side of Chiang. China was "lost" not because the U.S. aided the Communist but because it refused to have anything to do with them. Thus, the course of history was changed; thus, the Korean and Vietnam wars. The final irony is the visit to both Peking and Moscow of that quintessential anti-Communist of yesteryear, Richard Nixon.

In his reports, which he quotes in detail, Davies foresaw all this, and because he and his colleagues wrote so perceptively, honestly and accurately, they ended up in disgrace, just as, decades later, young men who opposed an obscene war languished in jail or exile, while those who prosecuted the war occupied seats of honor and power.

Perhaps it is some consolation to Davies and others so injured that history has vindicated them. This book is an invaluable inside look at one of the most momentous chapters of American and world history.

Mr. FULBRIGHT. It is extremely interesting and coincidental that on the same day, the review of the book entitled "Luce and His Empire" by W. H. Swanberg appears right next to a review of a book called "Dragon By the Tail," by John Paton Davies, Jr., the review being written by Richard J. Walton. This review is headlined "How China Was 'Lost'."

If you read these two reviews together—they are extremely well done, and I am sure the books are now available—recounting two of the most significant historical discussions of the background to the policy that has led us to the tragic and disastrous condition in which we find ourselves today, in which we are bogged down in a land war in Asia which has cost us already, I expect, about $200 billion; and there is no end in sight.

We wonder how we got in this situation? The Senator from Pennsylvania, a moment ago, was saying we inherited the war, that this administration inherited it. It did inherit it. The preceding administration inherited many of the elements of the war, and the elements go back, and are traced in these two books, back in the 1930's, the 1940's, and through the years.

The review of Mr. Luce's book is a fascinating one, because all of us who have been in public life are aware of the tremendous influence that Time magazine and its affiliates, Fortune and others, have had upon the public opinion of this country.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. FULBRIGHT. I yield myself such time as I may require.

How that fits in with the book by Mr. John Paton Davies is that it so happens that Mr. Davies was one of the principal victims of the propaganda which appeared, over the years, in the Luce publications. Davies was not the only one, but he is a classic example of the persecution of our most intelligent Foreign Service officers by the kind of propaganda which Luce and Time magazine so efficiently used, and which so effectively poisoned the mind of America for some 30 years.

I think it will be very interesting to Senators to see these two books, and especially these reviews, presented together.

I also ask unanimous consent to have printed in the RECORD another book review, written by Mr. Walter Clemons, of the book entitled "Luce and His Empire" by Mr. Swanberg. It is a little different type of review, published in Newsweek magazine, but it is all about the same book.

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

CITIZEN LUCE

(By Walter Clemons)

"I am going to get into the fourth form . . . I must. I will. And God has, is, and will help me. Just take my 100% in Algebra. It was all God." Even as a schoolboy, W. A. Swanberg observes, Henry Luce exhibited "a formidable familiarity with God" that was to sustain him throughout his journalistic career. Born in China in 1898, he inherited from his Presbyterian missionary father the "mischief-making politico-theological doctrine . . . that God had given America His particular blessing and had entrusted the nation to spread not only Christianity but democracy." Missionary zeal, Swanberg suggests, was the force that propelled Luce.

Both as biography and as corporate history, "Luce and His Empire" is riveting. As a scholarship boy at Hotchkiss with a nervous stammer, young Harry Luce entered into uneasy friendship with the more brilliant and popular Briton Hadden, against whom he was pitted for seven years at prep school and Yale. When these two founded Time in 1923, a cheeky, 28-page rewrite of world events lifted from the previous week's newspapers, Hadden was the journalist ("For him, no joy could surpass that of polishing his own—or someone else's—copy into lines that crackled") while journalism was for Luce only one of several possible paths to power and public office. One of the surprises of Swanberg's history is Luce's resistance as late as 1935, long after economy was a factor, to forming his own newsgathering organization. "Time is a rewrite sheet," insisted Luce, to whom facts were secondary to opinion-shaping.

Hadden and Luce were millionaires by 30. But the partners, "lashed together in triumph," were in fundamental disagreement. Fortune magazine, which Luce first called Power, was his creation, as Time had been Hadden's, and a vehicle for separating himself from Hadden within their organization. Hadden's death due to blood poisoning in 1929 resolved their conflict just as Time entered a period of success unaffected by the Great Depression, and Luce hit his stride as missionary-ideologue-propagandist.

We have largely forgotten what '30s Luce journalism was like, and Swanberg provides eye-popping specimens. Time's Foreign News under Laird S. Goldsborough viewed Hitler with good-humored indulgence, backed Franco and ridiculed the resistance of "savage and illiterate" Ethiopian "blackamoors" to Mussolini's 1934 invasion. Fortune devoted an entire 1934 issue to Italy under the "brilliant" Duce: "Other nations falter or reel hysterically in search of unity. Italy is calm and united under the emblem of common strength and effort which is Fascism . . . With uplifted hearts and Augustan pride the wops are unwopping themselves."

MANIA

By this time Luce was also embarked on what Swanberg calls "the supreme but futile

effort of his life." The Christianization of China under Chiang Kai-shek was "a dream that glowed like the Grail. It represented the consummation of the work his father and mother had begun when they sailed for China in 1897." Luce's infatuation with the Chiangs was irreverently known as "Harry's mania" among his colleagues. Swanberg argues that by putting Chiang on Time's cover a record seven times between 1927 and 1948, by tireless lobbying on his behalf, Luce was the prime mover in U.S. support for the Kuomintang. In furnishing scapegoats for the "loss of China," he further suggests, "probably more than any other single force, the Lucepress channeled the groping and disorganized emotions of American distress into McCarthyism."

Swanberg is both amusing and humane about Luce's personality: his relentless curiosity, his humorlessness, his absentmindedness about food and dress (the first Mrs. Luce once called his secretary to ask, "Would you see if Mr. Luce is wearing one brown shoe and one black?"—he was). Working for Luce could be nerve-racking; at luncheons Luce would pick out a hapless staffer and fire questions at him until he became absorbed in his own thoughts and lapsed into a monologue, "dreadfully boring but better than being on the witness stand." A summons to his office for quick answers to tough questions was known as the Terror, the Rack or the Last Judgment.

"For some godam reason Republicans can't write," the conservative Luce replied when asked why he had so many liberals on his staff. He drove some of the best of them away during the '40s, notably John Hersey and Theodore White, and at a dinner in 1952 for the entire Time staff, many of whom had supported Stevenson against the Boss's choice, Eisenhower, he delivered a swaggering, resentful speech: "I introduce myself to you as your boss . . . I guess that means I could fire any of you . . ."

His lonely, irritable last years were brightened by experiments with LSD, in which his wife, Clare, joined him.

Good as it is, "Luce and His Empire" is disfigured by polemic. While Swanberg says it would be "excessive" to say that without Luce there would have been no China Lobby, no Sen. Joseph McCarthy, no national hysteria over Asian Communism, in effect he seems to attribute every national mistake in more than three decades to Luce's unascertainable power over the American mind. A portentous purple passage worthy of Time at its Lucest describes "the Luce-press . . . permeating the atmosphere with an informational smog so expertly generated that for a time the only smarting eyes and protesting lungs seemed those of a few discerning Democrats, radicals, collegians and labor leaders." Swanberg rhetorically asks "how much of the cost to America in its staggering decay of democracy, law, national unity and spirit" can be laid to Luce's journalism, then leaves the question hanging. Once he even allows himself to call Vietnam "his war"—that is, Luce's.

In indicting Luce for the manipulation of opinion, his biographer should be above reproach. When the German Der Spiegel referred to Luce as one of the U.S.'s seven most powerful men, Swanberg comments: "That business of being among the seven most powerful must have interested Luce. Who in hell were the other six?" And who in hell, a reader may wonder, is the authority for that last sentence? Swanberg here invents a sentiment for Luce in the style of the notorious unidentified bystander in Time stories who used to speak conveniently for the management. I don't admire Luce any more than Swanberg does. I'm only sorry to see Swanberg resorting to some of Luce's techniques.

Mr. FULBRIGHT. It is a very fascinating observation about how it is that we find ourselves in this extremely serious foreign policy situation.

Mr. President, does the Senator from Pennsylvania wish to take the floor at this time? I was going to comment rather loosely upon some of his previous remarks, but I do not wish to inconvenience the Senator.

Mr. SCOTT. No, I have no objection. The Senator can go right ahead and be loose, and I shall be back in a moment.

Mr. FULBRIGHT. Perhaps, since the Senator is leaving the floor, I should reserve these remarks until he returns, so I shall delay just a moment.

Since I was speaking of "Luce and His Empire," it is rather interesting that in the insertion I put in the RECORD yesterday at page S15787, it will be noted that among the commodities approved for funding under U.S. grant agreements with Cambodia through March 1972, Time magazine was one of the commodities which the foreign aid bill helped to pay for, to send into Cambodia.

There are many other things: air-conditioning equipment, of course, and battery chargers and all kinds of accounting machines, padlocks, brewery supplies, bottle tops—$19,000 worth of bottle tops—cellophane tape, cigarette manufacturing materials is a very minor one, garden hose, adding machines, calculators, typewriters, pen refills—4 million pen refills for the 7 million people in Cambodia. Colored plumbing fixtures, and so on. I presume that it is a sort of self-perpetuating empire we build: We put so much money into these countries under the aid bills that then they are in a position to order colored plumbing fixtures from the United States as in the case of Cambodia, where I am sure they are great status symbols.

So there are many other things besides bribes to opposition legislators that this bill will pay for, and we ought to be very proud of the great contributions we make to the societies of these various countries, especially in Southeast Asia.

(This marks the end of the proceedings which occurred during the debate on the Foreign Assistance Act of 1972 and which by unanimous consent were ordered to be printed at this point in the RECORD.)

CONSUMER PROTECTION ORGANIZATION ACT OF 1972

The PRESIDING OFFICER (Mr. ROTH). Under the previous order, the Chair now lays before the Senate the unfinished business, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 3970) to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration. The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, I yield to the Senator from Alabama without relinquishing my right to the floor.

VISIT TO THE SENATE BY MEMBERS OF THE SWEDISH RIKSDAG

Mr. SPARKMAN. Mr. President, I would like to introduce a distinguished group of visitors to the U.S. Senate. This lady and these gentlemen are participants in a study visit to the United States and Canada and are members of the Committee on Constitutional Matters of the Swedish Riksdag.

I might say they came in just as we started on this series of votes on the foreign assistance bill, so they have had quite a remarkable experience, I think, in seeing how Senators vote.

I present: Mr. Erik Adamsson, Mr. Erik Nelander, Mr. Allan Hernelius, Mrs. Gunbjörg Thunvall, Mr. Karl Boo, Mr. Hilding Johansson, Mr. Holger Mossberg, Mr. Mårten Werner, Mr. Olof Svensson, Mr. Bertil Fiskesjö, Mr. Gusti Gustavsson, Mr. Björn Molin, Mr. Martin Olsson, Mr. Bernt Nilsson, and Mr. Åke Wictorsson.

[Applause, Senators rising.]

RECESS

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the Senate stand in recess in order that my colleagues may have the opportunity to greet these distinguished foreign visitors.

The PRESIDING OFFICER. Without objection, the Senate will stand in recess subject to the call of the Chair.

Whereupon, at 2:49 p.m., the Senate took a recess subject to the call of the Chair.

The Senate reassembled at 2:54 p.m. when called to order by the Presiding Officer (Mr. ROTH).

PROGRAM

Mr. AIKEN. Mr. President, may I ask the majority leader what the schedule is for the rest of the day, the rest of the week, the rest of the month, and possibly the rest of the year?

Mr. MANSFIELD. Mr. President, the question raised is too all-encompassing, but I believe the pending business now is S. 3970. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. MANSFIELD. It is the intention of the joint leadership on tomorrow to call up H.R. 1 and make it the first track in legislation.

We hope, also, that it will be possible to get to the rivers and harbors bill this week.

The pension bill is in a state of limbo at the present time. We do not know what the situation is.

It is anticipated that the foreign assistance appropriations bill will be reported to the full committee probably on Wednesday, that the Labor-HEW appropriations will be reported on Monday or Tuesday to the full committee, and that the Defense appropriations will be reported to the full committee on Thursday of this week.

Military construction appropriations will come up next week.

Supplemental appropriations will come up the week after that.

The debt ceiling will come in there, and

there will be conference reports in the meantime.

Somewhere in between these measures, H.R. 13915 will be called up.

Mr. AIKEN. I thank the majority leader. Hopefully, all the work he has laid out may be accomplished in less time than he has indicated.

Mr. MANSFIELD. I hope so.

Mr. ALLEN. Will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. ALLEN. Reserving the right to make comment, if I say, I would like to point out to the distinguished majority leader that the practice of maintaining a second track, as the Senators from Alabama has pointed out to the distinguished majority leader, could well prevent the Senate from being given an opportunity to vote on H.R. 13915.

Mr. MANSFIELD. It is the intention of the joint leadership to put the so-called equal educational opportunity bill on the first track when it is called up.

Mr. ALLEN. Does the Senator mean by "first track" the unfinished business, which would come from its having been once the pending business?

Mr. MANSFIELD. The Senator is correct.

Mr. ALLEN. It is the intention of the leadership to make the equal educational opportunity bill the pending business at a time when there is no unfinished business?

Mr. MANSFIELD. The Senator is correct.

Mr. ALLEN. So that it could then move to the status of unfinished business?

Mr. MANSFIELD. The Senator is correct.

Mr. ALLEN. If the distinguished majority leader would bear with the junior Senator from Alabama one moment more, could the distinguished majority leader give the junior Senator from Alabama and those who are greatly interested in this measure some indication of what would be left for consideration by the Senate at the time this bill is made the unfinished business?

Mr. MANSFIELD. No, I cannot. It would depend on what the situation is at the time. It could be the debt ceiling. It could be an appropriation bill. It could be a continuing resolution. It could be a number of bills. But the Senator need have no concern that there will not be enough, at least in the leadership's opinion, to make sure that the leadership is not attempting an end run around the proponents of this measure.

Mr. ALLEN. Then, "must" legislation will be on the Calendar, and by must legislation, the junior Senator from Alabama means legislation that must of necessity pass the Senate prior to sine die adjournment. Must legislation will be on the Calendar at the time the equal educational opportunity bill is made the unfinished business?

Mr. MANSFIELD. Yes. It would come from the listing of the legislation I have just given the Senate.

Mr. ALLEN. But some must legislation would be back of this bill?

Mr. MANSFIELD. Yes. The Senator is correct.

Mr. ALLEN. I thank the distinguished majority leader for that assurance. At a somewhat later date, then, the majority leader could be a little more specific, could he not, in all likelihood, on this point?

Mr. MANSFIELD. Yes, indeed. As the Senator knows, the joint leadership has indicated that it will endeavor to give him and the Senate sufficient notice.

Mr. ALLEN. I thank the distinguished majority leader for the cooperation he has given us in connection with this matter and his firm assurances that we will be given an opportunity to have this matter considered by the Senate as the unfinished business before the Senate, so that it could not be cut off by the plea of one Senator.

Mr. MANSFIELD. Yes, and before sine die adjournment.

Mr. ALLEN. I thank the Senator.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter addressed by me to the distinguished majority leader on September 25, 1972, in connection with H.R. 13915.

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

U.S. SENATE,
Washington, D.C., September 25, 1972.

Re H.R. 13915.

Hon. MIKE MANSFIELD,
Majority Leader, U.S. Senate,
Washington, D.C.

DEAR SENATOR MANSFIELD: I greatly appreciate the Joint Memorandum of understanding between you and Senator Scott which was inserted in the Congressional Record on September 15, 1972, and also the statements that you made in colloquy with me on that occasion, all having to do with the scheduling for consideration by the Senate of the Equal Educational Opportunity Bill, H.R. 13915. The Joint Leadership has a tremendous responsibility in scheduling legislation, especially in the closing days of a Congress, and I recognize and appreciate this.

H.R. 13915 is a most important piece of legislation that directly affects school children throughout the nation, the quality of education they receive and their health and welfare. Millions of people throughout the country, in my judgment, place this piece of legislation at or near the top in priority of all the measures now pending before the Congress.

In looking forward and considering the possible order of scheduling of the remaining legislation, it occurs to me that by use of the two track system, any bill which is not the unfinished business, but on the second track, is in daily jeopardy, for it would have to have its life or pendency before the Senate renewed each day by unanimous consent. Thus, if H.R. 13915 is presented on the second track, one Senator could, on any day, prevent further consideration of the measure on the next day. Such a situation would make it impossible for a practical standpoint to bring the bill to a vote.

I would like to see the two track system continue if it would expedite the business of the Senate. However, if its continued use would jeopardize full consideration and a possible vote on the merits of H.R. 13915, then I respectfully submit that I would like to see an end put to the use of the two track system for the remainder of this session.

If we could be sure that H.R. 13915 will be made the unfinished business (either by making it the pending business at a time when there is no unfinished business or by the leadership moving to supplant the unfinished business with this measure), at a time when there are several "must" bills remaining on the Senate calendar, this would prevent the measure being withdrawn from Senate consideration by one Senator desiring to do so, and it is the only way to assure a fair chance of a vote thereon.

I hope that an agreement can be reached whereby H.R. 13915 will move to *unfinished business* status at an early date. In my judgment, such action on the part of the leadership would be in line with your memorandum and the colloquy following it.

Respectfully,

JAMES B. ALLEN.

Mr. MANSFIELD. Mr. President, I now yield to the Senator from Nebraska (Mr. HRUSKA).

EXTENSION OF LIFE OF THE COMMISSION ON CIVIL RIGHTS—CONFERENCE REPORT

Mr. HRUSKA. Mr. President, I submit a report of the committee of conference on H.R. 12652, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. ROTH). The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12652) to extend the life of the Commission on Civil Rights, to expand the jurisdiction of the Commission to include discrimination because of sex, to authorize appropriations for the Commission, and for other purposes, 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 there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report, which reads as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12652) to extend the life of the Commission on Civil Rights, to expand the jurisdiction of the Commission to include discrimination because of sex, to authorize appropriations for the Commission, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 2, 3, 4, 5, 6, 7, and 10.

That the House recede from its disagreement to the amendments of the Senate numbered 8 and 9.

PHILIP A. HART,
ROMAN L. HRUSKA,
HUGH SCOTT,
HIRAM L. FONG,
Managers on the Part of the Senate.

EMANUEL CELLER,
JACK BROOKS,
WILLIAM L. HUNGATE,
WILLIAM M. MCCULLOCH,
EDWARD HUTCHINSON,
Managers on the Part of the House.

Mr. HRUSKA. Mr. President, this bill is designed to extend the life of the Commission on Civil Rights, to expand its jurisdiction in some respects, and to au-

thorize appropriations for the Commission's work.

In all, 10 amendments were considered in the conference. Seven were technical and consisted chiefly of renumbering amendments. The Senate receded on all seven of those amendments.

On amendments 8 and 9, the House receded. The amendments authorized appropriations for the fiscal year 1973 in the amount of $5.5 million, and in the case of fiscal years 1974 through 1978 in annual amounts of $7 million. The House figures in those instances were $6.5 million and $8.5 million, respectively. But the House receded on those two amendments.

Amendment 10 consisted of title II, which was a bill for the protection of the constitutional rights of Government employees. That was one of the chief subjects of discussion during the course of the conference sessions. The parliamentary difficulties which would have been encountered, had that amendment been retained in the other body, would have been quite difficult. There would have been obstacles of a substantial nature at this late hour in the congressional session which might have worked even a greater hardship than they normally would.

It was chiefly out of deference, and not a shortage of conviction on the part of some of the conferees, that the Senate did recede on that amendment, and proceeded to reach an agreement.

Mr. President, I ask unanimous consent that the requirement to print the conference report as a Senate report be waived.

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

Mr. ERVIN. Mr. President, I should like to make one observation with respect to the conference report. I cannot agree to it, but I should like to thank the conferees on the part of the Senate who participated in the conference for the fact that they stood by the Senate amendment which consisted of title II until it became apparent to them that if they continued to do so it might jeopardize passage of the legislation entirely and then, and then only, the Senate voted to recede on title II.

This title is one that I hope to get passed in the next session. It embodies what is called the civil rights of Federal employees. I think it is legislation of great importance. It has passed the Senate several times, the last two times without opposition. Thus far, we have been unable to get the House to take action on it. The Senate conferees stood as long as they reasonably could for the position of the Senate and I want to thank them for doing so.

Mr. JAVITS. Mr. President, may I ask the Senator from Nebraska a question? Could we know how the money authorization for the commission stands?

Mr. HRUSKA. Yes. For fiscal year 1973 the House has asked $6.5 million. The Senate version was $5.5 million. The House receded, so the $5.5 million is authorized for this current fiscal year.

For fiscal years 1974 through 1978, the House version was $8.5 million. The Senate version was $7 million—the latter figure prevailed, the House having receded.

Mr. JAVITS. In each case, the Senate figure prevailed.

Mr. HRUSKA. That is correct.

Mr. JAVITS. Does the Senator know whether the agency itself or the commission itself is restive, or that they indicated any opposition?

Mr. HRUSKA. The commission itself?

Mr. JAVITS. Yes.

Mr. HRUSKA. I think it would be safe to say that the Commission on Civil Rights would have preferred the higher figure but the wisdom of the conference was that it should not be so.

Mr. JAVITS. What I meant was, did they react in any way?

Mr. HRUSKA. No, not since the conference.

Mr. JAVITS. Not since the conference. May we know how that compares with what they got in fiscal 1972?

Mr. HRUSKA. I do not have that exact figure available to me right now, but it is an increase.

Mr. JAVITS. The Senator does not know how much, or what the amount is, or anything else? If the Senator would not mind, I should like to find out, so if the Senator would indulge me, it will take only a few minutes, I should like to suggest the absence of a quorum.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. HRUSKA. Mr. President, I yield further to the distinguished Senator from New York (Mr. JAVITS).

Mr. JAVITS. Mr. President, I have ascertained that the figure for 1972, according to the veto of the appropriation bill for HEW, et cetera, was $4,820,000. And the same figure is contained in the so-called new HEW appropriations bill.

I regret that the lowest figure was accepted. I think that the work of the commission is critically important. However, in view of the fact that the commission itself has not seen fit to utter any particularly decided complaint and that the figures exceed $7 million annually and $5.5 million for the first year and exceed the figures provided in the appropriations bill, I shall interpose no further objection.

The PRESIDING OFFICER (Mr. ROTH). The question is on agreeing to the conference report (putting the question).

The conference report was agreed to.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until 9 a.m. tomorrow.

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

ORDER FOR RECOGNITION OF SENATORS BELLMON, CHURCH, MOSS, AND BAYH TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, following the remarks 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 BELLMON, CHURCH, Moss, and BAYH.

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

ORDER FOR RECOGNITION OF SENATOR ROBERT C. BYRD AND SENATOR SCOTT TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the aforementioned orders, the following Senators be recognized tomorrow for not to exceed 10 minutes: Senators ROBERT C. BYRD and SCOTT.

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

LEGISLATIVE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, for the information of the Senate, at some time in the afternoon the leadership may, depending on the movement with respect to S. 3970 at that time, decide to take up any one or more of the following measures, on each of which there is a time limitation agreement:

H.R. 10729, an act to amend the Federal Insecticide, Fungicide, and Rodenticide Act.

S. 3987, the Vocational Rehabilitation Act.

S. 3994, a bill to assure that the public is provided with an adequate quantity of safe drinking water.

Mr. President, I just state this as a possibility so that Senators will not feel that all the yea-and-nay votes have been completed for today and that there will be no more. It is possible, even likely, that there could be other yea-and-nay votes today.

Mr. ALLEN. Mr. President, will the Senator yield for a moment?

Mr. ROBERT C. BYRD. Yes. I yield gladly.

Mr. ALLEN. Do I understand that the distinguished and able assistant majority leader mentioned the possibility that the leadership would call up on tomorrow H.R. 10729?

Mr. ROBERT C. BYRD. No. Either the Senator misunderstood or I misspoke myself. I said there was a possibility, later on today, that the leadership would call it up.

Mr. ALLEN. I did misunderstand and thank the Senator. There is a chance, then, that the bill will be called up and there has been a compromise reached on it. It will take only a short time to pass the bill. Possibly later on this afternoon it will be brought up, then?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. I thank the distinguished and able assistant majority leader.

CONSUMER PROTECTION ORGANIZATION ACT OF 1972

The Senate continued with the consideration of the bill (S. 3970) to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. RIBICOFF. 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. MOSS. Mr. President, I urge the rejection of the amicus amendment. It has been discussed to death. It has been voted down by the Government Operations Committee in executive session. It was defeated by a vote of 240 to 149 in the House during its consideration of the Consumer Protection Agency bill. Let us now give this amendment the fitting burial it deserves, and join with those who have previously considered the amicus amendment and rejected it.

Mr. RIBICOFF. Mr. President, I ask for the yeas and nays on the pending Allen amendment.

The yeas and nays were not ordered.

Mr. RIBICOFF. 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. HANSEN. 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. HANSEN. Mr. President, I ask unanimous consent that during the debate and the vote on the pending bill, a member of my staff, Miss Joann Reed, be given the privilege of the floor.

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

Mr. RIBICOFF. Mr. President, I move to lay the pending Allen amendment on the table.

I ask for the yeas and nays.

The PRESIDING OFFICER. There is not a sufficient second.

CALL OF THE ROLL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 473 Leg.]

Allen	Cooper	Hruska
Bayh	Eastland	Hughes
Byrd, Robert C.	Ervin	Javits
Cannon	Hansen	Magnuson
Cook	Hart	Mansfield
Moss	Randolph	Stennis
Muskie	Ribicoff	Talmadge
Pastore	Roth	Young
Pearson	Smith	
Percy	Sparkman	

The PRESIDING OFFICER. A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Aiken	Curtis	Long
Allott	Dole	Mathias
Anderson	Dominick	McClellan
Beall	Edwards	Miller
Bellmon	Fannin	Mondale
Bennett	Fong	Montoya
Bentsen	Fulbright	Nelson
Bible	Gambrell	Packwood
Boggs	Gravel	Proxmire
Brooke	Gurney	Schweiker
Burdick	Harris	Stevens
Byrd, Harry F., Jr.	Hartke	Stevenson
	Hatfield	Symington
Case	Hollings	Thurmond
Chiles	Inouye	Tower
Church	Jackson	Tunney
Cotton	Jordan, Idaho	Weicker
Cranston	Kennedy	

The PRESIDING OFFICER. A quorum is present.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Alabama. 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 Missouri (Mr. EAGLETON), 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 Rhode Island (Mr. PELL), the Senator from Virginia (Mr. SPONG), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. McGEE) and the Senator from North Carolina (Mr. JORDAN) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Hampshire (Mr. McINTYRE), and the Senator from New Jersey (Mr. WILLIAMS) would each vote "yea."

Mr. COTTON. I announce that the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), and the Senator from Pennsylvania (Mr. SCOTT) are necessarily absent.

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

The Senators from Ohio (Mr. SAXBE and Mr. TAFT) and the Senator from Vermont (Mr. STAFFORD) are absent on official business to attend the Interparliamentary Union meetings.

The result was announced—yeas 49, nays 31, as follows:

[No. 474 Leg.]

YEAS—49

Anderson	Harris	Nelson
Bayh	Hart	Packwood
Bentsen	Hartke	Pastore
Bible	Hatfield	Pearson
Boggs	Hollings	Percy
Brooke	Hughes	Proxmire
Burdick	Inouye	Randolph
Byrd, Robert C.	Jackson	Ribicoff
Cannon	Javits	Roth
Case	Kennedy	Schweiker
Chiles	Magnuson	Smith
Church	Mansfield	Stevens
Cook	Mathias	Stevenson
Cranston	Mondale	Symington
Ervin	Montoya	Tunney
Fulbright	Moss	
Gravel	Muskie	

NAYS—31

Aiken	Dole	Long
Allen	Dominick	McClellan
Allott	Eastland	Miller
Beall	Edwards	Sparkman
Bellmon	Fannin	Stennis
Bennett	Fong	Talmadge
Byrd, Harry F., Jr.	Gambrell	Thurmond
	Gurney	Tower
Cooper	Hansen	Weicker
Cotton	Hruska	Young
Curtis	Jordan, Idaho	

NOT VOTING—20

Baker	Jordan, N.C.	Saxbe
Brock	McGee	Scott
Buckley	McGovern	Spong
Eagleton	McIntyre	Stafford
Goldwater	Metcalf	Taft
Griffin	Mundt	Williams
Humphrey	Pell	

So the motion to table Mr. ALLEN'S amendment (No. 1568) was agreed to.

Mr. ERVIN. Mr. President, I move to reconsider the vote by which the amendment was laid on the table.

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

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

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. ROTH). The question is on agreeing to the motion to table the motion to reconsider the vote by which the Allen amendment was laid on the table.

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

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Rhode Island (Mr. PELL), the Senator from Virginia (Mr. SPONG), the Senator from New Jersey (Mr. WILLIAMS), the Senator from South Dakota (Mr. McGOVERN), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN) and the Senator from Wyoming (Mr. McGEE) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. McGOVERN), the Senator

from New Hampshire (Mr. McINTYRE), and the Senator from New Jersey (Mr. WILLIAMS) would each vote "yea."

Mr. COTTON. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Illinois (Mr. PERCY), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

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

The Senators from Ohio (Mr. SAXBE and Mr. TAFT) and the Senator from Vermont (Mr. STAFFORD) are absent on official business to attend the Interparliamentary Union meetings.

If present and voting, the Senator from Illinois (Mr. PERCY) would vote "yea."

The result was announced—yeas 45, nays 30, as follows:

[No. 475 Leg.]

YEAS—45

Anderson	Gravel	Muskie
Bayh	Hart	Nelson
Bentsen	Hartke	Packwood
Bible	Hatfield	Pastore
Boggs	Hollings	Pearson
Brooke	Hughes	Proxmire
Burdick	Inouye	Randolph
Byrd, Robert C.	Jackson	Ribicoff
Cannon	Javits	Roth
Case	Kennedy	Schweiker
Chiles	Magnuson	Smith
Church	Mansfield	Stevens
Cook	Mathias	Stevenson
Cranston	Mondale	Symington
Fulbright	Moss	Tunney

NAYS—30

Aiken	Dominick	Long
Allen	Eastland	McClellan
Beall	Edwards	Miller
Bellmon	Ervin	Sparkman
Bennett	Fannin	Stennis
Byrd, Harry F., Jr.	Fong	Talmadge
	Gambrell	Thurmond
Cooper	Gurney	Weicker
Cotton	Hansen	Young
Curtis	Hruska	
Dole	Jordan, Idaho	

NOT VOTING—25

Allott	Jordan, N.C.	Saxbe
Baker	McGee	Scott
Brock	McGovern	Spong
Buckley	McIntyre	Stafford
Eagleton	Metcalf	Taft
Goldwater	Montoya	Tower
Griffin	Mundt	Williams
Harris	Pell	
Humphrey	Percy	

So the motion to table the motion to reconsider the vote by which the Allen amendment was laid on the table was agreed to.

Mr. TOWER. Mr. President, I cannot support the present legislation to create yet another agency of government and to endow it with extraordinary powers to intervene in and to hamper the commerce of this country, almost at will. Our Government has already moved very much too far in the direction of trying to be all things to all men. We do not as a people and a nation want to create "wrap-around" government, which would take away from the individual the basic responsibility for looking after his own interests—which would, in fact, deprive him of the right to manage his own interests. Yet, step by step, Congress has continued to create new agencies and new programs which are gradually leading us to "wrap-around" government, and this bill is another major step in that direction.

In addition to general philosophical objections to expanding the Federal Government's control over people and over commerce any further than it has already been expanded, there are numerous other objections to be made in regard to this legislation. Upon close examination one can see that the citizen has a lot more at stake in life and in government than merely his consumer interests. He is also an employee or employer, and as such depends on the strength of the economy to provide this basic source of family income. As he moves forward in life and accumulates a little capital for retirement, he also becomes an investor, from which activity the second major source of family income derives. He is also a student at some time in his life, perhaps a soldier for some length of time; the citizen may be a housewife, a teacher, a Southerner, an appreciator of art or nature—the various identifying facets of the individual lives, personalities, and interests of our citizens are simply more numerous than we can possibly imagine. Should each such interest of our citizens be represented in government by a special agency, which can tie up the functioning of the general government representing all interests of the people in order to maximize the influence of one interest on a government decision?

How can we justify the creation of an omnipotent agency that can tie up and even direct the functioning of the general government, unless we assume that we cannot govern ourselves, and that we have to have a Ralph Nader agency to actually tell us how to run the Government and what interests of the people to take into consideration in governing? This is the very essence of congressional authority; we write the laws, we give the general government its charge to administer the laws we write in a way that takes into consideration all interests of the American people, and we oversee the results of these efforts and modify our directions to the Government accordingly. We do not need and cannot justify the creation of such an all-powerful agency to intervene in the governing process on behalf of merely one aspect of our citizens' interests, in derogation of all their other many interests.

Let us take a brief example of what a single-purpose orientation on the part of a totally powerful agency like this could mean to the proper formulation of Government policy. The Federal Power Commission is charged with the regulation of our energy supplies to the extent that they move across State borders, and its authority includes the setting of rates on the sale of natural gas at the wellhead. Even though this particular agency is not analogous to the Consumer Protection Agency, it acted for years as though it was faced with the intervention of a CPA, due to the extreme popular pressure to keep utility rates low. This is a well-recognized "gut" consumer interest; everybody wants to pay as little for utilities as is possible, and this is a cause that is constantly being championed by the so-called consumer advocates as against the requests for rate increases of the firms responsible for supplying energy to the consumer.

So the FPC, in responding to this heavy popular pressure, and, no doubt, heavy congressional pressure from States in the less temperate climes to keep rates low, made decisions on natural gas rates over the years that were compatible with this short-run consumer interest, but which were inimical to the long-range interests of the American people in having adequate and reasonably priced supplies of natural gas over the long run. In short, the FPC acted as most agencies will have to do when they are faced with the CPA, and that is to cave in to the shortrun consumer goal of trying to keep goods and services at minimum prices and maximum quality, rather than at prices and qualities that market forces determine will give the consumer the most for his money. Governmental decisions based on shortrun consumer interests will in most instances paradoxically result ultimately in a reduction in supplies and quality of the goods and services in question. New and improved supplies will be called forth then only after a substantial increase in capital outlay is made to offset the economic disruption involved in the corruption of the market system with the short-sighted, solely consumer-oriented governmental action.

This type of unsound governmental policy action is going to be the continuing result of creating a Consumer Protection Agency with such tremendous powers as are contained in this bill. I recommend to the Senate for careful consideration the views of the learned Senator from North Carolina (Mr. ERVIN) in the committee report on S. 3970, wherein he details the nature of the administrative and philosophical nightmare we would create with this Agency. It would be one thing if we were merely seeking to create an advisory body for the purpose of filing comments with the various departments and agencies of Government as to the impact of various proposed policy actions on shortrun consumer interests. But to establish a consumer agency that can actually prevent the Government from acting in policy matters or in individual cases in the way it sees fit after taking into consideration all of the interests of the people of this country, seems to me to be entirely unworthy of our principles and assumptions of government.

MARCOR AND ITS MONTGOMERY WARD SUBSIDIARY SUPPORTS CONSUMER PROTECTION AGENCY BILL, S. 3970

Mr. PERCY. Mr. President, as I said on the Senate floor last week, during consideration of the Consumer Protection Organization Act of 1972, the lobbying effort directed at this bill from various segments of the business community has been the most intensive and at the same time ill-founded as any I have encountered in my 6 years in the Senate.

From the simple epithets such as "superagency" to concerns about this "dreadful legislation" to statements that the bill constitutes "the most serious threat to free enterprise and orderly

government ever to be proposed in Congress" the charges abound. Precisely where some of these allegations came from I guess we will never know, although the last is a direct quote from the so-called Business Responsiveness Kit authored by the Grocery Manufacturers of America. That national trade association says that it supports the concept of consumer advocacy underlying the bill but has nevertheless proposed a crippling "amicus" amendment—presently the subject of what seems to be an extended debate on the floor of the Senate—which would cut the heart out of the bill. The National Association of Manufacturers is less disingenuous. It says that it opposes the legislation outright and views as the best means of killing it in a motion to refer the bill to either the Agriculture, Banking and Housing, or Judiciary Committees—take your pick—none of which has any legitimate claim to jurisdiction.

From the outset I believed that the concept of a voice for consumers before Federal agencies and courts, whose decisions so critically affect issues of health and safety and economic injury to consumers, was an idea whose time had come. There are just too many instances where a few impervious manufacturers of goods or suppliers of services are permitted by the regulatory agencies which we have set up to protect the consumer to instead ignore his interest, sneer at his complaint, slam the door to his inquiries, run him around in circles, or else batter or badger him to the point that he would have been better off if he had not gotten involved in the first place.

We have many fine and dedicated individuals in these agencies just as we have many outstanding businesses and responsible business leaders throughout the country. But it is the exceptions—and the instances I cited on the Senate floor last week are but a very few—which cry out for a strong consumer advocate to make sure that the fundamental rights of every consumer are preserved and safeguarded.

My own thoughts on this are not entirely shared by many of my former associates within the business community. I have been literally told that I am out of my mind for not only supporting but actively sponsoring this bill. But fortunately that view is not shared by all. Indeed, some, like myself, believe that the erosion of consumer confidence in some goods and services produced by our economy is attributable to the consumer being booted around once, no, many times, too often.

With this background, let me say that it was a breath of fresh air, having been approached by many chief executive officers, chairmen of the board, and general counsels who often had to concede that they hadn't even read the bill, to find a number of responsible and concerned executives who undertook, at my urging, to let me know specifically what their legitimate concerns were as found in earlier versions of the bill, and to make definitive suggestions for improvement. My intent from the beginning was to assure that, in establishing an agency of the Federal Government to represent the interests of consumers, we would not at the same time do damage to the solid free enterprise base which underlies our economy nor to the orderly processes by which this Government carries out its business. Accordingly, I have welcomed and supported refinements in the bill in subcommittee, in committee, and will continue to do so on the Senate floor, where such improvements reflect a sensitivity to these principles.

I am pleased to announce here on the floor of the Senate a major business firm in this country, one whose contributions to this bill have been responsible as well as substantial, believes as I do that this legislation is in the best interests of consumers yes, but also of the business community itself. Marcor, the parent company, and Montgomery Ward, its subsidiary, have communicated to me their outright endorsement of this legislation and their fervent hope that the Senate will "pass into law the Consumer Protection Agency bill this year so as to strengthen protection for consumers and public confidence in business now." Mr. Leo Schoenhofen, chairman and chief executive officer of Marcor, goes on to say:

> There is a growing body of opinion that sees a close correlation between the belief of numerous consumers that they don't yet have adequate protection in some important circumstances and today's less than optimum public confidence in business, the declining interest of some talented young people in business careers and other ills that currently plague the market place. Because we believe a fair and effective Consumer Protection Agency law would be a positive step toward correcting some of these problems and because we believe it would advance the vital cause of providing all Americans with fair and effective consumer protection, we are pleased to announce our support for Senate passage of S. 3970 now in accordance with the principles set forth in this letter.

I could not agree with him more in this nor in his observation that "what's good for the consumer is not only good for business, it's the best for business." I guess what Mr. Schoenhofen really is saying is that the media who have reported so excellently on the need for such legislation, and that I and my very able cosponsors Senator ABRAHAM RIBICOFF of Connecticut and Senator JACOB JAVITS of New York who have sought to advance it in the Senate—that we have not been reckless. That we are not about to cause the downfall of the Republic. In short, that we are not out of our minds.

For a major American firm to recognize this and to be willing publicly to express its support for what it believes to be right—notwithstanding what I am sure have been and will be immense pressures from within the business community—is no small thing. It takes real guts.

I am pleased to report on this development, and I anticipate that other outstanding firms and businessmen will similarly recognize their own vital interests in this legislation and the interests of their customers.

Let me also add that throughout, Marcor's participation in this effort was approved in the executive suite by chairman of the executive committee Tom Brooker, Montgomery Ward President Ed Donnell, and by Leo Schoenhofen and Peter Jones. As you may know, Mr. Brooker is chairman of President Nixon's 108-member National Business Council for Consumer Affairs, although his views on this legislation are entirely his own and do not represent a position of the Council. This participation, carried out so ably by Pat Head and Harry McPherson here in Washington, sets a standard that counsel for other companies would do well to emulate. Indeed, I am hopeful that upon its establishment the CPA itself, in representing the interests of consumers, will be as conscientious and effective.

Now we must get on with the business of this legislation in the Senate, recognizing the press of other important legislative items in these closing days before adjournment and the need to resolve differences in a House-Senate conference. I hope that the small minority of Senators who might vote against the bill will not by procedural stalls try to prevent the full Senate from working its will on the merits of the measure, which it did less than 2 years ago in approving similar legislation by an overwhelming vote of 74 to 4. With Senate passage of a Consumer Protection Agency, the House having already approved the concept, the American consumer can soon be represented in court and before regulatory agencies by highly trained professionals voicing his interests. That is a cause which every American—and I believe every responsible American business—can and should champion.

Mr. President, I should like to add only one further point:

It is possible to build into a piece of legislation creating a new agency such as the Consumer Protection Agency virtually every check and balance needed to provide fairness, equity, and justice to both producer and consumer and still have inequity and injustice because of the lack of judgment exercised by the Administrator himself.

The key to the success of this legislation under the Nixon administration or any successive administration will be in the wisdom of the President with his appointive powers and the wisdom of the Senate with its confirmation powers to select a man of impeccable integrity and endowed with sufficient wisdom, experience, and knowledge to fairly, equitably, and justly administer the Consumer Protection Agency within the framework of the free enterprise system.

We are all agreed that we wish to strengthen, improve upon, and perpetuate this economic system that has contributed immeasurably to making us the most wealthy nation on earth. We wish to preserve and to the extent necessary restore the faith of the American consumer in this system.

An Administrator that is insensitive to the consumer or unjust to the producer will do a grave injustice to the intent and purpose to this bill as conceived by its supporters.

I have no doubt that as a result of experience in administering the provisions of the bill we will find ways in which it can be improved as time goes on but this bill as it stands today is the product of the best thinking that could be given to the bill in hearings and markup sessions

in both the Senate and House that have been carried on over a period of several years.

The time for this idea has arrived—that is why the Government Operations Committee of the Senate by an overwhelming vote has in effect said let us enact this legislation now into law without further delay.

The Congress of the United States and particularly the Government Operations Committees of the Senate and House will exercise all oversight responsibility within their authority that they feel necessary and proper to insure that the law is implemented and carried out in accordance with the intentions of Congress and as ranking minority member of the Government Operations Committee I will look upon this as a major responsibility to be shared with my colleagues.

STATEMENT OF PRESIDENT NIXON AND SECRETARY SHULTZ BEFORE THE IMF-IBRD ANNUAL MEETING

Mr. JAVITS. Mr. President, the President's position that the United States is now ready to begin to take a leadership role in the upcoming reform of the international monetary system as amplified by Treasury Secretary Shultz is most welcome and portends well for the future stability and growth of our own economy and those of the free world. The time has come to treat the reform of the world economic system including trade, investment, and monetary problems as a matter of the highest urgency before the ties linking the countries of the free world suffer irreparable strains.

Also, it is my hope that when the nations of Western Europe meet at the European summit in mid-October they, too, will build upon the foundation which has now been laid by the President and Secretary Shultz. The future course of the free world and whether the free world again will evolve toward an open trading system as contrasted with restrictive, inward looking trading blocs rests as much with Western Europe—and with Japan—as it does with the United States.

As the negotiations for the reform of the international monetary system get underway, it is imperative that all countries accept certain basic principles. These include:

First. That surplus nations have as great an obligation to the effective functioning of the international economic order as well as deficit nations and that the adjustment procedure must be applied to both surplus and deficit nations. In this respect I do not foresee any great obstacle to the U.S. Congress granting the President of the United States reasonable flexibility in making changes in the par value of the dollar should the President request such flexible authority.

Second. That trade is inherently linked with monetary matters and that you cannot negotiate one without the other. Money is the medium of exchange for goods and the attempt to treat monetary problems in the abstract without consideration to the flow of goods is an impossibility. Trade adjustments will affect the need and nature of future monetary adjustments just as changes in the par value of any currency have a direct and immediate effect on trade.

Third. Gold can no longer be the base of the new international monetary system—it is a commodity and should be relegated to the status of other commodities over a suitable transition period. Let gold continue to serve as the medium that symbolically links man and wife and not as the medium in which the value of currencies is defined. Only the productive strength of nations should serve as the standard of value of their currencies. The world knows that the productive strength of the United States cannot be measured on a fragile cross of gold.

Fourth. The link between future SDR creation and development assistance can serve as the emancipation proclamation of the developing world. This link is clearly the means for integrating the developing world into the mainstream of trade and commerce and it is my prediction that if this integration does not take place at an accelerated pace over the short term, that the industrialized world will have jeopardized its own future prosperity and well-being. Better income distribution within societies leads to stronger societies and more sustained economic growth, as the United States and Western European examples make clear. Similarly, better income distribution among societies through the means of future SDR creation will lead to a stronger world trading and monetary system, accelerated world economic growth, and reduced tensions among nations.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the bill (H.R. 3808) to amend title 39, United States Code, as enacted by the Postal Reorganization Act, to provide additional free letter mail and air transportation mailing privileges for certain members of the U.S. Armed Forces, and for other purposes.

The message also announced that the House had passed a bill (H.R. 16754) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes, in which it requested the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

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

H.R. 4634. An act to direct the Secretary of the Army to release on behalf of the United States a condition in a deed conveying certain land to the State of Oregon to be used as a public highway;

H.R. 14267. An act 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 Numbered 298, and the Absentee Delaware Tribe of Western Oklahoma, and others, in Indian Claims Commisison Docket Numbered 72, and for other purposes; and

H.J. Res. 1227. Joint resolution approval and authorization for the President of the United States to accept an Interim Agreement Between the United States of America and the Union of Soviet Socialist Republics on Certain Measures With Respect to the Limitation of Strategic Offensive Arms.

The enrolled bills and joint resolution were subsequently signed by the Acting President pro tempore (Mr. ALLEN).

HOUSE BILL REFERRED

The bill (H.R. 16754) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

NATIONAL HERITAGE DAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 1304, which has been cleared on both sides of the aisle.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

Calendar No. 1171 (H.J. Res. 1304), a joint resolution authorizing the President to proclaim October 1, 1972, as "National Heritage Day."

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the joint resolution (H.J. Res. 1304) was ordered to a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from West Virginia may proceed.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, it is my understanding, after having discussed the matter with the distinguished Senator from North Carolina (Mr. ERVIN) and the distinguished Senator from Nebraska (Mr. HRUSKA), that there will be no more rollcall votes on the unfinished business today inasmuch as no amendment is ready to be called up by either of those Senators.

It is my further information from them that it would be their intention to discuss the bill for the remainder of this day.

FEDERAL ENVIRONMENTAL PESTICIDE CONTROL ACT OF 1972

Mr. ROBERT C. BYRD. Mr. President, I therefore, ask unanimous consent that the unfinished business be temporarily laid aside and that the Senate proceed to the consideration of H.R. 10729, a bill to amend the Federal Insecticide Act.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

Calendar No. 922 (H.R. 10729) a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the requests of the Senator from West Virginia? The Chair hears none and it is so ordered.

The Senate proceeded to consider the bill which had been reported from the Committee on Commerce with amendments.

AGRICULTURE AND FORESTRY AND COMMERCE

The amendments of the Committee on Commerce are as follows:

On page 69, line 6, after the word "in", strike out "substantial" and insert "unreasonable"; on page 72, line 2, after the word "environment", strike out the semicolon and insert a comma and "including the protection of the health of farmers, farmworkers, and others who may come in contact with such pesticides or pesticide residues;"; in line 10, after the word "environment", strike out "; or" and insert "including the protection of the health of farmers, farmworkers, and others who may come in contact with such pesticides or pesticide residues; or"; in line 16, after the word "causes", strike out "substantial" and insert "unreasonable"; on page 76, line 18, after the word "any", where it appears the second time, strike out "substantial" and insert "unreasonable"; on page 77, after line 4, strike out:

"(bb) SUBSTANTIAL ADVERSE EFFECTS ON THE ENVIRONMENT.—The term 'substantial adverse effects on the environment' means any injury to man or any substantial adverse effects on environmental values, taking into account the public interest, including benefits from the use of the pesticide.

And in lieu thereof, insert:

"(bb) UNREASONABLE ADVERSE EFFECTS ON THE ENVIRONMENT.—The term 'unreasonable adverse effects on the environment' means any risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide, including the availability of alternative means of pest control.

On page 78, after line 24, strike out:

"(D) if requested by the Administrator, a full description of the tests made and the results thereof upon which the claims are based, except that data submitted in support of an application shall not, without permission of the applicant, be considered by the Administrator in support of any other application for registration:

And insert:

"(D) a full description of any tests offered in support of the application and the results thereof:."

In line 11, after the word "consideration", strike out the semicolon and insert a colon and "*Provided further*, That the Administrator shall not rely on test results submitted pursuant to this subsection unless he determines that (i) the tests were conducted in accordance with applicable Federal, State, or local law and (ii) participation in the tests was the result of a free, voluntary, and informed choice by each participant;".

On pages 80, line 4, after the word "information.", strike out "Except as provided by section 10, within 30 days after the Administrator registers a pesticide under this Act he shall make available to the public the data called for in the registration statement together with such other scientific information as he deems relevant to his decision."; on page 81, line 11, after the word "without", strike out "substantial" and insert "unreasonable"; after line 12, strike out:

The Administrator shall not make any lack of essentiality a criterion for denying registration of any pesticide.

On page 83, line 8, after the word "cause", strike out "substantial" and insert "unreasonable"; in line 19, after the word "restrictions,", strike out "substantial" and insert "unreasonable"; in line 21, after the word "applicator,", insert "farmer, farmworker, or other person who may come in contact with the pesticide or pesticide residues,"; on page 84, line 14, after the word "cause", strike out "substantial" and insert "unreasonable"; on page 85, line 3, after the word "prevent", strike out "substantial" and insert "unreasonable"; on page 86, line 22, after the word "certification", strike out the period and insert "and the competence of an individual shall include the ability to undertake such measures as the Administrator may by regulation require to protect the health of farmers, farmworkers, and others who may come into contact with such pesticides or pesticide residues."; on page 89, line 16, after the word "cause", strike out "substantial" and insert "unreasonable"; in line 23, after the word "avoid", strike out "substantial" and insert "unreasonable"; on page 90, line 23, after the word "have", strike out "substantial" and insert "unreasonable"; on page 91, line 7, after the word "regarding", strike out "substantial" and insert "unreasonable"; on page 92, line 16, after the word "pesticide", insert "and has given notice of such suspension order to the registrant. Prior to issuing such suspension order, the Administrator, if necessary to determine if an imminent hazard exists, may conduct an expedited hearing in accordance with paragraph 2 of this subsection. Following any such suspension order, the procedures of subsection (d) of this section with respect to the Administrator's notice of his intention to cancel the registration or change the classification of a pesticide shall be held in an expeditious manner.

At the top of page 93, strike out:

"Except as provided in paragraph (3), the Administrator shall notify the registrant prior to issuing any suspension order. Such notice shall include findings pertaining to the question of 'imminent hazard'. The registrant shall then have an opportunity, in accordance with the provisions of paragraph (2), for an expedited hearing before the Agency on the question of whether an imminent hazard exists.

"(2) EXPEDITE HEARING.—If no request for a hearing is submitted to the Agency within five days of the registrant's receipt of the notification provided for by paragraph (1), the suspension order may be issued and shall take effect and shall not be reviewable by a court. If a hearing is requested, it shall commence within five days of the receipt of the request for such hearing unless the registrant and the Agency agree that it shall commence at a later time. The hearing shall be held in accordance with the provisions of subchapter II of title 5 of the United States Code, except that the presiding officer need not be a certified hearing examiner. No party other than the registrant and the Agency shall participate except that any person adversely affected may file briefs within the time allotted by the Agency's rules."

After line 23, insert:

"(2) EXPEDITED HEARING.—Any expedited hearing held prior to a suspension order shall consist of the oral and written presentation of data or arguments in accordance with such conditions or limitations as the Administrator may make applicable thereto. The right to subpoena documents shall be granted to any party whenever the Administrator considers it appropriate. Any interested person may intervene in such proceeding and participate fully as a party."

On page 94, after line 12, strike out:

"(3) EMERGENCY ORDER.—Whenever the Administrator determines that an emergency exists that does not permit him to hold a hearing before suspending, he may issue a suspension order in advance of notification to the registrant. In that case, paragraph (2) shall apply except that the order of suspension shall be in effect pending the expeditious completion of the remedies provided by that paragraph and the issuance of a final order on suspension."

At the beginning of line 22, strike out "(4)" and insert "(3)"; in line 23, after the word "suspension", strike out "following a hearing"; on page 95, line 3, after word "appeals.", strike out "Any order of suspension entered prior to a hearing before the Administrator shall be subject to immediate review in an action by the registrant or other interested person with the concurrence of the registrant in an appropriate district court, solely to determine whether the order of suspension was arbitrary, capricious or an abuse of discretion, or whether the order was issued in accordance with the procedures established by law. The effect of any order of the court will be only to stay the effectiveness of the suspension order, pending hearing before the Administrator. This action may be maintained simultaneously with any administrative review proceeding under this section."; on page 96, line 1, after the word "objections.", strike out "Upon a showing of relevance and reasonable scope of evidence sought by any party to a public hearing, the Hearing Examiner shall issue a subpena to compel testimony or production of documents from any person. The Hearing Examiner shall be guided by the principles of the Federal Rules of Civil Procedure in making any order for the protection of the witness or the content of documents produced and shall order the payment of reasonable fees and expenses as a condition to requiring testimony of the witness. On contest, the subpena may be enforced by an appropriate United States district court in accordance with the principles stated herein." and insert "All public hearing authorized by this subsection shall consist of the oral and written presentation of data or arguments in accordance with such conditions or limitations as the administrator may make applicable thereto. The right to subpena documents shall be

granted to any party whenever the Administrator considers it appropriate. Any interested person may intervene in such proceedings and participate fully as a party."; in line 25, after the word "hearing.", insert "Each such committee shall include qualified scientists not more than one-third of which shall have an economic interest in the chemical industry. None of the members of such committee shall have any economic interest in the pesticide which is the subject of referral."; on page 100, at the beginning of line 25, strike out "for distribution or sale" and insert "or used"; on page 101, line 2, after the word "devices,", strike out "packaged, labeled, and released for shipment,"; in line 8, after the word "held", strike out "for distribution or sale" and insert "or used"; on page 104 line 3, after the word "General.", insert "Copies of any communication, document, report or other information received by the Administrator from any manufacturer or sent by the Administrator to any manufacturer shall be made available to the public upon identifiable request, and at reasonable cost, unless such information may not be publicly released under the terms of subsection (b) of this section."; after line 14, strike out:

(b) DISCLOSURE.—*Notwithstanding any* other provision of this Act, the Administrator shall not make public information which contains or relates to trade secrets or commercial or financial information obtained from a person and privileged or confidential, except that, when necessary to carry out the provisions of this Act, information relating to formulas of products acquired by authorization of this Act may be revealed to any Federal agency consulted and may be revealed at a public hearing or in findings of fact issued by the Administrator.

And, in lieu thereof, insert:

"(b) DISCLOSURE.—

"(1) The Administrator or any officer or employee of the Environmental Protection Agency or any committee referred to in subsection (d) of section 6 of this Act shall not disclose any information which the Administrator determines concerns or relates to a trade secret referred to in section 1905 of title 18, United States Code, except that such information may be disclosed by the Administrator—

"(A) to any other Federal department, agency, or official for official use if such department, agency, or official requests such information and has a reasonable need for such information;

"(B) to committees of Congress having jurisdiction over the subject matter to which the information relates;

"(C) in any judicial proceeding under a court order formulated to preserve the confidentiality of such information without impairing the proceeding;

"(D) if relevant in any proceeding under this Act, except that such disclosure shall preserve the confidentiality to the extent possible without impairing the proceeding; and

"(E) to the public in order to protect its health, after the manufacturer of any product to which the information pertains has been given notice and an opportunity, for a period of 15 days following such notice, to comment in writing or to discuss in closed session the matter relating to the disclosure of such information, if the delay resulting from such notice and opportunity for comment or discussion would not be detrimental to the public health.

In no event shall the names or other means of identification of injured persons be made without their express written consent.

"(2) Nothing contained in this section shall be deemed to require the release of any information described by subsection (b) of section 552 of title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

"(c) Any communication from a person to the Administrator or any other employee of the Environmental Protection Agency concerning a matter presently under consideration in a rulemaking or adjudicative proceeding in the Environmental Protection Agency shall be made a part of the public file of that proceeding unless it is a communication entitled to protection under subsection (b) of this section.

"(d) In the event of a dispute between any manufacturer who has submitted information in support of a registration and the Administrator as to whether such information constitutes, a trade secret not subject to disclosure, then such dispute shall be submitted to the Attorney General of the United States for his determination which shall be final. In any such dispute, the determination of the Attorney General shall be rendered within 30 days of submission to him, and shall be communicated to the Administrator and to the manufacturer in writing.

On page 107, after line 12, strike out:

"(a) IN GENERAL.—No regulations prescribed by the Administrator for carrying out the provisions of this Act shall require any private applicator to maintain any records or file any reports or other documents.

At the beginning of line 17, strike out "(b)"; on page 114, line 7, after the word "causes", strike out "substantial" and insert "unreasonable"; on page 116, at the beginning of line 2, strike out "$1,000" and insert "$10,000"; on page 17, line 23, after the word "Act,", strike out "Agency refusals to cancel or suspend registrations or change classifications not following a hearing and other"; on page 118, line 4, after the word "of", strike out "any order issued by the Administrator following a public hearing," and insert "(1) any cancellation order, suspension order, or order to change classifications, (2) any agency refusal to cancel or suspend registrations or change classifications, or (3) any other order issued by the Administrator following a public hearing, "; at the beginning of line 14, strike out "order, a petition praying that the order be set aside in whole" and insert "order or refusal, a petition praying that the order or refusal, be set aside in whole"; in line 20, after the word "order", insert "or refusal"; in line 21, after the word "Code", insert "or, if there were no proceedings, the relevant documents of which his record is comprised"; in line 25, after the word "order", insert "or refusal"; in line 26, after the word "order", insert "or refusal"; on page 119, line 4, after the word "order", insert "or refusal"; in line 10, after the word "order", insert "or refusal"; after line 20, insert a new section, as follows:

"SEC. 16. CITIZEN CIVIL ACTIONS.

"(a) Except as provided in subsection (b) of this section, any person may commence a civil action for injunctive relief on his own behalf whenever such action constitutes a case or controversy—

"(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of (1) any requirement under section 3(a) of this Act, (2) any condition of registration imposed by the Administrator, (3) a suspension or cancellation order under section 6 of this Act, or (4) the prohibition against misuse of a pesticide under section 12(a)(2)(H) of this Act, or

"(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator. Any action brought against the Administrator under this paragraph shall be brought in the District Court of the District of Columbia.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, over suits brought under this section.

"(b) No civil action may be commenced—

"(1) under subsection (a)(1) of this section—

"(A) prior to 60 days after the plaintiff has given notice of the violation (i) to the Administrator, and (ii) to any alleged violator of the regulation or order, or

"(B) if the Administrator or the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the regulation or order, but in any such action any person may intervene as a matter of right;

"(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator.

Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

"(c) In any action under this section, the Administrator or the Attorney General, if not a party, may intervene as a matter of right.

"(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate.

"(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any other statute or under common law to seek enforcement of any regulation or order or to seek any other relief.

"(f) For purposes of this section, the term 'person' means an individual, corporation, partnership, association, State, municipality, or political subdivision of a State or any agency of the Federal Government.

"(g) When any actions brought under this subsection involving the same defendant and the same issues of violations are pending in two or more more jurisdictions, such pending proceedings, upon application of the defendant reasonably made to the court of one such jurisdiction, may, if the court in its discretion so decides, be consolidated for trial by order of such court, and tried in (1) any district selected by the defendant where one of such proceedings is pending; or (2) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the defendant may apply to the court of one such jurisdiction, and such court (after giving all parties reasonable notice and opportunity to be heard) may by order, unless good cause to the contrary is shown, specify a district or reasonable proximity to the applicant's principal place of business, in which all such pending proceedings shall be consolidated for trial and tried. Such order of consolidation shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall

give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

On page 123, at the beginning of line 1, change the section number from "16" to "17"; in line 7, after the word "purchaser", strike out the period and insert a comma and "except that (1) a statement which complies with paragraphs (A) through (E) of section 3(c)(1) shall be submitted in support of any such pesticide to the Administrator, (2) such pesticide shall be subject to section 8, and (3) no pesticide may be exported unless the Administrator determines that the export of such pesticide will not result in unreasonable adverse effects on the environment of the United States. If the Administrator determines that such adverse effects will result, any person adversely affected by such determination shall have the same remedies as provided for registrants in section 6."; after line 18, strike out:

"(b) CANCELLATION NOTICES FURNISHED TO FOREIGN GOVERNMENTS.—Whenever a cancellation of the registration of a pesticide becomes effective, the Administrator shall transmit through the State Department copies of each notice of cancellation of a registration of a pesticide to the governments of other countries and to appropriate international agencies.

And, in lieu thereof, insert:

"(b) NOTICES FURNISHED TO FOREIGN GOVERNMENTS.—Subject to section 10 of this Act, the Administrator shall furnish to the government of the foreign nations to which any pesticide may be exported (1) a notice of the availability of the statement required under sections 3(c) (1), (2) all labels approved under section 3, and (3) all orders of suspension and all notices of cancellation or change in classification issued pursuant to section 6.

On page 125, at the beginning of line 24, change the section number from "17" to "18"; on page 126, at the beginning of line 5, change the section number from "18" to "19"; at the beginning of line 23, change the section number from "19" to "20"; on page 127, at the beginning of line 18, change the section number from "20" to "21"; on page 128, at the beginning of line 5, change the section number from "21" to "22"; at the beginning of line 16, change the section number from "22" to "23"; on page 129, at the beginning of line 13, change the section number from "23" to "24"; in line 14, after the word "State", insert "or local government: in line 15, after the word "device", strike out "in the State" and insert "within its jurisdiction"; in line 18, after the word "State", insert "or local government"; after line 21, strike out:

"(c) A State may provide registration for pesticides formulated for distribution and use within that State to meet specific local needs if that State is certified by the Administrator as capable of exercising adequate controls and if registration for such use has not previously been denied, disapproved, or canceled by the Administrator. Such registration shall be deemed registration under section 3 for all purposes of this Act, but shall authorize distribution and use only within such State and shall not be effective for more than 90 days if disapproved by the Administrator within that period.

And, in lieu thereof, insert:

"(c) A State may recommend registration for pesticides formulated for distribution and use within that State to meet specific local emergency needs. If such State is certified by the Administrator as capable of preventing unreasonable adverse effects on the environment from the use of such pesticides by adopting procedures similar to those contained in this Act, and if registration for such use has not previously been denied, disapproved, or canceled by the Administrator, such recommendation shall be deemed registration under section 3 for all purposes of this Act consistent with this section. Copies of all data pertaining to registration shall be forwarded to the Administrator, but the registration under this section shall not be effective for more than 90 days unless extended by the Administrator or unless the pesticide is registered by him in accordance with section 3 of this Act.

On page 130, at the beginning of line 23, change the section number from "24" to "25"; on page 132, at the beginning of line 14, change the section number from "25" to "26"; at the beginning of line 21, change the section number from "26" to "27"; at the beginning of line 22, strike out "There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act for each fiscal year ending June 30, 1972, June 30, 1973, June 30, 1974, and June 30, 1975." and insert "There is authorized to be appropriated to carry out the provisions of this Act not to exceed $15,000,000 for the fiscal year ending June 30, 1972, not to exceed $15,000,000 for the fiscal year ending June 30, 1973, not to exceed $25,000,000 for the fiscal year ending June 30, 1974, and not to exceed $35,000,000 for the fiscal year ending June 30, 1975."

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

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. Mr. President, I will not object, of course. I just wonder whether the parliamentary situation is such that upon the completion of action on the bill which is now being called up, we would without any further proceedings return to the unfinished business.

Mr. ROBERT C. BYRD. Mr. President, in response to the query of the senior Senator from New York, which is a very appropriate one, I ask unanimous consent that the unfinished business remain in a temporarily laid-aside status until the close of business today.

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

Mr. JAVITS. It would then be restored.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. JAVITS. I thank the Senator.

The PRESIDING OFFICER. The Chair points out that debate on this measure and amendments thereto is controlled.

Mr. ROBERT C. BYRD. Mr. President, would the Senator from Georgia (Mr. TALMADGE) yield me 1 minute.

Mr. TALMADGE. Mr. President, I yield 1 minute to the acting majority leader.

Mr. ROBERT C. BYRD. Mr. President, I ask the distinguished senior Senator from Georgia whether it is his intention to ask for the yeas and nays on passage of this bill, and if so, would he ask for the yeas and nays now while we have a sufficient number of Senators present.

Mr. TALMADGE. Mr. President, this is a bill of major importance, a bill which has been considered not only by the Committee on Agriculture and Forestry, but also by the Committee on Commerce, with some differences of opinion which have been resolved. It will be necessary to go to conference with the House.

Under those conditions, I think the yeas and nays should be ordered, and I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. TALMADGE. Mr. President, with reference to the pending bill, the Senator from Alabama (Mr. ALLEN), the chairman of the subcommittee who handled this matter, has done a magnificent job for 10 months. When the bill came before the Committee on Agriculture he held hearings not once but twice, and every witness who desired to be heard was heard. Many of the issues were highly controversial. He resolved those issues, in my judgment, in the national interest. The committee reported the bill to the Senate without a single dissenting vote.

Then, the bill was sent to the Committee on Commerce, inasmuch as they had some jurisdiction, since it covered in some degree fish and wildlife, which is under the jurisdiction of the Committee on Commerce. They added 63 amendments to the bill. Most of those amendments had been rejected by the Committee on Agriculture and Forestry.

During the long period of time of negotiations between the two committees, which lasted for virtually 2 months, the Senator from Alabama and the general counsel and first officer of our committee, Mr. Harker Stanton, did a yeoman job. I do not know of any staff work in the last 15½ years that I have been in the Senate that has been as efficient and effective as that which Mr. Stanton did on behalf of the Committee on Agriculture and Forestry. In that effort the Senator from Alabama (Mr. ALLEN) worked with him daily, and in my judgment they have worked out a very fine bill. I hope the Senate will agree to it.

I yield now so much time as he may desire to the Senator from Alabama, who did such an outstanding job on this bill.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, I thank the chairman of the Committee on Agriculture and Forestry, the distinguished Senator from Georgia (Mr. TALMADGE), for his kind remarks. I would be less than candid if I did not say that each and every step that was taken by the subcommittee and by the staff of the committee was referred to the distingiushed chairman of the committee, the distinguished Senator from Georgia (Mr. TALMADGE), for his advice and counsel. Without his help and assistance, and his wise counsel and advice, this compromise could never have been agreed to.

Mr. President, I extend my deep appreciation to the distinguished Senator from Georgia for the help and cooperation that he gave to reaching this compromise.

Now, Mr. President, reiterating what the distinguished chairman said, this bill was first referred to the Committee on Agriculture and Forestry and was reported to the Senate with a substitute by the Committee on Agriculture and Forestry; and the very same day it was reported it was referred by unanimous consent to the Committee on Commerce to exercise its jurisdiction over the bill.

Mr. President, at this time there are pending at the desk amendments offered by the Committee on Commerce.

Mr. President, I ask unanimous consent that notwithstanding the fact that the committee amendments have not been agreed to, it be in order to offer a complete substitute for the whole bill; and that if the substitute should be agreed to all of the committee amendments be considered as having been withdrawn.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and it is so ordered.

Mr. ALLEN. Mr. President, I offer the amendment on behalf of myself and Senators HART, AIKEN, BEALL, BELLMON, CANNON, CHILES, COTTON, CURTIS, DOLE, EASTLAND, EDWARDS, HARTKE, HUMPHREY, INOUYE, JORDAN of North Carolina, MCGOVERN, MAGNUSON, MILLER, MOSS, NELSON, PACKWOOD, PASTORE, SPONG, STEVENSON, TALMADGE, TUNNEY, and YOUNG.

Mr. President, these sponsors of this compromise amendment constitute all the members of the Committee on Agriculture and Forestry and a majority of the members of the Committee on Commerce.

The PRESIDING OFFICER. If there is no objection, the amendment will be stated by title, and because of its length will not be printed in the RECORD at this point.

The assistant legislative clerk read as follows:

The Senator from Alabama, for himself and others, proposes a substitute amendment in lieu of the amendments proposed by the Committee on Agriculture and Forestry and the Committee on Commerce.

Mr. MILLER. Mr. President, I would like to take this opportunity to commend the Senator from Alabama (Mr. ALLEN) and the Senator from Michigan (Mr. HART) for their diligent efforts in reaching the compromise bill which is now before us. As ranking Republican on the full Agriculture Committee, I know that the Subcommittee on Agricultural Research and General Legislation, under its able chairman, the Senator from Alabama, spent a lot of time and study on this highly complex legislation. And I also know of the long hours that Mr. Harker Stanton, staff director and general counsel of our committee, his assistants, and their counterparts on the Committee on Commerce have spent in drafting language that can be agreed upon by a majority of the Senate. These people also merit our thanks.

On February 8, 1971, President Nixon asked for a pesticide bill in his message on the environment. Subsequently a bill was adopted by the House, and hearings were held immediately thereafter by our Committee on Agriculture and Forestry. The bill, with amendments was then favorably acted upon by the full committee. It was then re-referred to the Committee on Commerce. We have now reached the time for consideration by the full Senate, and I would but repeat the admonition of President Nixon in his letter of April 24 to the chairman of our committee (Mr. TALMADGE):

It is important that the momentum now built up for action on this problem during this Congress not be lost. I am writing to express the hope that your Committee will seek and obtain early floor action to provide the Environmental Protection Agency with the tools it needs to regulate pesticides in the public interest.

Mr. ALLEN. Mr. President, I send to the desk and I ask unanimous consent to have printed in the RECORD at this point an explanation of H.R. 10729 as it appeared in the original report of the Committee on Agriculture and Forestry.

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

SHORT EXPLANATION

This bill completely revises the Federal Insecticide, Fungicide, and Rodenticide Act.

At the present time, this Act prohibits interstate commerce in unregistered pesticides, and permits registration only when if used as directed or in accordance with commonly recognized practice the pesticide is not injurious to man, vertebrate animals, or desirable vegetation. It does not prohibit the misuse of any registered pesticide, nor does it regulate pesticides moving only in intrastate commerce.

The new bill would—

(A) regulate the use of pesticides to protect man and his environment; and

(B) extend Federal pesticide regulation to actions entirely within a single State.

The major provisions would—

(1) prohibit the use of any pesticide in a manner inconsistent with its labeling. (Section 2(a)(2)(G)) No pesticide could be registered or sold unless its labeling was such as to prevent any injury to man or any substantial adverse effect on environmental values, taking into account the public interest, including benefits from its use. (Sections 2(q)(F), (G), and (H) and 3).

(2) require pesticides to be classified for general or restricted use. Restricted use pesticides could be used only by or under the supervision of certified applicators or subject to such other restrictions as the Administrator may determine. (Section 3(d)) This should not be construed as a limitation of the broad authority described in item (1). The House Committee report (page 15) indicates that the Administrator should not set up a system for use only by permit approved in writing for each application by a pest management consultant; but that general or seasonal licenses, permits, or other similar forms of approval may be required.

(3) extend the Act to all pesticides by including those distributed entirely within a single State. (Section 3.)

(4) strengthen enforcement by—

(a) requiring the registration of all pesticide producing establishments, and regular submission by them of production and sales-volume information; (Section 7)

(b) authorizing entry of establishments and other places where pesticides are held for sale or distribution and inspection and sampling of pesticides and devices; (Section 9)

(c) authorizing stop sale, use, or removal orders and seizure; (Section 13)

(d) providing for civil and increased criminal penalties; (Section 14)

(e) authorizing cooperation with State; (Sections 21 and 22)

(f) improving procedures governing registration and cancellation actions by combining scientific review and public hearings and requiring all questions to be submitted for scientific review at the outset of the hearing; (Section 6)

(5) give applicants for registration proprietary rights in their test data. (Section 3(c)(1)(D)

(6) authorize the Administrator to—

(a) establish pesticide packaging standards to protect children and adults and for other purposes; (Section 24(c)(3)

(b) regulate pesticide and container disposal; (Section 18)

(c) issue experimental use permits; (Section 5)

(d) conduct research on pesticides and alternatives and monitor pesticide use and presence in the environment. (Section 19)

(7) provide for certification of applicators by the States under a program approved by the Administrator. In addition, the States would be authorized to issue conditional registrations for pesticides intended for local use; and States could impose greater regulation on a pesticide than that of the Federal Government. (Sections 4 and 23)

(8) limit appropriations to carry out the Act to the period ending June 30, 1975.

GENERAL EXPLANATION OF H.R. 10729

This bill provides for the more complete regulation of pesticides in order to provide for the protection of man and his environment and the enhancement of the beauty of the world around him.

Pesticides affect the food man eats, the water he drinks, the air he breathes and the flora and fauna that surround him and provide him with beauty, recreation, and inspiration. They are necessary to keep his home free from vermin, to protect him from diseases spread by insects, rats, and other vectors, protect his possessions from termites and other destructive insects, and beautify his lawns and parks.

Pesticides are essential to man's food supply both as to quality and quantity. A generation ago consumers could expect to find occasional worms in apples and more frequent worms in sweet corn. Today we are blessed with wholesome, attractive, pest-free foods, processed, packaged, and marketed under clean and sanitary conditions. We have an abundance of food at reasonable prices.

Farm Production has increased by 156 percent since the 1935–39 period notwithstanding the fact that approximately 50 million acres were retired from production in 1970. And this level of production has been achieved in spite of the fact that the farm population has decreased from about 30 million persons to about 9.4 million persons.

More than 200 million persons in the United States, and many more millions throughout the world, now depend upon these farms and farm operators for most of their food and fiber. All of us are consumers. As consumers we all benefit from the increased efficiency and use of modern technology in the production and marketing of farm products.

When we go to market we can choose from over 6,000 different food items including fresh, frozen, canned, concentrated, dehydrated, ready-mixed, ready-to-serve, or in heat-and-serve form. Today, farmers feed over 70 million more persons in this country than they did in the late thirties. Consumers are now required to devote less of their income for a wider variety and higher quality of food than they did before. In 1972, only 15.8 per cent of disposable income was spent on food as compared to 23 per cent in earlier years. Compare this to 30 per cent in Europe . . . 50 per cent in the Soviet Union . . . and as high as 90 per cent in many other countries.

American food is the best buy in the world.

Pesticides are important in the preserva-

tion of natural beauty. As examples of the unpleasant effects caused by insects in the absence of effective pesticides, the following are quoted from a pamphlet on the gypsy moth published by the Department of Agriculture in April of this year.

"Gypsy moths have been in this country since 1869, when imported specimens escaped during experiments being performed by a Massachusetts naturalist. Extensive Federal-State efforts confined gypsy moth destruction to New England, New York and Pennsylvania for many years. But, in 1958, concern over the possibility of environmental contamination caused a switch from large-scale spraying of DDT to limited application of less persistent insecticides.

"In recent years, gypsy moth populations have built up to alarming levels, with spread occurring throughout much of the Northeast and into parts of the South. The nearly 2 million acres of trees defoliated in 1971 doubled the acreage stripped in 1970, was six times more than in 1969, and was twelve times more than recorded in 1968.

"The gypsy moth is a European insect and is one of the world's worst forest pests. They are harmless in the moth stage, but as caterpillars feed on the leaves of forest, shade, ornamental and fruit trees. A single complete defoliation can kill some softwood trees; two or more defoliations can kill many types of hardwoods.

* * * * *

"Gypsy moth infestations leave their mark on urban and suburban areas, as well as forests. Caterpillars cover sidewalks and get into water reservoirs, stores, homes and swimming pools. They make parks and other outdoor recreational facilities temporarily unusable and lower property values with tree-killing defoliations."

While appropriate pesticides properly used are essential to man and his environment, many constitute poisons that are too dangerous to be used for any purpose. Others are dangerous unless used extremely carefully, and some may have long lasting adverse effects on the environment. Some may be taken up in the food chain and accumulated in man and other animals. Improperly used they may endanger bees and other useful insects, birds, and other animals and their food supply. Pesticides may cause injury through accidental ingestion, inhalation or deposit on the skin. Pesticides therefore have important environmental effects, both beneficial and deleterious. Their wise control based on a careful balancing of benefit versus risk to determine what is best for man is essential.

At present the Federal Insecticide, Fungicide and Rodenticide Act provides for the labeling of pesticides with appropriate directions for their use and cautions and warnings. If a pesticide is such that when used in accordance with its label or common practice it is injurious to man, other vertebrates, or useful plants, it cannot be registered under the Act and cannot be sold or distributed in interstate commerce. If a chemical is registered and it subsequently appears that under the foregoing criteria it should not have been registered, its registration may be cancelled; and in case of imminent hazard its registration may be immediately suspended pending the completion of cancellation proceedings.

But there is no prohibition at present against the misuse of a registered pesticide. There also is no control under the Act for pesticides distributed entirely within a single state. The provisions of H.R. 10729 are needed to correct these and other deficiencies in the law in order to provide effective control. Some of the major changes provided for by the bill are as follows:

(1) *Restrictions on use.*—Section 12(a)(2)(G) prohibits the use of any pesticide in a manner inconsistent with its labeling. Section 2(q) designates a pesticide as misbranded in certain circumstances, one being that when used in accordance with its label or commonly recognized practice it causes any injury to man or any substantial adverse effects on environmental values, taking into account the public interest, including benefits from the use of the pesticide. Section 3(d)(1)(C) provides that if the pesticide, when used in accordance with its label or commonly recognized practice, may cause, without additional regulatory restrictions, any injury to man or any substantial adverse effects on environmental values, taking into account the public interest, including benefits from the use of the pesticide, it shall be classified for restricted use and subjected to additional restrictions. If it is so classified because of a determination that the acute dermal or inhalation toxicity of the pesticide presents a hazard to the applicator or other persons it would be required to be applied only by or under the direct supervision of a certified applicator. If it is so classified for any other reason, it would either be required to be applied only by or under the direct supervision of a certified applicator, or subject to such other restrictions as the Administrator may determine. By comparing these provisions with each other and with existing law, it can be seen that (1) they provide for a more finely tuned control of pesticides which will more easily permit their beneficial use and prevent their misuse; and (2) few pesticides which are now registered would be classified for restricted use. Since the present criteria for registration, the criteria for registration under the bill, and the criteria for restricted use classification under the bill are essentially similar, except for the provision for additional restrictions in connection with classification for restricted use, it follows that currently registered pesticides were at the time of registration found to be safe based on present criteria without the imposition of such additional restrictions. The Committee understands that EPA is engaged in upgrading its criteria (as to safety and effectiveness) for the registration of pesticides and expects to use the revised criteria for the classification of existing pesticides under the new Act. Also because of research and other information being accumulated on the risks and benefits associated with pesticides, this will warrant some pesticides being placed in the restricted category. The effect of classification for restricted use therefore is to provide for additional regulatory restrictions, additional to those on the label, which will make the pesticide safe to use and thereby bring it within the criteria for registration. The difference between restrictions in use shown on the label and additional regulatory restrictions imposed on restricted use pesticides is that the additional restrictions may more easily be changed as conditions warrant, and that in many cases it would be more appropriate to control the use or the making available for use of a pesticide through general regulations than through its labeling. In order to change the restrictions on the label or labeling, the Administrator might have to start cancellation proceedings. Regulatory restrictions may be changed promptly by issuing a new regulation or by exercising authority provided for in the existing regulation. The additional regulatory restrictions thus constitute a tighter form of control.

Section 12(a)(2)(F) makes it unlawful to make for use or use any restricted use pesticide contrary to such regulations, and section 12(a)(2)(G) makes it unlawful to use any registered pesticide in a manner inconsistent with its labeling. By prohibiting the misuse of pesticides, these provisions protect the environment and also prevent the growth of commonly recognized practices which would require the cancellation of registration of a pesticide, thereby assuring the continued use of pesticides in a manner designed to protect and improve the environment.

(2) *Extension to actions entirely within a single state.*—The existing law prohibits the sale or distribution of unregistered pesticides in interstate commerce. Section 3 of the bill would extend this prohibition to any commerce so that pesticides produced and sold in a single state would be subject to federal registration and all of the prohibitions of the Act.

(3) *Strengthening enforcement, proprietary rights in test data, and additional authorities.*—All of these provisions are designed to provide for tighter control of pesticide registration and use to insure protection to man and the environment. Registration of pesticide producing establishments will aid the Administrator in tracking down violations and accidental discharge or spillage. Stop sale, use, or removal orders and seizures will provide immediate means for preventing the use of dangerous pesticides. Improved procedures for registering and cancelling registration will speed desirable pesticides to the market and speed the removal of undesirable pesticides. Giving applicants proprietary rights in their test data will encourage applicants to spend the money necessary to test their products fully and assure their safety. Requiring subsequent applicants to make their own tests will serve as a double check on the original test procedures and either provide double assurance that the products are safe or show up their shortcomings.

HISTORICAL BACKGROUND

The use of chemicals in agriculture began with the trend toward intensive farming in the mid-19th century. Cultivation of specialized crops created imbalances in nature which provided insects and other pests ideal conditions in which to multiply.

As an example, the Colorado potato beetle in 1850 lived on local plants and maintained a balanced population in its natural environment. When the early settlers planted potatoes, the beetles were furnished a vast new supply of food. They multiplied. They became a pest to the new settlers and spread eastward to other potato fields as a result of their own population pressure. Nothing was effective against this new pest until the arsenic compound, Paris green was applied.

By the latter half of the 19th century, United States agriculture was well on the way toward becoming a commercial production industry. Progressive scientific farming was promoted by the founding of the land-grant colleges, the agricultural experiment stations, and the creation of an extension-education system. These institutions, together with the United States Department of Agriculture, made up an extremely effective organization of applied research, informational and demonstration programs, and consulting services for farmers.

As a result of these developments in which the increasing use of chemical pesticides played an important role, most of U.S. food supplies and substantial quantities of food for export are now produced by fewer than 5 percent of the population.

FEDERAL INSPECTION ACT OF 1910

As early as 1910 the distribution and use of chemical pesticides reaches a level which required Federal regulation for the protection of users, consumers and the general public. Federal regulation of pesticides began with the enactment of the Federal Insecticide Act of 1910, although State regulation was undertaken in some States at an even earlier date.

The Federal Insecticide Act of 1910 prevented the manufacture, sale or transportation of adulterated or misbranded insecticides and fungicides and authorized regulation of sales of insecticides and fungicides.

As the number and variety of chemical pesticides manufactured and used increased,

individual States increased the scope of their regulations. In 1946 the Council of State Governments developed a uniform insecticide, fungicide and rodenticide act for the consideration of and adoption by the individual States. At the same time the Congress began holding hearings on proposed more comprehensive Federal legislation.

FIFRA ENACTED

In June 1947, the Insecticide Act of 1910 was repealed and replaced by the Federal Insecticide, Fungicide and Rodenticide Act. By this time great changes had occurred in the field of chemical pesticides, or economic poisons. New plant materials and synthetic chemicals developed through both private and publicly-financed research had greatly increased the number of pesticides available and widened the scope of their usefulness. DDT and herbicides were becoming increasingly important.

The 1947 Act required:

1. The registration of economic poisons or chemical pesticides prior to their sale or movement in interstate or foreign commerce.
2. The prominent display of poison warnings on labels of highly toxic pesticides.
3. The coloring or discoloring of dangerous white powdered insecticides to prevent their being mistaken for foodstuffs.
4. The inclusion of warning statements on the label to prevent injury to people, animals and plants.
5. The inclusion of instructions for use to provide adequate protection for the public.
6. That information be furnished the administrator of the Act with respect to the delivery, movement, or holding of pesticides.

This Act was designed to work in harmony with the uniform State insecticide, fungicide and rodenticide act which was adopted in many States.

MILLER AMENDMENT

In 1954 pesticide regulations were expanded further by an amendment to the Food and Drug Act authorizing its administrator to set tolerance limits for the residues of pesticides on foods.

This provision, known as the "Miller amendment," requires the pretesting of a chemical pesticide before it can be used on food crops. The manufacturer is required to provide detailed data to demonstrate to the administrator of the Federal Pesticide Act (FIFRA) that the chemical is useful to agriculture and how much residue, if any, will remain in or on a food crop after application.

The manufacturer must also supply scientific data on the toxicity of the chemical to warm-blooded animals. It is from these data and from their own research that the Federal Food and Drug Administration sets a tolerance or maximum amount of residue which may legally remain in or on the food crop when it is marketed.

1959 AMENDMENTS

After 1947 several new types of agricultural chemicals, generally referred to as nematocides, defoliants, desiccants, and plant regulators were developed and acquired widespread commercial use. Nematocides were used to control nematodes, or very small eelworms which attack the roots of plants. Defoliants were found useful to make leaves drop from plants to facilitate mechanical harvesting of the crop. Desiccants also were found useful in drying plant tissues to facilitate harvesting the crop. And, plant regulators were found useful under some conditions in regulating the growth processes of plants.

In 1959 the 1947 Act was again amended to include these products under the general regulatory provisions for economic poisons on chemical pesticides.

INCREASING CONCERN IN THE 1960'S

In the early 1960s increasing public concern regarding the longer run public health and ecological effects of some of the chemical pesticides led to the creation of a Presidential Scientific Advisory Committee which made a number of recommendations in its 1963 report.

It concluded among other things that,

1. Monitoring programs to obtain systematic data on pesticide residues should be expanded.
2. Federal research programs concerned with pesticides should be expanded and coordinated.
3. A broad educational program emphasizing the hazards in the use of pesticides should be undertaken.

It also recommended amendments to existing pesticide legislation to:

1. Eliminate "protest" registrations.
2. Require each pesticide to carry a license number identification, and
3. Include fish and wildlife as useful vertebrates and invertebrates under the Federal Pesticide Act.

It was the consensus of that committee that mankind must continue to fight insects and other pests in the most efficient manner possible, and that an integrated program involving chemicals was absolutely necessary.

1964 AMENDMENTS

In 1964, amendments to the Federal Insecticide, Fungicide and Rodenticide Act of 1947 were adopted which, as recommended, eliminated protest registration and authorized each pesticide to carry a license number identification. The 1964 amendments also expedited procedures for suspending the marketing of previously registered pesticides which were found to be unsafe.

At that time, the Departments of Agriculture, Interior and Health, Education, and Welfare entered into an interdepartmental agreement, which among other things established procedures for resolving any differences they might have with respect to the licensing and regulation of new pesticides.

The appropriate use of chemical pesticides and the adequacy of existing regulations has continued to be widely discussed in the public forum. Various committees of both the House and the Senate have held hearings, studied the problem, and issued reports on pesticides and public policy and deficiencies in the administration of the Federal Insecticide, Fungicide and Rodenticide Act.

Two years ago the Department of Health, Education, and Welfare appointed a commission on pesticides and their relationship to environmental health. Over 5,000 references to published and ongoing scientific research were reviewed and evaluated by this Commission. It made a number of recommendations in November 1969, which were considered by all agencies involved in regulations and research relating to pesticides and their use.

CREATION OF ENVIRONMENTAL PROTECTION AGENCY

A year later, President Nixon proposed a reorganization of the agencies of the Federal Government dealing with pesticides to more effectively deal with the problems in this area. In December 1970, he transferred the pesticide and pure food regulatory staffs located in the Departments of Agriculture, Interior, and Health, Education, and Welfare to a new Environmental Protection Administration.

PESTICIDE LEGISLATION PROPOSED

In February 1971, the President submitted the legislative recommendation which along with other proposals before the Committee became the basis for this bill.

COMMITTEE DELIBERATION

The Subcommittee on Agricultural Research and General Legislation held open hearings on four bills, S. 232, S. 272, S. 660, and S. 745, all of which deal with pesticide regulations, during the period March 23–26, 1971. All who wished to testify were provided an opportunity. Statements were presented to the subcommittee by a total of 70 witnesses. A number of other letters, statements, reports, and recommendations were also formally furnished the Committee in connection with the hearings.

Subsequently, on March 7 and 8, 1972, additional open hearings were held on a House passed pesticide bill, H.R. 10729, and a Committee Print thereof prepared especially for this purpose. At this time a total of 89 witnesses presented statements. As in the previous hearings additional papers were also made available to the Committee.

A list comprising 86 typewritten pages of all amendments proposed to H.R. 10729 and reasons therefor was prepared for subcommittee consideration. Subsequently Committee Print No. 2 was prepared illustrating a number of suggestions for amendments to the bill. The subcommittee, in executive session considered all of these, as well as other amendments. Most were accepted and are shown below:

AMENDMENTS RECOMMENDED BY THE SUBCOMMITTEE

(1) delete "pesticide" from "certified pesticide applicator" to avoid confusion with certified public accountants (CPA's);

(2) give EPA discretion as to the necessity for the physical presence of a certified applicator;

(3) define "imminent hazard" to include a situation involving hazard to survival of an endangered species;

(4) define "ingredient statement" to require all pesticides to show the name and percentage of each active ingredient and the total percent of inert ingredients;

(5) require the establishment registration number to be shown on the label (rather than on accompanying labeling);

(6) classify a pesticide as misbranded if "when used in accordance with the requirements of the Act or commonly recognized practice" it causes substantial adverse effects on the environment;

(7) exclude non-toxic, vitamin-hormone products not intended for pest destruction from the definition of "plant regulator";

(8) leave the determination of what is a trade secret to the courts (rather than the Administrator);

(9) add to the provision for proprietary rights in test data a proviso permitting the Administrator to refer to any applicant's test data in evaluating the adequacy of another applicant's test data;

(10) give the Administrator discretion to give an applicant more than thirty days to make corrections;

(11) permit "other interested persons with the concurrence of the registrant" to contest the denial, cancellation, or suspension of registration, or a change in classification, where the registrant fails to do so;

(12) authorize the Administrator to require pesticide packaging and labeling for restricted use to be clearly distinguishable from packaging and labeling for general use;

(13) make restricted classification depend in part on the hazards involved in the use of a pesticide "in accordance with a commonly recognized practice";

(14) make it clear that EPA can withdraw its approval of a state certification plan;

(15) allow the Administrator to permit continued sale or use of a pesticide whose registration is cancelled where not inconsistent with the purposes of the Act;

(16) require submission of all scientific questions "at the outset of the hearing" to prevent delays through additional references while the hearing is proceeding;

(17) provide for entry by EPA of any place where pesticides or devices are held for distribution or sale (as well as manufacturing establishments);

(18) permit the Administrator (rather than the President by executive order in emergency conditions) to exempt federal or state agencies;

(19) require the Administrator to solicit the views of the Secretary of Agriculture before publishing regulations;

(20) authorize the Administrator to utilize the cooperative state extension services in providing information to farmers;

(21) make it clear that a state may provide registration to meet specific local needs (subject to disapproval by the Administrator);

(22) give the Administrator discretion as to which provisions of section 2(q)(1) (definition of misbranded) or section 7 (registration of establishments) shall be applicable to any class of device;

(23) extend the appropriation authority for the Act one year to fiscal 1975; and

(24) prohibit EPA from charging fees, other than reasonable registration fees.

Four amendments were passed for submission to the full Committee for its deliberation without subcommittee recommendation as follows:

Amendment 1, would authorize third parties to petition for cancellation or suspension and obtain judicial review. There were three alternative proposals:

(A) NACA proposal would make registration prima facie evidence of compliance for all purposes, provide for cancellation in contested cases only on the basis of scientific data not considered at time of registration, strike the provision for hearings initiated by the Administrator, and provide for judicial review in such cases in the district court;

(B) Hart-Nelson Amendment No. 1010 provided for review in such cases in the circuit court, prohibited stay of an agency action unless the party seeking the stay was likely to prevail and would suffer irreparable harm;

(C) EPA proposed appeal to the circuit court and indicated that the Hart-Nelson provision for a stay duplicated that already in the bill. EPA recommended an alternative version.

Amendment 2 would strike out the provision for indemnities to owners of pesticides for which registration is first suspended and then cancelled.

Amendment 3 would provide for citizens' civil actions for injunctive relief against the United States, the Administrator, or any other person. EPA suggested an alternative which would (i) limit it to cases against producers, applicators, and the Administrator; (ii) specify venue in the district in which the violation occurred, or in the case of suits against the Administrator, the District of Columbia; (iii) strike the provision for citizen intervention in U.S. suits and provide for intervention by the U.S. (rather than the Administrator) in citizens suits; and (iv) provide for consolidation of like citizen suits.

Amendment 4 would strike the provisions of section 3(d)(1)(C) authorizing the Administrator to impose restrictions other than the requirement that the pesticide be applied by or under the direct supervision of a certified applicator.

Committee Print No. 3 was then prepared showing all of this action and was used by the full Committee as a basis for its deliberations.

The full Committee considered the bill submitted by the subcommittee on June 7, 1972.

The amendments recommended by the subcommittee were adopted and decisions were made on the four amendments presented by the subcommittee without recommendation.

With respect to Amendments No. 1 and No. 4 the full Committee adopted compromise proposals as follows:

The compromise proposal for Amendment 1—

(a) makes registration prima facie evidence of compliance only as long as no cancellation proceedings are pending;

(b) continues the present clear criteria (compliance with the Act) for cancellation proceedings;

(c) provide for the initiation of cancellation proceedings either by notice of intent to cancel, or notice of intent to hold a hearing (so that the Administrator may have the benefit of more information before he decides to cancel);

(d) provides for hearings on suspensions except in emergency situations;

(e) provides for judicial review by the court of appeals in all cases where there has been an administrative hearing and by the district court in all cases where there has not been an administrative hearing; and

(f) makes it clear that any person who will be adversely affected by an order may obtain judicial review.

Before adopting this compromise proposal, the Committee considered all of the numerous amendments submitted to clarify the procedure for judicial review, third-party participation in the administrative decision-making process, and the grounds which permit the Administrator to cancel a registration before a five-year period. The procedures adopted carry forward the language of present law by which the Administrator cancels where a substantial question exists. Under present practice third-parties may request the Administrator to review new data and determine whether formal proceedings should be commenced. The Committee action permits persons adversely affected to continue to be able to request review of the status of a registration and adversely affected persons, like users, also to participate in the administrative process. The language "adversely affected" is in present law and the Committee has rejected the House language which refers to "interested persons" so as to avoid any implication of desiring to change present law.

The Committee has determined that the Administrator should be able to call a hearing when he believes it useful rather than issue a notice of intent to cancel. Such a procedure permits the Administrator to initiate formal review without placing a stigma on a product when he is not convinced that the registration should be cancelled. It also permits the Administrator to proceed without automatically cancelling if no specific request for a hearing is received.

After a hearing judicial review on petition by any person adversely affected is properly lodged in the courts of appeals, since an adequate record exists for such review. Where, however, the Administrator has determined no substantial question of safety exists which warrants formal review, and thus has refused to hold a hearing, review should be by a district court since there is no record for the court of appeals.

The Committee has also provided for expedited hearings on questions of suspension so that the procedure will be analogous to cancellation. Where a suspension action is taken prior to a hearing, a district court could stay the suspension pending the Administrator's determination after a hearing except such stay shall be dissolved at the time the Administrator issues a decision. If, after the hearing, the Administrator determines to suspend, the order becomes effective and any district court restraining order is dissolved, and the power to stay the Agency's order shall rest with the courts of appeals.

The Committee has also endorsed the House bill which eliminates the two-step procedure in present law requiring review by a scientific advisory committee followed by a public hearing. The House bill substitutes a procedure whereby at the start of a public hearing relevant questions of scientific fact are referred to a Committee of the National Academy of Sciences as part of the hearing procedures.

The compromise proposal for Amendment 4 leaves the Administrator with broad power to impose such regulatory restrictions as may be necessary, but gives any person adversely affected by such regulations 60 days to petition the court of appeals for review of such regulations.

The Committee adopted Amendment No. 2 and turned down Amendment No. 3. In addition it considered several minor amendments adopting several including technical amendments.

In connection with striking the indemnity provisions the Committee felt that with the tighter regulation provided by the bill, suspension and cancellation should rarely be necessary; and that on such rare occasions it should be possible to permit existing stocks to be used up in a safe manner. In this connection the Committee considered the following letter from Mr. David D. Dominick, Assistant Administrator, E.P.A., outlining the method to be used by EPA in cancelling registration:

ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., May 10, 1972.

HON. HENRY BELLMON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BELLMON: You may recall that during our discussion of H.R. 10729, the proposed legislation for the regulation of pesticides, you were concerned that EPA have the flexibility to continue a registration for use during a growing season, even though we have determined after a hearing that the registration should be cancelled.

I believe our present authority under H.R. 10729 is sufficiently flexible to permit an orderly phase-out where farmers have relied on a pesticide for use during an upcoming growing season. It is open to registrants and user groups to raise at the hearing any question bearing on the benefits of using a product. Any showing of need for a pesticide during an upcoming season would be relevant and the statute would permit us to issue an order that would result in a label use for a given season or period of time or indeed in a certain geographical location. It would be our policy to invoke this flexibility on a showing by affected groups that the particular chemical were needed for the growing season.

While I am reasonably confident that we have such flexibility, (see the attached memorandum), I think a few words to this effect in the Senate Committee Report could nail the situation down.

On a related subject, this matter underscores the importance for broad public participation in our regulatory process. As the law stands at present, users and interested groups, like environmentalists, have standing to participate in our decisions. The House bill has changed the language in the present act. It is our view that this change in language does not create a change in substance in view of the case law which does not suggest that courts view these two phrases differently. While we do not believe a change back to the original FIFRA language is required, the Committee may wish to include language in the Committee report which would clarify what we believe to be the case.

Sincerely,

DAVID D. DOMINICK,
Assistant Administrator for Categorical Programs.

The Subcommittee recommended and the full Committee approved the following comments:

1. A number of witnesses recommended amendments to specifically require the labeling to bear directions and warnings to protect farmers and others coming into contact with pesticides or residues; prohibit use of test data unless the tests were legal and voluntary; specifically mention danger to farmers and others coming in contact with pesticides or residues as a ground for restricted use classification; and specifically

require certified applicators to have the ability to guard against such danger. The bill, as reported by the Committee, provides complete safeguards to protect farmers and others coming into contact with pesticides or residues. It does so in general terms that are very broad and cover much more than would be covered by the proposed amendments. The Committee felt that by specifically mentioning particular areas protected by the general provisions, there might be some suggestion that the general provisions should be construed to cover less than actually intended. Section 2(j) of the bill defines "environment" to include all men, whether they come into contact with the pesticides or pesticide residues, or not. Sections 2(q)(1)(F), (G), and (H) and 3(c)(6)(C) are designed to protect all men. The Committee believes there can be no question about the matter, but takes this occasion to emphasize that the bill requires the Administrator to require that the labeling and classification of pesticides be such as to protect farmers, farm workers, and others coming in contact with pesticides or pesticide residues.

2. A number of witnesses supported amendments to—

(1) add a new definition, defining "unreasonable adverse effects on the environment",

(2) provide for use of the new definition in section 3(c)(5)(C) providing for approval of registration, and

(3) strike out the last sentence of section 3(c)(5) which prohibits denial of registration because of "lack of essentiality".

The Environmental Protection Agency advised the Committee that it would construe the new definition to have exactly the same meaning as that for "substantial adverse effects on the environment" in section 2(bb) of the bill, that adoption of the new definition would require additional changes throughout the bill, and that striking out the last sentence of section 3(c)(5), which prohibits denial of registration because of "lack of essentiality", would make no difference in the manner in which the bill was carried out. With respect to lack of essentiality, EPA said:

We believe the present language of section 3(b) is preferable since it states Agency policy. Where two products pose that same degree of risk and are equally necessary and effective, one should not be registered in preference to the other. Of course, where the same control can be achieved more safely than with a product which is being examined, the definition of "substantial adverse effects" in section 2(bb) would itself mandate consideration of the alternatives.

Consequently the Committee did not adopt these amendments.

3. Dr. Ralph E. Heal, Executive Secretary of the National Pest Control Association, raised the following question at the Committee's hearings on this bill:

At the hearings on S. 745 last year, our Association asked for an amendment that would permit enough flexibility in interpretation of label instructions to permit our industry to control certain minor pests legally under circumstances where no pesticide had been registered for the control of that pest. H.R. 10729 provides wording that could be interpreted as giving this flexibility, when it says, "Section 12(a)(2)(G). It shall be unlawful for any person to use any registered pesticide in a manner inconsistent with its labeling." The Report of the House Committee on Agriculture, No. 92–511, discussed the interpretation of "inconsistent," recommending that it be applied in a common sense manner (page 16, item 11). The illustration used, however, dealt with concentration of pesticide rather than species of pest to be controlled.

We again ask your consideration of this question. A preliminary check has shown that we have no effective pesticide registered for the following pest problems:

Honey bees nesting in a house.
Book lice in a home.
Strawberry root weevil invading a home.
Springtails in an office.
Box elder bug invading a house.
Carpenter bees in the siding of a house.
Bamboo borer in furniture.
Fungus beetles in a home.
Elm leaf beetles invading a home.
Wax moths from abandoned honey comb in a wall.
The blood sucking cone nose budg.

Undoubtedly there are many more. We cannot expect a manufacturer to go to the expense of registering a product for the control of minor and occasional pests such as these. But these pests can be controlled by pesticides that have been registered for control of other pests in comparable locations or environments. It would be helpful in the cause of permitting us to be a law-abiding industry if it were recognized that such a use of a pesticide would not be "inconsistent" with its labeling. If we can help in any way in formulating such a clarification we would want to do so.

This bill would regulate the use of a pesticide for the first time. It is not the intention of the Committee to prohibit any use which is in no way harmful, and which has only beneficial effects on man and his environment. The Committee considered an amendment to the bill to assure that such use would not be prohibited, but concluded that this was a matter which would have to be left to the good sense of the Administrator, the manufacturers, and the users. It is the hope of the Committee that by proper administration of the labeling requirements and administrative interpretations of the law and the labels approved by him, the Administrator will be able to make it clear to users that such uses are not prohibited. Further, it is the belief of the Committee that the use of the word "inconsistent" should be read and administered in a way so as to visit penalties only upon those individuals who have disregarded instructions on a label that would indicate to a man of ordinary intelligence that use not in accordance with such instructions might endanger the safety of others or the environment. Thus, for example, it would be expected that use of a general, unrestricted pesticide registered for use on enumerated household pests to exterminate a pest not specified on the label would not be inconsistent with the labeling. On the other hand, the use of even a general use pesticide in a manner inconsistent with a specified caution or restriction on the label should be considered inconsistent with the labeling. For example, the use in the home of a general use pesticide labeled "for use outdoors" or "not for use in enclosed areas", would be prohibited under this provision.

4. The Senate Committee considered the decision of the House Committee to deprive political subdivisions of States and other local authorities of any authority or jurisdiction over pesticides and concurs with the decision of the House of Representatives. Clearly, the fifty States and the Federal Government provide sufficient jurisdictions to properly regulate pesticides. Moreover, few, if any, local authorities whether towns, counties, villages, or municipalities have the financial wherewithal to provide necessary expert regulation comparable with that provided by the State and Federal Governments. On this basis and on the basis that permitting such regulation would be an extreme burden on interstate commerce, it is the intent that section 24, by not providing any authority to political subdivisions and other local authorities of or in the States, should be understood as depriving such local authorities and political subdivisions of any and all jurisdiction and authority over pesticides and the regulations of pesticides.

5. Sec. 164.31(c) of the rules of procedure which were proposed and published in the Federal Register of January 22, 1972, would authorize any witness testifying in a review proceeding under the Act to record his testimony for subsequent televising or broadcasting. The Committee disapproves of this provision. The review proceedings authorized by section 6 are adjudicatory in nature. As such they are subject to the various statutory and constitutional provisions relating to adjudicatory hearings. The purpose of the hearings is to provide a record of competent scientific evidence for the consideration of the Administrator in making his decision as to whether or not a registration should be granted or denied. The obligation is on the Administrator to make this decision based upon the record as a whole and not upon any one part of the record. Televising or broadcasting is of necessity related to just one portion of a witness' testimony. It would of necessity exclude any cross-examination or other testimony which would raise a question as to the qualifications of the witness or the validity of this testimony.

The rule published on May 11, 1972, did not include the provision discussed above, and the Committee does not approve of their inclusion at any later date.

Mr. ALLEN. Mr. President, the Committee on Agriculture and Forestry worked long and hard on this bill. On March 23, 24, 25, and 26, 1971, its Subcommittee on Agricultural Research and General Legislation held hearings on S. 232, S. 272, S. 660, and S. 745. The subcommittee heard all witnesses who wished to testify and a total of 70 witnesses presented statements. The committee carefully analyzed all bills and made detailed comparisons of S. 660 and S. 745 with existing law. On March 7 and 8, 1972, the subcommittee held hearings on H.R. 10729 and again heard all witnesses that wished to testify. A total of 89 witnesses presented statements. Many helpful suggestions were made. Hundreds of amendments were proposed. All of them were carefully considered by the subcommittee and the committee. Several committee prints were made of S. 745 and H.R. 10729 to illustrate a number of these amendments. The committee included in its recommended amendment to the Senate all those amendments proposed by witnesses which it deemed meritorious.

Mr. President, this bill does two things. First, it provides for regulating the use of pesticides, as distinguished from their labeling and interstate distribution. Second, it extends pesticide regulation to intrastate commerce.

At present, the Federal Insecticide, Fungicide, and Rodenticide Act prohibits interstate commerce in unregistered pesticides. It permits registration only when, if used as directed or in accordance with commonly recognized practice, the pesticide is not injurious to man, vertebrate animals or desirable vegetation. The Administrator of the Environmental Protection Agency, who administers this act, is required to refuse to register any article if it does not appear to him that it complies with all of the provisions of the act. He may cancel the registration of any pesticide under the same circumstances. Directions for the use of the pesticide and the cautions and warnings which must appear on its label are subject to his approval. The Administrator, therefore, now has the power to keep

harmful pesticides off the market and the power to see that adequate directions and cautions are on the label setting out the manner in which the pesticide should be used.

The Administrator does not, however, now have any power to see that the directions are followed. This bill would provide that authority by making it unlawful to use any registered pesticide in a manner inconsistent with its labeling. This provision gives the Administrator complete control over the use of any pesticide. He must refuse to register it unless its labeling complies with the requirements of the act and it will perform its intended function without unreasonable adverse effects on the environment. In order to comply with the requirements of the act, the labeling must contain such directions, cautions, and warnings as the Administrator finds adequate to protect health and the environment. The bill would require those directions, cautions, and warnings to be followed.

In order to provide for a more finely tuned control of pesticide use, the bill provides further for the division of pesticides into general use pesticides and restricted use pesticides. Pesticides classified for restricted use could be applied only by or under the direct supervision of a certified applicator or subject to such other restrictions as the Administrator might provide by regulation. Suppliers would be prohibited from making restricted use pesticides available for use other than in accordance with such regulation. This would provide for very tight control. The sale of restricted use pesticides could be limited to certified applicators who had proved their ability to use them properly and who faced loss of certification if they used them contrary to regulation. Restrictions imposed by regulation could be changed by the Administrator from time to time as he deemed necessary, relaxing the regulation where that could be safely done so as to make the benefits of the pesticide more easily obtainable, or tightening restrictions where that action appeared necessary to protect health and environment. It is anticipated that only the more dangerous pesticides would be classified for restricted use.

The other major change made by the bill is to extend it to all pesticides intended for use in the United States. Present law applies only to those distributed in interstate commerce. These two changes give the Administrator practically plenary power to assure that every pesticide in the country is properly labeled with adequate cautions and directions and restricted, wherever necessary, to use by trained applicators.

In addition to the two major changes discussed above, the bill would completely revise the Federal Insecticide, Fungicide, and Rodenticide Act. It would strengthen enforcement by:

First, requiring the registration of all pesticide producing establishments and regular submission by them of information;

Second, authorizing entry, inspection, and sampling at places where pesticides are held for sale;

Third, authorizing stop sale, use, or removal orders and seizure.

It would authorize the Administrator to establish packaging standards to protect children and adults from accidental injury. It would authorize the Administrator to regulate pesticide and container disposal, to issue experimental use permits, to conduct research, and to monitor pesticide use and presence in the environment.

It would prohibit the Administrator from considering data submitted in support of one application from being considered in support of any other application for registration unless a reasonable share of the cost of producing the test data to be relied upon is paid by the second applicant. The cost of testing a product to determine the pests for which it is effective, the commodities on which it can be safely used, and the proper method of application may be very great. If the product is not patentable or if the patent protection has expired, there is nothing at present to prevent a competitor from registering a similar product and establishing efficacy and safety through use of the first applicant's data.

The bill would limit appropriations to carry out the act to the period ending June 30, 1975. This would make a review of this legislation necessary prior to that date.

Mr. President, pesticides serve many purposes. They include insecticides, fungicides, rodenticides, herbicides, and nematocides. They are important to the cleanliness and sanitation of our homes, restaurants, hospitals, food processing plants, and other places. They are important to forests, to soil conservation, and to our water supplies which in turn are so dependent upon good forest and soil management. They contribute to the quantity and quality of our food supply from the seed intended for planting to the serving placed on the table. During all stages of production and processing, our food supply must be protected from insects, rodents, weeds, and fungus. Production is helped through the use of plant regulators, defoliants, and dissicants. All of these are necessary to assure the farmer of a bountiful harvest and the consumer of adequate supplies of attractive and nutritious foods at reasonable prices.

However, pesticides do not constitute an unmitigated blessing. The attributes which make them useful and necessary also make them dangerous. A poison which is capable of killing an insect or a rodent may, if not properly used, kill or cause serious injury to useful insects, pets, wildlife, or man. Defoliants improperly used may defoliate useful plants, and herbicides improperly used may kill desirable vegetation. Some pesticides may be too dangerous to use under any circumstances. Others may be used only with the greatest care. In almost all cases, they should be used in accordance with carefully prepared directions and cautions.

It is the purpose of this bill to regulate the use of pesticides so as to obtain their benefits and avoid their dangers; provide a bountiful food supply; protect our forests, parks, and homes from attack by insects, rodents, and other pests; protect our health from pest-carried diseases, and at the same time protect our food supply, wildlife, and health from the harmful effects which can be caused by misuse of pesticides.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point an explanation of the compromise substitute for the text of H.R. 10729.

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

EXPLANATION OF COMPROMISE SUBSTITUTE FOR THE TEXT OF H.R. 10729

Mr. President, at the same time that the Committee on Agriculture and Forestry reported this bill I asked that it be referred to the Committee on Commerce. That Committee reported the bill on July 19 with a number of amendments; and since that date the two Committees have been trying to work out the differences between their respective recommendations. There never was any basic difference in purpose; and an amendment in the nature of a substitute has been prepared resolving all of the differences.

DESCRIPTION OF AGRICULTURE AND COMMERCE COMMITTEE STAFFS, SUBSTITUTE FOR TEXT OF H.R. 10729

The substitute consists of the amendment recommended by the Committee on Agriculture and Forestry, plus—

(1) Commerce Committee Amendment No. 1 (registration criteria), with technical modifications. This amendment represents no change in substance, but does constitute a slight clarification in language.

(2) a substitute for Commerce Committee Amendment No. 2 The substitute retains the exclusive use of data provision recommended by this Committee; but provides in addition for a mandatory licensing system under which permission to use test data in return for a reasonable share of the cost of producing the data would be required.

(3) a substitute for Commerce Committee Amendment No. 3. The substitute would prohibit any member of a scientific advisory committee from having a financial or other conflict of interest with respect to any matter considered by such committee. This appears to be in accord with existing general government policy.

(4) a substitute for Commerce Committee Amendment No. 5 (exports). The substitute would—

(A) make producers of pesticides and devices for export subject to section 8 (which authorize the prescription of books and records requirements), and

(B) prohibit the exportation of pesticides prepared for export in accordance with the foreign purchaser's directions if such export would result in adverse effects to the environment of the United States.

Unlike the Commerce Committee Amendment, this provision correctly makes the producers, rather than the pesticides, subject to the recordkeeping requirements; retains and expands the Agriculture Committee provision requiring notice to foreign governments of pesticides banned in the United States; provides a penalty for exportation contrary to its provisions; would require the Administrator, in determining whether export of a pesticide should be banned, to consider whether such a ban would merely shift production to foreign countries (i.e., whether the ban would actually result in any protection to the environment of the United States); and would not require pre-clearance unless the pesticide was one which the Administrator by regulation had listed as one "likely to result in adverse effects on the environment of the United States". The Commerce Committee amendment would

have prohibited exportation of even the most innocuous pesticide packed in accordance with the purchaser's directions until such export had been cleared by the Administrator. The listing of any pesticide as "likely to result in adverse effects" would be subject to judicial review.

(5) a substitute for Commerce Committee Amendment No. 6 (confidentiality). The substitute would—

(A) keep the Agriculture Committee provision requiring submission of all test data requested by the Administrator;

(B) delete the Agriculture Committee provision requiring the Administrator to make the data called for in the registration statement and other scientific information available to the public within thirty days after registration;

(C) prohibit the disclosure of information or data received or sent pertaining to applications for registration until thirty days prior to registration (or at registration if an emergency or the public health requires that registration not be delayed), and require such data to be made available to the public at that time. If the Administrator determined during such thirty day period on the basis of substantial new evidence or evaluations of data earlier received that the pesticide did not meet the requirements for registration he would have to give the applicant notice of that fact within such period, thereby initiating denial of registration proceedings.

(D) require written communications between the Administrator and any person to be made available to the public upon identifiable request and at reasonable cost; but only subject to such conditions as will not unreasonably interfere with administration of the Act, paragraph (C) above, or the prohibition against disclosure described in paragraph (E) below. The Commerce Committee amendment on this point would have required oral communications to have been made public, would have been limited to communications between the Administrator and "manufacturers", would not have been conditioned on non-interference with administration, and would not have been limited as described in (C) above.

(E) prohibit disclosure of trade secrets, confidential financial information, or commercial information the disclosure of which may give a competitor a competitive advantage, except to other federal officials, in judicial proceedings, in proceedings under the Act, and to any other person in order to protect the public health. The Administrator's decision to release any information which the registrant or applicant believed to be protected from disclosure would be subject to judicial review by declaratory judgment.

(6) a substitute for Commerce Committee Amendment No. 7 (citizens' suits). The substitute would provide for citizens' suits only against the Administrator for failure to perform non-discretionary acts or failure to investigate and prosecute violations. Unlike the Commerce Committee amendment, citizens' suits would not be authorized against manufacturers, distributors, users, and other persons; and the amendment does not provide for the payment of attorney's and expert witness fees and other litigation costs.

(7) a substitute for Commerce Committee Amendment No. 9 (inclusion of farmworkers in term "man"). The substitute contains none of the Commerce Committee provisions, but instead make it an unlawful act to use any pesticide in tests on human beings without disclosure of foreseeable consequences and voluntary participation.

(8) a substitute for Commerce Committee Amendment No. 11 (suspension). The substitute contains none of the Commerce Committee provisions, but instead (1) provides that a court stay of a suspension order issued without a hearing shall continue in effect until the Administrator's final decision with out respect to cancellation or change in classification, instead of only until the Administrator's hearing on the suspension; and (2) permits participation by other parties (in addition to the Administrator and registrant) in a suspension hearing conducted prior to suspension of registration.

(9) a substitute for Commerce Committee Amendment No. 15 (specific authorization). The substitute would authorize appropriation for fiscal 1973, 1974, and 1975 not to exceed, respectively, $40 million, $52 million, and $64 million (in lieu of the Commerce Committee figures of $15 million, $25 million, and $35 million.

(10) minor amendments of a technical nature.

(11) a provision for screening imported agricultural commodities to determine pesticide residues that are excessive under the Federal Food, Drug, and Cosmetic Act.

Commerce Committee amendments 4 (penalties), 8 (hearing structure), 10 (authority of local governments to regulate the use of pesticides), 12 (authority of states to register pesticides), 13 (record-keeping by private applicators), and 14 (right of entry) are not included in the substitute.

As part of the agreement with respect to a substitute it was agreed that the following should be included in the legislative history of the bill:

TRADE SECRETS

(1) Information that constitutes a trade secret, financial information which is privileged or confidential, or commercial information the disclosure of which gives a competitor a competitive advantage with respect to the proprietor of the information should be protected from disclosure except under those circumstances enumerated in subsection (c)(1).

General approval is given to "trade secret" as incorporated in the Restatement of Torts.

In determining whether given matter constitutes a trade secret, consideration shall be given to—

(a) the extent to which the data is independently known to outsiders or is used by outsiders for similar purposes;

(b) the extent to which it is known by insiders;

(c) the extent of the measures taken by an owner to guard its secrecy;

(d) value of the data to the owner and others, including the extent to which, if used in conduct of a business, it would confer a competitive advantage on said owner;

(e) the amount of effort or money expended in developing the data; and

(f) the ease or difficulty with which the data could properly be acquired or duplicated by others.

Deliberation has been given to those circumstances under which it may be proper to release trade secrets. Those instances are set forth in subsection (c) of section 10. In all instances the disclosure shall be done in such a method as to guard the secrecy of the data as much as possible and insure it will not fall into the hands of a competitor.

LEGISLATIVE INTENT WITH RESPECT TO SECTION 3(C)(1)(D)

The change back to section 3(c)(1)(D) as reported by the Agriculture Committee with additions has essentially 2 purposes:

(1) To authorize the Administrator to require a description of *all* relevant tests and their results and

(2) To prevent unnecessary repetitive testing by subsequent applicants.

Thus, all data either voluntarily submitted hereunder or required to be submitted by the Administrator may be used by the Administrator in making determinations of the adequacy of the test data submitted in connection with other applications. As concerns use of such data in *support* of *another* application without permission of the originator of the test data, however, it is recognized that in certain circumstances it might be unfair or inequitable for government regulation to require a substantial testing expense to be borne by the first applicant, with subsequent applicants thereby gaining a free ride. On the other hand, unnecessary duplicative testing would represent a wasteful, time-consuming, and costly process resulting in a substantial misallocation of resources. Thus it was decided that fairness and equity require a sharing of the governmentally required cost of producing the test data used in support of an application by an applicant other than the originator of such data. If no agreement can be reached, the Administrator is vested with authority to determine the reasonable share of the cost of the test data used, including subsequent reallocations upon requests for use of such data by additional applicants.

Mr. ALLEN. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Michigan (Mr. HART).

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

STATEMENT BY SENATOR HART

It is my pleasure to rise in support of the substitute measure we are considering. Clearly it is a great step forward from the existing Federal Insecticide, Fungicide and Rodenticide Act, and it is my sincere hope that we will be able to pass it this year. Credit should go to many for the bill we have before us. The Senate Agriculture Committee has done a remarkable job in improving upon the bill sent over from the House. The distinguished Chairman of the Committee (Mr. TALMADGE) and the distinguished Chairman of the Subcommittee on Agricultural Research and General Legislation (Mr. ALLEN) are to be congratulated for their efforts in committee and for their willingness to discuss with members of the Committee on Commerce certain proposed amendments which that committee found desirable. The substitute measure incorporates several of the features of those amendments in what I think most would regard as a highly workable compromise. A testimony to that description may be found in the wide range of support that the initial announcement of this measure has received. It seems to me essential that we make all efforts to keep that support alive and add to it with the purpose of insuring that the bill reported back from the imminent House-Senate Conference resembles the one we consider today to the greatest extent possible.

Certainly the Administration deserves much of the credit for the emergence of this legislation this year. Many of the basic elements of the compromise bill stem from the legislation as originally proposed by the Environmental Protection Agency. Throughout our deliberations on the bill the Administration has repeatedly stressed the need for legislation this year. While I would agree with various Administration spokesmen that legislation is in fact needed, I would hope that they would agree with me that the particular legislation which best serves our needs is the legislation now before the Senate. We have indications that the Administration will support this bill. We would greatly welcome such support at the earliest possible time with the hopes that it will increase the chances for survival of the main features of the bill in conference.

The distinguished Senator from Alabama, Mr. ALLEN, has ably described the basic elements of our bill. It has been a pleasure for me to work with him throughout the development of this legislation, and I look forward to continued joint effort on our part in support of the concepts agreed on. The bill takes important strides in the control of the use of pesticides, the regulation of intrastate shipments and sale of pesticides,

control of exports of pesticides which may inflict unreasonable harm on the environment, the protection of farmworkers from involuntary risks, and the promotion of citizen participation in the regulatory process through comment before administrative agencies and litigation in the courts. It is a tough but fair bill which I would urge my colleagues to enact quickly and work for diligently in conference.

Mr. ALLEN. Mr. President, I would like to acknowledge the effective and diligent work done by the Senator from Michigan (Mr. HART); the Senator from Wisconsin (Mr. NELSON), who is going to speak in just a moment; and the Senator from Illinois (Mr. STEVENSON). Their efforts have contributed so much to the development of this bill. The Senator from Wisconsin prepared his own bill on this subject, S. 660, and the Committee on Agriculture and Forestry took much time on that bill and from the testimony of the Senator from Wisconsin (Mr. NELSON) and the amendments he proposed with the Senator from Michigan (Mr. HART), in developing the amendment recommended by the committee to the Senate.

Subsequent to the time this bill was reported by the Committee on Agriculture and Forestry, the Senators I just mentioned continued in their effort to work for a cleaner environment, for the banning of exports that might adversely affect the environment, and for protection of the farmworkers. Through their efforts and the efforts of other Senators on the two committees, we have been able to present a good bill to the Senate today. I am hopeful the bill will receive the unanimous support of the Senate, and I feel that this is an example of what can be accomplished by the diligent efforts of the staffs of the two committees seeking a reasonable compromise on this very delicate subject.

Without the help and hard and dedicated work of Mr. Harker Stanton, from the Committee on Agriculture and Forestry; Mr. Leonard Bickwit and Mr. Michael Brownlee, from the Committee on Commerce; Mr. Bernard Nash, from the Committee on the Judiciary; and the work of the Environmental Protection Agency, starting with Mr. William D. Ruckelshaus, Mr. David Dominick, Deputy Administrator, Mr. Steadman Overman, Mr. Kenneth Wood, and Mr. Charles Fabricant, all of whom made considerable input into the compromise that has been reached, on this bill, we would not have reached this accomplishment.

I must say that it is a much better bill than came out of the Senate Committee on Agriculture and Forestry. As fine a bill as we all felt that was, we believe that the amendments that have been proposed by the distinguished Senator from Wisconsin (Mr. NELSON), the distinguished Senator from Michigan (Mr. HART), and the distinguished Senator from Illinois (Mr. STEVENSON), have made this bill a much better bill, a bill which will protect better the environment, but which will also protect the farmer and those engaged in agriculture in the use of pesticides, and guarantee them the right properly to use pesticides in the tremendous jobs they have of providing the necessary food and fiber for this country and for much of the free world.

I would also like to commend the chairman of the Committee on Commerce, the Senator from Washington (Mr. MAGNUSON). Through his efforts and those of the chairman of the Committee on Agriculture, the Senator from Georgia (Mr. TALMADGE), the two committees worked together very closely in working out a compromise that I feel should be acceptable to all the divergent interests concerned with this legislation.

So it has been a spirit of compromise that has brought about the agreement that we are submitting to the Senate at this time.

At this time I would like to yield to the distinguished Senator from Wisconsin (Mr. NELSON), who has contributed so much to the reaching of this agreement.

Mr. NELSON. I thank the distinguished Senator from Alabama.

Mr. President, it is not necessary for me to describe each of the provisions of this bill, because they have been clearly presented by other Senators who are members of either the Agriculture Committee or the Commerce Committee. I would like to say, however, that this is a historic piece of legislation. For the first time, we have before us a bill that has come out of the Committee on Agriculture and Forestry and also has been reported by the Commerce Committee, which establishes a rational procedure for the testing, marketing, and controling the use of pesticides. It is a step that has been long overdue. In this country and in other countries we have been indiscriminately admitting into the marketplace chemicals for pest control and herbicides for controlling plant life without having any knowledge of the implications of their use.

The Committee on Agriculture and Forestry, its chairman, Mr. TALMADGE and the Senator from Alabama (Mr. ALLEN), have put in long hours on this bill. So have the Senator from Michigan (Mr. HART) and the Commerce Committee spent long hours on this bill. Now, these two committees, together with their staffs, have reached an agreement on a piece of legislation which will probably turn out to be as significant as any environmental legislation that has previously been considered by this Congress. So I wish to commend those Senators and their staffs who have worked so hard on reaching this agreement, and finally producing an effective and sensible bill for the rational control and use of herbicides and pesticides.

Mr. President, a little over a decade ago scientists began raising questions about the environmental damage and human health hazards posed by the unrestricted use of chemical pesticides. At that time anyone calling for improved regulatory programs and controls before toxic pesticides became pervasive in our environment was branded as a "nut."

Like the warnings of Rachel Carson in her 1962 book, "The Silent Spring," expressions of concern about the indiscriminate use of toxic and dangerous chemicals in pest control were dismissed out of hand. It was simply stated that you cannot halt the march of progress. It was further argued that because the possible dangers were not proven, they should not be given serious consideration.

The French writer Jacques Ellul claims that there is a "technological imperative" which is the dominating force of our age:

> Everything which is technique is necessarily used as soon as it is available, without distinction of good or evil. This is the principal law of our age.

Such a law is not inevitable. Technical possibility can and must be incorporated with human and ethical judgments in making decisions about proceeding from laboratory possibility to societywide application. Nowhere is the need for anticipatory investigate and regulatory mechanisms more appropriate than in the field of toxic and persistent pesticides control.

The record is now abundantly clear that a single strategy of pest control through the use of chemical pesticides has been an economic, environmental, agricultural and public health failure. Not only have we saturated the environment with many toxic poisons that endanger a wide spectrum of living organisms including birds, animals and marine creatures but continued massive use of certain chemicals threaten the production of some crops.

Six years after I introduced the first legislation in Congress to limit the use of DDT, and now after administrative proceedings that extended for some 15 months, we are finally able to anticipate an end to the irrational and excessive use of this persistent chemical. By the end of this year a ban on all uses of DDT except for some very restricted specific uses and for public health needs becomes effective.

The need for rational control and sensible use of pesticides is compelling. Each year this country produces 1 billion pounds of chemical pesticides. This means a production of 5 pounds of pesticides for every American in this country. At this level we are now facing immediate as well as unknown long-term ecological damage. At this level we are now facing reports that pesticides were involved in the deaths of about 200 people in 1970.

If projections from existing production rates are correct, we must also face the prospect that by 1985 the production of pesticides in this country will approximate 6 billion pounds. To regulate and control toxic and long-lasting chemicals, we are still dependent upon Federal law that has not been updated for 25 years.

The Federal Insecticide, Fungicide, and Rodenticide Act of 1947 requires only that pesticides must be registered before they move in interstate commerce. This authority basically deals with registration and labeling requirements. It has no authority to deal with the actual use or misuse of these chemicals. It does not regulate pesticides moving solely in intrastate commerce. As recent experience has shown, any administrative actions that are undertaken under this law to remove a pesticide from the market are not only exceedingly complex and lengthy, they are also undertaken after

distributions in the market and use in the environment.

Instead of continuing to wait for tragic evidence of pesticide dependence and misuse to force itself upon our consciences, we must institute the legal scientific, and administrative framework to search for hard information and knowledge about pesticides and pest control before these toxic substances become widely used. Passage of H.R. 10729 will indicate that we are finally prepared to impose sensible rules and guidelines for the marketing and use of pesticides.

This January the Senate approved a bill which I introduced last year to establish a 5-year national field demonstration program in integrated pest control. Under the provisions of S. 1794, all the various methods of pest control—biological, physical, as well as chemical—are integrated into a program to best suit the climate and crop conditions in particular agricultural areas.

Now we are considering and debating another major piece of pesticide legislation. H.R. 10729 seeks to modernize the Federal Insecticide, Fungicide, and Rodenticide Act and give the Environmental Protection Agency the proper administrative tools to both regulate the entry of new pesticides into the market and oversee the actual use and application of these pesticides once they have been registered with EPA.

Both S. 1794 and H.R. 10729 bear the personal mark and reflect the diligent efforts and support of Senator JAMES ALLEN and the Agriculture Committee. Both of these measures were shaped by Senator ALLEN in his Subcommittee on Research and General Legislation and his contributions to these two major pieces of pesticides legislation have been significant.

H.R. 10729 also was referred to the Commerce Committee where the efforts of Senator HART contributed additional substance to the legislation before us. In reporting H.R. 10729 to the Senate on July 19, 1972, the Commerce Committee proposed 15 amendments. As a cosponsor with Senator HART of a majority of these amendments it is my opinion that these provisions give important additional authority to the Environmental Protection Agency to protect the environment and the public from the misuse of unnecessary or dangerous pesticides.

The package of amendments now before us reflect a reasonable compromise agreement between the Agriculture Committee and the Commerce Committee. Each participant in this agreement may have some reservations about particular provisions that have been added or about particular provisions that have been deleted.

No one should have any doubt, however, that this agreement marks a major and significant improvement over present authority to control pesticides. No one should have any doubts about the concern for environmental quality which is expressed in this bill with the addition of the Agriculture/Commerce package of amendments.

H.R. 19729, as amended by the Agriculture/Commerce agreement, would provide:

First, that all pesticides moving in interstate or intrastate commerce be registered with EPA;

Second, that EPA may deny or remove a registration upon a showing of "unreasonable" risks to the environment—including man—in registering a pesticide;

Third, that EPA would be authorized to classify pesticides for general use, or restricted use by qualified applicators, depending upon the hazards;

Fourth, that EPA may cancel registrations following administrative review, and may summarily suspend registrations in the case of an imminent hazard;

Fifth, that establishments producing pesticides be registered with EPA;

Sixth, that the Administrator may issue stop-sale, use, removal, and seizure orders with respect to any pesticide in violation of the act;

Seventh, that citizens be authorized to bring injunctive suits against EPA for failing to perform mandatory duties or for failing to investigate allegations of misuse;

Eighth, that farmworkers be protected from involuntary pesticides experiments; and

Ninth, that EPA may prohibit the export of pesticides under certain conditions and will provide foreign governments of all important decisions on pesticides regulations.

I think it is particularly important that the Agriculture/Commerce agreement reflects the substance of nine of the 11 amendments which Senator HART and I introduced on March 7, 1972. Thus, H.R. 10729, as amended by the Agriculture/Commerce amendments, would contain provisions—

First, that would change the standard of registration of a pesticide from no "substantial adverse effects" on human beings or on the environment to no "unreasonable adverse effects" thereby requiring an assessment of the social costs and the social benefits of any pesticides application;

Second, that the test data submitted by manufacturers in support of a pesticide registration will be made available to the public 30 days before a decision to register a pesticide becomes effective;

Third, that test data shall be available to manufacturers who are willing to share the costs;

Fourth, that if a pesticide is likely to be used differently than indicated by the label with possible adverse environmental effects, it would be classified for restricted use by certificated applicators;

Fifth, that members of scientific advisory committees shall have no financial or other conflict of interest;

Sixth, that would not offer any indemnity to manufacturers whose pesticides are removed from the market by cancellation or suspension of their registration;

Seventh, that citizens suits would be allowed for the enforcement of the act;

Eighth, that would provide that the public would have a right to participate in most suspension procedures; and

Ninth, that would give EPA the authority to control exports of pesticides under certain conditions and also require the Administrator to inform foreign governments of important decisions in domestic pesticide regulation.

Mr. President, I ask unanimous consent that several editorials commenting on this legislation which were printed in the New York Times, the Washington Post, and the Sheboygan Press be printed at this point in the RECORD.

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

[From the New York Times, July 16, 1972]

NEW LAW FOR PESTICIDES

Soon after its return this week the Senate is scheduled to take up a revised pesticide control bill, one of the most important—and controversial—items on its agenda. If the legislation is to serve the interests of the environment, at home and abroad, the Senate bill will have to prevail over its feeble counterpart in the House of Representatives. And if it is to be a really major contribution, it will have to include the strengthening amendments added by Senators Nelsen of Wisconsin and Hart of Michigan.

Even the basic Senate bill is superior to the House version, which would require pesticide manufacturers to file only minimal information and would, in effect, relieve them of having to prove that a product is both safe and necessary before it can be registered. Even worse, it would indemnify manufacturers for financial loss, should the Government feel compelled to rule a noxious chemical off the market.

Among the Senate amendments, which await only formal approval by the Commerce Committee, three are outstanding. One would require a manufacturer applying for registration of a product to report all its test data to the Environmental Protection Agency and to insure that no pertinent information be hidden from public disclosure on the ground that it is a "trade secret."

Another would permit citizen suits against both manufacturer and the E.P.A. for alleged failure to perform a mandatory duty in connection with the registration process. And a third would require that foreign nations and international agencies be fully warned of the danger of those pesticides which the United States bans at home but allows to be exported. A terrifying example is the fungicide used to treat grain shipments intended for seed, which has caused the deaths of hundreds of Iraqis who unwittingly used the seed for bread.

These and a dozen other strengthening amendments will be treated as a block on the Senate floor. If they are approved, opponents will have to chip away at them one by one, which should be difficult. If they are voted down *en bloc*, then their proponents will have to reintroduce them one by one, which will be even harder.

Congressional environmentalists will need all the public backing they can get for the floor fight and for the conference committee battle to follow.

[From the Washington Post, March 12, 1972]

THE NEED FOR PESTICIDE CONTROL

No one who has enjoyed the bounty of farmers have done well in supplying the nation with food. The production rate since 1940 is phenomenal; according to the Department of Agriculture, the production of 17 major crops in 1969, if produced with the average yields of 1940, would have required almost 300 million acres more land than was actually used—a land area equivalent in size to the states of Texas, New Mexico and Arizona. One reason many of these farmland miracles have occurred is the wide application of pesticides, the highly toxic chemicals that include insecticides, herbicides, fungicides, rodenticides, fumigants and a small sea of related products. An estimated one billion pounds of pesticides are produced annually, about five pounds for every American.

The trouble with these pesticides is that not only are pests destroyed but so also are

large parts of the environment and wildlife. Russel E. Train, chairman of the Council on Environmental Quality, has noted that in 1970 pesticides were involved in the death of about 200 people in the United States: those are the acute effects, saying nothing about chronic effects which take years or even generations to become apparent. The list of ecological damage caused by pesticides is long, starting with at least six million fish killed in one recent year. That these sad and tragic conditions exist may be traced to a number of causes, including a weak law passed by Congress in 1947, lax enforcement by the Department of Agriculture and a chemical industry not always overly concerned with questions of health and ecology.

The question of how to control the use and abuse of pesticides is expected to be settled in this session of Congress. Exhaustive hearings have been held, indicating once again the complexity of protecting the public's health and its environment when issues of technology and profits are concerned. The House has already passed a pesticide control bill. But despite some useful sections it is generally weak and hardly a major improvement over existing law. The nation's pesticide makers support the bulk of the House approach, and it is small wonder why. Among other things, the bill provides indemnification for chemical firms suffering losses as a result of owning a pesticide that was suspended as hazardous. As Senator Nelson has pointed out, suspending a pesticide is similar to other recalls in the marketplace—of defective cars or poisonous soups, for example. The government does not hand over money to these manufacturers for their hazards. So why the chemical makers?

Another weakness—one pointed out by David Dominick of the Environmental Protection Agency—is that EPA, in registering a pesticide, would not be allowed to look at test information already submitted by other manufacturers; thus, as Mr. Dominick points out, the House bill can "afford additional economic protection, foster monopoly, and it may tend to restrict pesticide business to large manufacturers."

A Senate Agriculture subcommittee is at work on legislation and will conclude hearings shortly. Senators Hart and Nelson have offered a series of amendments—ones largely supported by environmental and conservation groups—that are needed if real, rather than cosmetic, control is to be had. One amendment, for example, provides for citizen suits, allowing a citizen to enforce compliance when the government fails to act against a violator. Another amendment—also involving the public—asks that the facts about a pesticide be made available when application is made by the manufacturer to EPA; thus, its registration could be contested by the public and the scientific community.

As with the current struggle to get a clean water bill through Congress, immense effort goes into the process. Once these environmental laws are passed, the public will be forced to live with them for some time to come. Unless strong controls against pesticides are made now, the Congress might as well not have bothered. Twenty years ago, there was a certain innocence about spraying the land to get rid of bugs; but we know better now. Our land and ourselves are being poisoned, too.

[From the New York Times, Mar. 20, 1972]

FOR A NOISY SPRING

Two major bills for improving the environment are approaching legislative crises that will determine whether they are to be mere gestures or serious advances. A revised pesticide control law passed by the House will have to be greatly strengthened in the Senate if it is to afford more than weak protection against toxic substances that kill not only insects and fungi but fish, birds and mammals as well, including humans. The other measure of doubtful future is a water pollution control bill that left the Senate in robust health four months ago only to emerge enfeebled last week from the House Public Works Committee.

An especially strange concept embedded in the committee's approach to pesticide control is the novel provision that if a noxious chemical is ruled off the market, its manufacturer must be indemnified. David Dominick of the Environmental Protection Agency characterized the idea, rather too mildly, as "a bad precedent." Why should taxpayers be asked to compensate toy manufacturers for removing inflammable dolls from the market or soup makers for calling in poisoned cans?

Another House provision, concerning test data, would foster monopoly and restrict pesticide business to large manufacturers; still another would sanction a pesticide so long as it was safe if used as directed regardless of how dangerous it might be when misused.

Going beyond E.P.A.'s laudable recommendations to knock out these unsound proposals, Senators Nelson of Wisconsin and Hart of Michigan would provide for class action suits when Government fails to protect the public against dangerous pesticides. They would require that full information on these chemicals be made available at the time they are registered. For these and Mr. Dominick's objectives the Senators should be encouraged to make this a far from Silent Spring.

[From The Sheboygan (Wis.) Press, May 11, 1972]

THOSE PESTICIDES

Last November, the House approved legislation known as the Federal Environmental Pesticides Control Act.

It would require all pesticides to be registered with the Environmental Protection Agency and would set up general and restricted use categories. Only agency-certified applicators would be authorized to use restricted pesticides. The legislation also provides for indemnity payments to manufacturers of pesticides whose registrations were cancelled by EPA because the substances were found to be hazardous.

A Senate Agriculture Subcommittee has the bill under consideration. It is possible that after some amendments have been accepted, final action on the measure will be taken before the end of the current session.

Senator Gaylord Nelson of Wisconsin and Senator Philip A. Hart of Michigan have introduced 11 amendments. Their proposals include toughening the registration criteria, requiring that manufacturers' test data be made public before registration, classifying more pesticides for restricted use, and eliminating the provision requiring indemnity payments to manufacturers. Senator Adlai Stevenson III of Illinois is the sponsor of an amendment to help protect farmers and laborers exposed to pesticides. It has been estimated that as many as 800 workers are killed and more than 80,000 injured annually by agricultural chemicals.

Federal laws on the use of pesticides have undergone little change since 1947. Linda Billings of the Sierra Club contended at a subcommittee hearing that there is need for a profound and complete overhaul in the way this country deals with pesticides. Weldon Barton of the National Farmers Union testified that "there's something of a balance you have to strike between protection of the environment and continued food production." Then, there is the following assertion by John M. Stackhouse of the National Agricultural Chemicals Association:

"Pesticides are registered on the basis of a lot of work and a lot of scientific information. They're being criticized on the basis of a lot of emotion."

Without doubt, much emotion is involved. The debate started a decade ago with publication of Rachel Carson's "Silent Spring." The argument in this book was that many pesticides had unknown and cumulative effects on plants, animals and humans. A few years later scientists discovered harmful buildups of DDT and other chemicals in birds and fish and that Americans carry in their bodies an average of 12 parts per million of pesticide residues. This is nearly twice the level allowed for most foods in interstate commerce.

This is frightening, of course, but the fact remains that a great many Americans are living to a ripe old age and that the life span has been increasing. There is also the estimate by the Department of Agriculture that without pesticides there would be a 30 per cent drop in crop production and a 25 per cent loss of livestock. If that should happen, the resulting increase in food prices probably would have a greater adverse effect on the health of many Americans than the amount of pesticide residue in their systems.

Stricter controls over the use of pesticides undoubtedly are needed. Manufacturers are turning out one billion pounds of pesticides each year—five pounds for every American. The problem is to provide the needed controls without drastically cutting production. One possibility is that out of the current debate will come greater reliance on such control methods as insect predators, sterilization, pest diseases and the development of crop strains that are more resistant to pests. Thus, the sometimes heated debate could serve as a spur for such efforts.

[From the Washington Post, July 21, 1972]

CONTROLLING PESTICIDES

As if the weather wasn't hot enough already, a heated debate is expected soon on the Senate floor on the need for pesticide control. Unless total inertia takes over, Congress is likely to produce pesticide legislation this session. Last winter, the House acted; although its bill had useful sections it was generally weak and no great advance over existing law. There is no denying that pesticides have caused many farmland miracles by killing off destructive insects, pests, herbs, fungi and rodents. Along with the miracles, however, tragedies have occurred also. Chairman Russell E. Train of the Council on Environmental Quality reports that in 1970 pesticides were involved in the death of about 200 people. Ecological damage has been intense, not to mention long-range risks that take years, even decades, to run their course.

The Senate Agriculture Committee approved a bill that is superior to the House bill. It rejects, for example, indemnification for chemical companies suffering cash-register losses when a pesticide is banned as hazardous. This was a wise decision; why should an industry be paid for its mistakes? Despite this improvement and others in the Senate bill, additional strictness is needed. Senators Hart, Nelson and Stevenson have offered a series of amendments that are fair and logical, and would go far to protect farm workers, the food supply and the environment. These amendments have been adopted by the Commerce Department. One amendment, for example, would allow for the first time adequate control of pesticides sold to foreign countries. A fear exists that although DDT has been banned in the United States, its export to foreign nations may one day return to haunt us. Another amendment would require the Environmental Protection Agency to disclose nontrade secret information submitted by a manufacturer before approval of a pesticide is given. Currently, the public is cut off from such facts; thus, the public cannot contest the registration of a pesticide until after the fact. A third amendment would allow citizens to bring suit against violators of the law and against the EPA for failure to perform mandatory duties.

The Senate debate will be watched closely, not only by the chemical industry but also by a large number of conservation, environ-

mental, consumer, labor and farm groups. In the past, the latter bloc was not especially attentive to possible pesticide dangers. But now the dangers are no longer merely possible; many are actual. The Senate has an excellent chance to do what the House has not: control the use of pesticides and forbid their abuse.

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. Mr. President, I will say to my distinguished chairman that I yield back to him such time as remains of the time allotted to me.

Mr. TALMADGE. Mr. President, I yield back the remainder of my time.

Mr. AIKEN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment in the nature of a substitute (putting the question).

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. TALMADGE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TALMADGE. I believe the yeas and nays have been ordered; have they not?

The PRESIDING OFFICER. The Senator is correct.

Do Senators yield back their time?

Mr. TALMADGE. I yield back the remainder of my time.

Mr. AIKEN. Mr. President, I yield all time on this side.

The PRESIDING OFFICER. All time has been yielded back.

ORDER TO PROCEED TO S. 3987, A BILL TO REPLACE THE VOCATIONAL REHABILITATION ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, upon the disposition of H.R. 10729, on which the Senate is about to vote, the Senate proceed to the consideration of S. 3987, a bill to replace the Vocational Rehabilitation Act.

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

ORDER FOR RECOGNITION OF SENATOR JAVITS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, immediately following the remarks of the able Senator from Indiana under the order previously entered, the distinguished Senator from New York (Mr. JAVITS) be recognized not to exceed 15 minutes.

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

FEDERAL ENVIRONMENTAL PESTICIDE CONTROL ACT OF 1972

The Senate continued with the consideration of the bill (H.R. 10729) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes.

Mr. TUNNEY. Mr. President, only in the last few centuries has man made more than a trivial impact on the biological events of the world. But in that time, through his technology, he has taken from nature what cannot be replaced and created wastes which cannot be absorbed into natural cycles. This must be taken into strong consideration while discussing the whole question of pesticide legislation.

H.R. 10729 addresses the control and use of pesticides and ways to prevent their misuse. Clearly, we can approach solutions in the United States by enacting strong and workable guidelines; but the use of pesticides in foreign countries is, to a very great extent, not within our control, nor should it be. The fact, however, remains that we do import vast quantities of agricultural commodities. Since we are talking about the same American consumer, whether he is eating domestic or imported food—and often he does not know—he should be guaranteed equal protection.

In order to provide that protection I offered to the committees an amendment to the Federal Insecticide, Fungicide, Rodenticide Act which will require the Secretary of Agriculture and the Secretary of Health, Education, and Welfare to initiate and carry out an intensive quality control screening system at the ports of entry and in the market basket to detect pesticide residues.

This screening will complement the existing monitoring program already in operation by the respective departments. I believe additional screening for quality control of imports reaching the American table is necessary for several reasons.

Just as DDT accumulates in the physical environment, that and other chlorinated hydrocarbons and organophosphates accumulate in man and animal—in varying degrees. It is unknown, at present, exactly what this accumulation ultimately means but it is clear that we cannot afford to risk public health for the sake of questionable expediences. In short, any positive approach to a solution of pesticide contamination of our environment must be predicated on a total knowledge of all sources of contamination. Imported agricultural commodities are a factor and must be considered as such. Accordingly we must define as precisely as is statistically possible the quality of all commodities including imports which ultimately comprise the American diet.

The General Accounting Office, in its report of February 18, 1972, recognized the problem of pesticide residues in imported meats and made very specific recommendations to Congress for better inspection and improved methods of adminstration regarding that inspection. According to their report, many plants in foreign countries were inspected only once in a 10-month period. Their report stated, and I quote:

> United States consumers may not have been adequately safeguarded from imported meat and meat products processed under unsatisfactory conditions.

The Food and Drug Administration views pesticide residues a "worrisome threat to the food supply."

Mr. President, based on information I have received from highly qualified specialists, including veterinary public health officials, toxicologists, and physicians, I believe that much of the meat, poultry, citrus, coffee, and other agricultural commodites imported by the United States contain dangerous levels of pesticide residues.

Given even normal agricultural application of pesticides—and this is something which varies from country to country because of different environmental considerations, disease control and other variables—it is clearly fallacious to believe that the products we import are not contaminated to some degree or other. And it is precisely that degree with which I am concerned and precisely that degree which I believe we do not know. Tables published by the Food and Drug Administration show that dangerous pesticides are present in samples taken by their inspectors and those samples contain in almost every case higher levels of residue than do domestic samples. Many countries which export to the United States do not have laws regulating the use of pesticides, and in those which do, they are often not enforced. Latin America, alone, exports 480 million pounds of fresh and cooked meat to this country, and many of those countries do not even have laboratories capable of performing the necessary assays to determine pesticide residue levels.

In addition, the amendment requires that to the degree practicable, additional research shall utilize data on consumption patterns at different socioeconomic levels.

I believe this is very important. The Department of Agriculture itself has reported that one of the problems of lower cost processed meat has been pesticide residue.

Consumptive patterns are changing in the United States. More and more people are looking for substitutes for red meat—in many cases the substitute being processed meat. The Department has never statistically sampled imported processed meat, for example, and this was one of the specific recommendations made by the GAO.

Therefore, the obvious conclusion is that although we do know that residues are present in imports we do not know as much as we should.

I believe that foreign countries want to meet U.S. standards because they are, of course, interested in the welfare of their own citizens, as well as their need for export markets. Obviously, the necessary equipment is expensive and technicians to perform analyses require extensive training. Other national budgets may not be able to make that a priority, but the U.S. consumer is statutorily guaranteed inspection equal to U.S. standards. U.S. monitoring systems have, in the past, been instrumental in the enactment of pesticide legislation in other countries. For example, in 1968 Argentina banned the use of dieldrin and heptachlor specifically because of problems with export shipments to the United States.

Therefore, qualitative knowledge of pesticide residues in imported products will allow the United States to contribute

useful and informative data at the international level. And in this respect, I am talking specifically about U.S. contributions to the Codex Alimentarius—an international body concerned with food standards for direct and indirect food additives such as pesticides or drug residues.

International harmonization of standards is sure to have greater importance as more and more knowledge of the problem is known. For developing countries, this knowledge will aid in establishment of food legislation that provides adequate standards for consumer protection as well as assisting in the promotion of their exports.

Mr. PACKWOOD. Mr. President, as a cosponsor of the compromise measure worked out by the Senate Agriculture and Forestry Committee and the Commerce Committee, I want to express my appreciation to the members of those committees for their perseverance in developing the pesticide amendments we are voting on today.

This package has evolved through much agony, deliberation, argument, reflection, and compromise. Each has had to give some.

Effective pesticide legislation is an essential part of our environmental efforts here in the Senate. In my opinion the House has deserted the ship, and forced upon this Congress and the Nation an inadequate and weak bill. We have a chance to improve upon that sad picture, and while the compromise proposal before us may in some instances fall short of our high goals at the outset, I believe it deserves our wholehearted support as an important corrective step in the control and use of pesticides.

It is my hope that the Senate will approve the compromise today, and that the Senate conferees will hold steadfastly to the Senate version, particularly as it deals with registration criteria, indemnities, judicial review of all actions, prohibition on exports, citizen suits against the Administrator, availability of test data, and exclusive use of data.

As the sponsor of the administration proposal, S. 745, last year, I was dismayed with the setback handed us by the House. S. 745, in my opinion, was a good bill.

Senator NELSON also introduced strong legislation, S. 660. Both of these measures were given consideration by the Agriculture and Forestry Committee, along with the House-passed measure. Indeed, Senator ALLEN consented to hold additional hearings this year in order to give any concerned parties opportunity to comment upon the House bill.

Senator HART is to be commended for his efforts to improve upon the House bill, by working closely with the Agriculture and Forestry Committee.

There has been much time and effort spent on bringing forth the compromise we have before us today; and I hope that all within this Congress and in the administration who are sincerely concerned about our quality of life, will close ranks and stand firm on the Senate improvements.

Mr. DOLE. Mr. President, I wish to thank the Senator from Alabama (Mr. ALLEN) and members of the staff of the Committee on Agriculture and Forestry and the Committee on Commerce for their diligent efforts in compromising the two very different bills that emerged from the committees.

PRESERVES FARM USES

The bill now before us is of some historic significance in that it is sponsored by nearly all the members of the two committees. It has the general support of farmers and environmental groups as well.

The bill, which was conceived nearly 20 months ago in President Nixon's message on the environment, is a true product of the American way of government in that all viewpoints have been considered and melded together into a piece of legislation that we can all live with.

ENVIRONMENTAL PROTECTION

For the first time the Federal Government will have the tools to protect our environment from the abuses of unsafe pesticides while at the same time make available safe and efficacious products to enable our farmers to continue to supply an abundance of food and fiber at reasonable prices.

Mr. President, I will not attempt to reiterate here the specifics of this bill which have been so thoroughly explained by the Senator from Alabama. I would urge swift passage by the Senate of this landmark legislation in order that we may go to conference with the other body and send a final bill to the President for his signature at an early date.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Missouri (Mr. EAGLETON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Oklahoma (Mr. HARRIS), 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 Rhode Island (Mr. PELL), the Senator from Virginia (Mr. SPONG), the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) and the Senator from North Carolina (Mr. JORDAN) are absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. WILLIAMS), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. FULBRIGHT), and the Senator from Virginia (Mr. SPONG) would each vote "yea."

Mr. COTTON. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Illinois (Mr. PERCY), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

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

The Senators from Ohio (Mr. SAXBE and Mr. TAFT) and the Senator from Vermont (Mr. STAFFORD) are absent on official business to attend the Interparliamentary Union meeting.

The Senator from Kentucky (Mr. COOPER), the Senator from Florida (Mr. GURNEY), and the Senator from North Dakota (Mr. YOUNG) are detained on official business.

If present and voting the Senator from Kentucky (Mr. COOPER), the Senator from Florida (Mr. GURNEY), the Senator from Illinois (Mr. PERCY), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 71, nays 0, as follows:

[No. 476 Leg.]

YEAS—71

Aiken	Edwards	Mondale
Allen	Ervin	Montoya
Anderson	Fannin	Moss
Bayh	Fong	Muskie
Beall	Gambrell	Nelson
Bellmon	Gravel	Packwood
Bennett	Hansen	Pastore
Bentsen	Hart	Pearson
Bible	Hartke	Proxmire
Boggs	Hatfield	Randolph
Brooke	Hollings	Ribicoff
Burdick	Hruska	Roth
Byrd, Robert C.	Hughes	Schweiker
Cannon	Inouye	Smith
Case	Jackson	Sparkman
Chiles	Javits	Stennis
Church	Jordan, Idaho	Stevens
Cook	Kennedy	Stevenson
Cotton	Long	Symington
Cranston	Magnuson	Talmadge
Curtis	Mansfield	Thurmond
Dole	Mathias	Tunney
Dominick	McClellan	Weicker
Eastland	Miller	

NAYS—0

NOT VOTING—29

Allott	Griffin	Pell
Baker	Gurney	Percy
Brock	Harris	Saxbe
Buckley	Humphrey	Scott
Byrd, Harry F., Jr.	Jordan, N.C.	Spong
Cooper	McGee	Stafford
Eagleton	McGovern	Taft
Fulbright	McIntyre	Tower
Goldwater	Metcalf	Williams
	Mundt	Young

So the bill (H.R. 10729) was passed.

Mr. ALLEN. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House of Representatives and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. TALMADGE, Mr. ALLEN, Mr. HART, Mr. MOSS, Mr. MILLER, Mr. DOLE, and Mr. WEICKER conferees on the part of the Senate.

Mr. ALLEN. Mr. President, I ask unanimous consent that the bill as passed by the Senate be printed.

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

MESSAGE FROM THE HOUSE— ENROLLED BILLS SIGNED

A message from the House of Representatives by Mr. Berry, one of its read-

ing clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

H.R. 14015. An act to amend section 8c (2), section 8c(6), section 8c(7)(C), and section 8c(19) of the Agricultural Marketing Agreement Act of 1937, as amended; and

H.R. 16251. An act to release the conditions in a deed with respect to certain property heretofore conveyed by the United States to the Columbia Military Academy and its successors.

REHABILITATION ACT OF 1972

The PRESIDING OFFICER. Pursuant to the previous order, the Chair lays before the Senate S. 3987, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3987) to replace the Vocational Rehabilitation Act, to extend and revise the authorization of grants to States for vocational and comprehensive rehabilitation services, to authorize supplementary funds for vocational and comprehensive rehabilitation services to severely handicapped individuals, to expand special Federal responsibilities and research and training with respect to handicapped individuals, to establish an Office for the Handicapped within the Department of Health, Education, and Welfare, and for other purposes was announced as next in order.

The Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with amendments:

On page 1, line 3, after the word "and", strike out "title" and insert "titles";

On page 2, in the table of contents following line 2, strike out "Sec. 1. Short title.";

On page 3, in the table of contents following "Section 303. Training.", insert "Sec. 304. Reports.";

On page 6, line 22, after the word "by", strike out "five," and insert "ten,";

On page 7, line 2, after the word "by", strike out "thirty." and insert "sixty.";

On page 17, line 6, after the word "vocational", strike out "and" and insert "or";

On page 21, line 12, after "(5)", insert "(A)";

In the same line, after the word "the", strike out "plan," and insert "plans,";

At the beginning of line 22, strike out the word "provided," and insert "provided and the outcomes and service goals, and the time within which they may be achieved, for the rehabilitation of such individuals,";

On page 22, at the beginning of line 1, strike out "individuals;" and insert "individuals and shall not be inconsistent with priorities and outcome and service goals for serving handicapped individuals established in regulations prescribed by the Secretary;";

After line 4, insert:

(B) provide satisfactory assurances that no such comprehensive services shall be paid for with funds under this title unless maximum efforts have been made to secure grant assistance, in whole or in part, from other sources to pay for such services;

On page 23, after line 18, strike out:

(9) provide, at a minimum, for the provision of the vocational rehabilitation services specified in clauses (1) through (5) of subsection (a) of section 103, except that reimbursement may be sought from appropriate State or Federal programs or private insurers for services provided under clause (4) of such section, and the remainder of such services specified in such section after full consideration of eligibility for similar benefits under any other program, and provide that an individualized written rehabilitation program meeting the requirements of section 102 of this Act will be developed for each handicapped individual, and that such services will be provided under the plan in accordance with such program;

And, in lieu thereof, insert:

(9) provide, at a minimum, for the provision of the vocational rehabilitation services specified in clauses (1) through (3) of subsection (a) of section 103, and the remainder of such services specified in such section after full consideration of eligibility for similar benefits under any other program, except that, in the case of the vocational rehabilitation services specified in clauses (4) and (5) of subsection (a) of such section, such consideration shall not be required where it would delay the provision of such services to any individual;

(10) provide that an individualized written rehabilitation program meeting the requirements of section 102 will be developed for each handicapped individual, and that vocational and comprehensive rehabilitation services will be provided under the plan in accordance with such program;

On page 24, at the beginning of line 24, strike out "(10)" and insert "(11)";

At the top of page 25, insert "(including periodic estimates of the population of handicapped individuals eligible for services under this Act in such State, specifications of the number of such individuals who will be served with funds provided under this Act and the outcomes and service goals to be achieved for such individuals in each priority category specified in accordance with clause (5) of this paragraph, and the service costs for each such category).";

At the beginning of line 13, strike out "(11)" and insert "(12)";

At the beginning of line 23, strike out "(12)" and insert "(13)";

On page 26, at the beginning of line 4, strike out "(13)" and insert "(14)";

At the beginning of line 10, strike out "(14)" and insert "(15)";

At the beginning of line 13, strike out "(15)" and insert "(16)";

At the beginning of line 21, strike out "(16)" and insert "(17)";

On page 27, at the beginning of line 4, strike out "(17)" and insert "(18)";

At the beginning of line 21, strike out "(18)" and insert "(19)";

On page 28, at the beginning of line 9, strike out "(19)" and insert "(20)";

In line 11, after the word "clause", strike out "(15)" and insert "(16)";

On page 29, in line 10, after the word "that", insert "such further payments will be reduced, in accordance with regulations the Secretary shall prescribe or that";

On page 35, line 24, after "1973,", insert "and for each fiscal year thereafter with respect to such portion of the appropriations under subsection (a) of section 100 for such fiscal year as does not exceed $700,000,000,";

On page 36, after line 20, strike out:

(2) For the fiscal year ending June 30, 1974, and for each fiscal year thereafter each State shall be entitled to an allotment of the amount equal to its allotment under paragraph (1) for the fiscal year ending June 30, 1973.

On page 37, at the beginning of line 1, strike out "(3)" and insert "(2)";

In the same line, after the word "fiscal", strike out "year" and insert "years";

In the same line, after the word "ending", insert "after";

In line 2, after "1974," strike out "and for each fiscal year thereafter";

In line 4, after the word "paragraph", strike out "(2)" and insert "(1)";

In line 8, after the word "appropriated", insert "in excess of $700,000,000";

In line 17, after the word "appropriated", insert "in excess of $700,000,000";

On page 38, line 9, after the word "clause", strike out "(17)" and insert "(18)";

On page 61, line 6, after "GS–18," strike out "step one" and insert "under section 5332 of H.R. 5, United States Code,";

On page 89, after line 4, insert a new section, as follows:

REPORTS

SEC. 304. The Secretary shall include in the annual report to the Congress required by section 404 a full report on the research and training activities carried out under this title and the extent to which such research and training has contributed directly to the development of methods, procedures, devices, and trained personnel to assist in the provision of vocational and comprehensive rehabilitation services to handicapped and severely handicapped individuals under this Act.

On page 95, line 2, after the word "vocational", insert "and comprehensive";

In line 4, after the word "fiscal", strike out "year" and insert "year,";

After the amendment just stated strike out "and shall" and insert "(2)";

At the beginning of line 10, strike out the word "services." and insert "services, and (3) include a detailed evaluation of services provided with assistance under part C of title I of this Act.";

On page 96, line 18, after "501.", insert "In selecting personnel to fill all positions in the Office, the Secretary shall give special emphasis to qualified handicapped individuals.";

On page 99, line 25, after the word "this", strike out "Act." and insert "Act and references to such vocational Rehabilitation Act in any other provision of law shall, 90 days after such date, be deemed to be references to the Rehabilitation Act of 1972.";

On page 100 in line 21, after the word "Handicapped", insert "and the Chairman of the President's Committee on Mental Retardation";

In line 23, after the word "as", strike out "an";

In the same line, after the word "ex officio", strike out "member" and insert "members";

In line 24, after the word "Interagency", strike out "Committee" and insert "Committee, and the Secretary of

Health, Education, and Welfare shall serve as Chairman of the Committee.";

And at the top of page 103, insert:

(f)(1) The Secretary of Labor and the Secretary of Health, Education, and Welfare are authorized and directed to cooperate with the President's Committee on Employment of the Handicapped in carrying out its functions.

(2) There are authorized to be appropriated for salaries and expenses of the President's Committee on Employment of the Handicapped $1,000,000 for the fiscal year ending June 30, 1973, and $1,250,000 for the fiscal year ending June 30, 1974.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 1 through 9 and titles I through VI of this Act, with the following table of contents, may be cited as the "Rehabilitation Act of 1972".

TABLE OF CONTENTS

Sec. 2. Declaration of purpose.
Sec. 3. Rehabilitation Services Administration.
Sec. 4. Advance funding.
Sec. 5. Joint funding.
Sec. 6. Definitions.
Sec. 7. Allotment percentage.
Sec. 8. Audit.
Sec. 9. Special funding consideration.

TITLE I—VOCATIONAL AND COMPREHENSIVE REHABILITATION SERVICES

PART A—GENERAL PROVISIONS

Sec. 100. Authorization of appropriations.
Sec. 101. State plans.
Sec. 102. Individualized written rehabilitation program.
Sec. 103. Scope of vocational rehabilitation services.
Sec. 104. Nonduplication.

PART B—BASIC VOCATIONAL AND COMPREHENSIVE REHABILITATION SERVICES

Sec. 110. State allotments.
Sec. 111. Innovation and expansion grants.
Sec. 112. Client advocacy.
Sec. 113. Experimental appeal projects.

PART C—SUPPLEMENTARY FUNDS FOR VOCATIONAL AND COMPREHENSIVE REHABILITATION SERVICES TO SEVERELY HANDICAPPED INDIVIDUALS

Sec. 120. State allotments.
Sec. 121. State programs.
Sec. 122. Payments to States.

TITLE II—SPECIAL FEDERAL RESPONSIBILITIES

Sec. 200. Grants for construction of rehabilitation facilities.
Sec. 201. Vocational training services for handicapped individuals.
Sec. 202. Loans and loan guarantees for modernization and construction of rehabilitation facilities.
Sec. 203. Annual interest grants for mortgages for rehabilitation facilities.
Sec. 204. Special projects and demonstrations.
Sec. 205. National Center for Deaf-Blind Youths and Adults.
Sec. 206. Rehabilitation Centers for Deaf Individuals.
Sec. 207. National Centers for Spinal Cord Injuries.
Sec. 208. Grants for services for end-stage renal disease.
Sec. 209. Rehabilitation services for older blind individuals.
Sec. 210. National Advisory Council on Rehabilitation of the Handicapped.
Sec. 211. State advisory councils.
Sec. 212. General grant and contract requirements.

TITLE III—RESEARCH AND TRAINING

Sec. 300. Declaration of purpose.
Sec. 301. Authorization of appropriations.
Sec. 302. Research.
Sec. 303. Training.
Sec. 304. Reports.

TITLE IV—ADMINISTRATION AND PROGRAM AND PROJECT EVALUATION

Sec. 400. Administration.
Sec. 401. Program and project evaluation.
Sec. 402. Obtaining information from Federal agencies.
Sec. 403. Authorization of appropriations.
Sec. 404. Reports.
Sec. 405. Sheltered workshop study.

TITLE V—OFFICE FOR THE HANDICAPPED

Sec. 500. Establishment of Office.
Sec. 501. Function of Office.
Sec. 502. Authorization of appropriations.

TITLE VI—MISCELLANEOUS

Sec. 600. Effect on existing laws.
Sec. 601. Federal Interagency Committee on Handicapped Employees.
Sec. 602. Architectural and Transportation Barriers Compliance Board.
Sec. 603. Employment under Federal contracts.
Sec. 604. Nondiscrimination under Federal grants.

DECLARATION OF PURPOSE

SEC. 2. The purpose of this Act is to provide a statutory basis for the Rehabilitation Services Administration, to establish within the Department of Health, Education, and Welfare an Office for the Handicapped, and to authorize programs to—

(1) develop and implement comprehensive and continuing State plans for meeting the current and future needs for providing vocational rehabilitation services to handicapped individuals and to provide such services for the benefit of such individuals;

(2) evaluate the rehabilitation potential of handicapped individuals;

(3) develop, implement, and expand comprehensive rehabilitation services to supplement vocational rehabilitation services for severely handicapped individuals so that they may, as appropriate, (A) prepare for and engage in gainful employment, or (B) improve their ability to live with greater independence and self-sufficiency;

(4) assist in the construction and improvement of rehabilitation facilities;

(5) develop new and innovative methods of applying the most advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems and develop new and innovative methods of providing rehabilitation services to handicapped individuals through research, special projects, and demonstrations;

(6) initiate and expand services to groups of handicapped individuals (including the homebound and institutionalized) who have been underserved in the past;

(7) direct the conduct of various studies and experiments to focus on long neglected problem areas;

(8) promote and expand employment opportunities in the public and private sectors for handicapped individuals and to place such individuals in employment;

(9) establish an independent system of client advocacy; and

(10) provide assistance for the purpose of increasing the number of rehabilitation personnel and increasing their skills through training.

REHABILITATION SERVICES ADMINISTRATION

SEC. 3. (a) There shall be in the Department of Health, Education, and Welfare a Rehabilitation Services Administration which shall be administered by a Commissioner. The Commissioner shall carry out and administer all programs and direct the performance of all services for which authority is provided to the Secretary under titles I through III of this Act.

(b) There shall be within such Administration a Division of Research, Training, and Evaluation, which shall be responsible for carrying out programs and projects under title III of this Act. There shall be within such Division a Center for Technology Assessment and Application, which shall be responsible for developing and supporting, and stimulating the development and utilization (including production and distribution of new and existing devices) of innovative methods of applying advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems, and for administration of the activities described in section 302(b)(2). Such Division shall be directed by an Assistant Commissioner appointed by the Secretary, who shall be a person of outstanding medical or technological achievement and learning and shall carry out his responsibilities in consultation with the National Science Foundation and the National Academy of Sciences, and shall be assigned at least ten full-time positions, five of whom shall be professionals of qualifications similar to the Assistant Commissioner.

(c) The Secretary shall take whatever steps are necessary to insure that funds appropriated pursuant to this Act, as well as unexpended appropriations for carrying out the Vocational Rehabilitation Act (29 U.S.C. 31–42), are expended only for the programs, personnel, and administration of programs carried out under this Act.

(d) In order to carry out the purposes of this Act—

(1) the number of positions authorized by section 5108(a) of title 5, United States Code, and assigned to the Rehabilitation Services Administration, is increased by ten, and

(2) the authorized level of full-time personnel, or the equivalent, assigned to the Rehabilitation Services Administration to carry out duties related to the administration of this Act, is increased by sixty.

ADVANCE FUNDING

SEC. 4. (a) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

(b) In order to effect a transition to the advance funding method of timing appropriation action, the authority provided by subsection (a) shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

JOINT FUNDING

SEC. 5. Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this Act, where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this Act, the Federal agency principally involved may be designated to act for all in administering the funds provided.

DEFINITIONS

SEC. 6. For the purposes of this Act:

(1) The term "Act", except where the context otherwise requires, means sections 1 through 9 and titles I through VI of this Act.

(2) The term "comprehensive rehabilita-

tion services" means vocational rehabilitation services and any other goods (including aids and devices) or services that will make a substantial contribution in helping a handicapped or severely handicapped individual to improve his ability to live independently or function normally with his family and community.

(3) The term "construction" means the construction of new buildings, the acquisition, expansion, remodeling, alteration, and renovation of existing buildings, and initial equipment of such buildings, and the term "cost of construction" includes architects' fees and acquisition of land in connection with construction but does not include the cost of offsite improvements.

(4) The term "establishment of a rehabilitation facility" means the acquisition, expansion, remodeling, or alteration of existing buildings necessary to adapt them to rehabilitation facility purposes or to increase their effectiveness for such purposes (subject, however, to such limitations as the Secretary may determine, in accordance with regulations he shall prescribe, in order to prevent impairment of the objectives of, or duplication of, other Federal laws providing Federal assistance in the construction of such facilities), and the initial equipment for such buildings, and may include the initial staffing thereof.

(5) The term "evaluation of rehabilitation potential" means, as appropriate in each case:

(A) a preliminary diagnostic study to determine that the individual has a substantial handicap to employment, and that vocational or comprehensive rehabilitation services are needed;

(B) a diagnostic study consisting of a comprehensive evaluation of pertinent medical, psychological, vocational, educational, cultural, social, and environmental factors which bear on the individual's handicap to employment and rehabilitation potential including to the degree needed, an evaluation of the individual's personality, intelligence level, educational achievement, work experience, vocational aptitudes and interests, personal and social adjustments, employment opportunities, and other pertinent data helpful in determining the nature and scope of services needed;

(C) an appraisal of the individual's patterns of work behavior and ability to acquire occupational skill, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns suitable for successful job performance, including the utilization of work, simulated or real, to assess and develop the individual's capacities to perform adequately in a work environment;

(D) any other goods or services provided for the purpose of ascertaining the nature of the handicap and whether it may reasonably be expected that the individual can benefit from vocational rehabilitation services or comprehensive rehabilitation services,

(E) referral and client advocacy;

(F) the administration of these evaluation services; and

(G) (i) the provision of vocational rehabilitation services or the provision of comprehensive rehabilitation services to any individual for a total period not in excess of eighteen months for the purpose of determining whether such individual is a handicapped individual, a severely handicapped individual, or neither a handicapped individual nor a severely handicapped individual; and (ii) an assessment, at least once in every ninety-day period during which such services are provided, of the results of the provision of such services to an individual to ascertain whether any of the determinations described in subclause (i) may be made.

(6) The term "Federal share" means 85 per centum except that such term shall mean 80 per centum for the purposes of part B of title I of this Act, and that with respect to payments pursuant to section 110 (b) to any State which are used to meet the costs of construction of those rehabilitation facilities identified in section 103(b) (2) in such State, the Federal share shall be the percentages determined in accordance with the provisions of section 200(b)(3) applicable with respect to that State.

(7) The term "handicapped individual" means any individual who (A) has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment and (B) can reasonably be expected to benefit from vocational or comprehensive rehabilitation services.

(8) The term "local agency" means an agency of a unit of general local government or of an Indian tribal organization (or combination of such units or organizations) which has an agreement with the State agency designated in section 101(a)(1) to conduct a vocational rehabilitation program under the supervision of such State agency in accordance with the State plan approved under section 101. Nothing in the preceding sentence of this paragraph or in section 101 shall be construed to prevent the local agency from utilizing another local public or private nonprofit agency to provide vocational or comprehensive rehabilitation services: *Provided*, That such an arrangement is made part of the agreement specified in this paragraph.

(9) The term "nonprofit", when used with respect to a rehabilitation facility, means a rehabilitation facility owned and operated by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under section 501 (c)(3) of the Internal Revenue Code of 1954.

(10) The term "rehabilitation facility" means a facility which is operated for the primary purpose of providing vocational rehabilitation and comprehensive rehabilitation services to, or a workshop which is operated for the primary purpose of providing gainful employment for, handicapped individuals, and which provides singly or in combination one or more of the following services for handicapped individuals: (A) Vocational and comprehensive rehabilitation services which shall include, under one management, medical, psychological, social, and vocational services, (B) testing, fitting, or training in the use of prosthetic and orthotic devices, (C) prevocational conditioning or recreational therapy, (D) physical and occupational therapy, (E) speech and hearing therapy, (F) psychological and social services, (G) evaluation of rehabilitational potential, (H) personal and work adjustment, (I) vocational training with a view toward career advancement (in combination with other rehabilitation services), (J) evaluation or control of specific disabilities, (K) orientation and mobility services to the blind, and (L) extended employment for the severely handicapped who cannot be readily absorbed in the competitive labor market: *Provided*, That all medical and related health services must be prescribed by, or under the formal supervision of, persons licensed to prescribe or supervise the provision of such services in the State.

(11) The term "Secretary", except when the context otherwise requires, means the Secretary of Health, Education, and Welfare.

(12) The term "severely handicapped individual" means any handicapped individual whose ability to engage in gainful employment, or whose ability to function normally and independently in his family or community, is so limited by the severity of his disability that vocational or comprehensive rehabilitation services appreciably more costly and of appreciably greater duration than those vocational or comprehensive rehabilitation services normally required for the rehabilitation of a handicapped individual are required to improve significantly either his ability to engage in gainful employment or his ability to function normally and independently in his family or community.

(13) The term "State" includes the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands, and for the purposes of American Samoa and the Trust Territory of the Pacific Islands, the appropriate State agency designated as provided in section 101(a)(1) shall be the Governor of American Samoa or the High Commissioner of the Trust Territory of the Pacific Islands, as the case may be.

(14) The term "vocational rehabilitation services" means those services identified in section 103 which are provided to handicapped individuals under this Act.

ALLOTMENT PERCENTAGE

SEC. 7. (a)(1) The "allotment percentage" for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that (A) the allotment percentage shall in no case be more than 75 per centum or less than 33⅓ per centum, and (B) the allotment percentage for the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands shall be 75 per centum.

(2) The allotment percentages shall be promulgated by the Secretary between July 1 and September 30 of each even-numbered year, on the basis of the average of the per capita incomes of the States and of the United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning July 1 next succeeding such promulgation.

(3) The term "United States" means (but only for purposes of this subsection) the fifty States and the District of Columbia.

(b) The population of the several States and of the United States shall be determined on the basis of the most recent data available, to be furnished by the Department of Commerce by October 1 of the year preceding the fiscal year for which funds are appropriated pursuant to statutory authorizations.

AUDIT

SEC. 8. Each recipient of a grant under this Act shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grants, the total cost of the project or undertaking in connection with which such grant is made or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such records as will facilitate an effective audit. 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 any grant under this Act which are pertinent to such grant.

SPECIAL FUNDING CONSIDERATION

SEC. 9. In making grants under this Act, the Secretary and the Commissioner of the Rehabilitation Services Administration, as appropriate, shall give special consideration to the need for services in such States as he determines would have received a greater allotment of funds under part B of title I of this Act for fiscal years beginning after June 30, 1973, if the formula in subsection (a)(1) of section 110 had been applied to compute such allotment. The Secretary shall include in the annual report required by

section 404 the results of such computation for each State and the special consideration afforded as a result of such computations.

TITLE I—VOCATIONAL AND COMPREHENSIVE REHABILITATION SERVICES

PART A—GENERAL PROVISIONS

AUTHORIZATION OF APPROPRIATIONS

SEC. 100. (a) In order to make grants to States under parts B and C of this title (except for purposes of section 111) to assist them in meeting costs of vocational and comprehensive rehabilitation services, and in carrying out State plans under section 101, there is authorized to be appropriated $900,000,000 for the fiscal year ending June 30, 1973; $1,150,000,000 for the fiscal year ending June 30, 1974; and $1,350,000,000 for the fiscal year ending June 30, 1975. Of the amounts appropriated for each such fiscal year under this subsection, 15 per centum in each such year shall be available only for the provision of vocational and or comprehensive rehabilitation services to the severely handicapped in accordance with part C of this title.

(b) For the purpose of making grants under section III, relating to grants to States and public nonprofit agencies to assist them in meeting the costs of projects to initiate or expand services to handicapped (especially severely handicapped) individuals, there is authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973, $60,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 for the fiscal year ending June 30, 1975.

STATE PLANS

SEC. 101. (a) For each fiscal year in which a State desires to participate in programs under this title, a State shall submit to the Secretary for his approval an annual plan for vocational and comprehensive rehabilitation services which shall—

(1) (A) designate a State agency as the sole State agency to administer the plan, or to supervise its administration by a local agency, except that (i) where under the State's law the State agency for the blind or other agency which provides assistance or services to the adult blind, is authorized to provide vocational and comprehensive rehabilitation services to such individuals, such agency may be designated as the sole State agency to administer the part of the plan under which vocational and comprehensive rehabilitation services are provided for the blind (or to supervise the administration of such part by a local agency) and a separate State agency may be designated as the sole State agency with respect to the rest of the State plan, and (ii) the Secretary, upon the request of a State, may authorize such agency to share funding and administrative responsibility with another agency of the State or with a local agency in order to permit such agencies to carry out a joint program to provide services to handicapped individuals, and may waive compliance with respect to vocational and comprehensive rehabilitation services furnished under such programs with the requirement of clause (4) of this subsection that the plan be in effect in all political subdivisions of the State;

(B) provide that the State agency so designated to administer or supervise the administration of the State plan, or (if there are two State agencies designated under subparagraph (A)) to supervise or administer the part of the State plan that does not relate to services for the blind, shall be (i) a State agency primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of handicapped individuals, (ii) the State agency administering or supervising the administration of education or vocational education in the State, or (iii) a State agency which includes at least two other major organizational units each of which administers one or more of the major public education, public health, public welfare, or labor programs of the State;

(2) provide, except in the case of agencies described in clause (1) (B) (i)—

(A) that the State agency designated pursuant to paragraph (1) (or each State agency if two are so designated) shall include a vocational rehabilitation bureau, division, or other organizational unit which (i) is primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of handicapped individuals, and is responsible for the vocational rehabilitation program of such State agency, (ii) has a full-time director, and (iii) has a staff employed on such rehabilitation work of such organizational unit all or substantially all of whom are employed full time on such work; and

(B) (i) that such unit shall be located at an organizational level and shall have an organizational status within such State agency comparable to that of other major organizational units of such agency, or (ii) in the case of an agency described in clause (1) (B) (ii), either that such unit shall be so located and have status, or that the director of such unit shall be the executive officer of such State agency; except that, in the case of a State which has designated only one State agency pursuant to paragraph (1), such State may, if it so desires, assign responsibility for the part of the plan under which vocational and comprehensive rehabilitation services are provided for the blind to one organizational unit of such agency and assign responsibility for the rest of the plan to another organizational unit of such agency, with the provisions of this clause (2) applying separately to each of such units;

(3) provide for financial participation by the State, or if the State so elects, by the State and local agencies to meet the amount of the non-Federal share;

(4) provide that the plan shall be in effect in all political subdivisions, except that in the case of any activity which, in the judgment of the Secretary, is likely to assist in promoting the vocational rehabilitation of substantially larger numbers of handicapped individuals or groups of handicapped individuals the Secretary may waive compliance with the requirement herein that the plan be in effect in all political subdivisions of the State to the extent and for such period as may be provided in accordance with regulations prescribed by him, but only if the non-Federal share of the cost of such vocational rehabilitation services is met from funds made available by a local agency (including, to the extent permitted by such regulations, funds contributed to such agency by a private agency, organization, or individual);

(5) (A) contain the plans, policies, and methods to be followed in carrying out the State plan and in its administration and supervision, including a description of the method to be used to expand and improve services to severely handicapped individuals; and in the event that vocational and comprehensive rehabilitation services cannot be provided to all eligible handicapped individuals who apply for such services, show the order to be followed in selecting those to whom vocational and comprehensive rehabilitation services will be provided and the outcomes and service goals, and the time within which they may be achieved, for the rehabilitation of such individuals, which order of selection shall place special emphasis on severely handicapped individuals and shall not be inconsistent with priorities and outcome and service goals for serving handicapped individuals established in regulations prescribed by the Secretary;

(B) provide satisfactory assurances that no such comprehensive services shall be paid for with funds under this title unless maximum efforts have been made to secure grant assistance, in whole or in part, from other sources to pay for such services;

(6) (A) contain the plans, policies, and methods to be followed in providing vocational and comprehensive rehabilitation services in accordance with part C of this title to severely handicapped individuals, including a description of the quality, scope, and extent of services which are provided, and

(B) provide satisfactory assurances to the Secretary that the State has studied and considered a broad variety of means for providing services to severely handicapped individuals including, but not limited to, regional and community centers, services to homebound and institutionalized individuals, half-way houses, and patient-release programs, where such programs are appropriate and beneficial;

(7) provide for such methods of administration, other than methods relating to the establishment and maintenance of personnel standards, as are found by the Secretary to be necessary for the proper and efficient administration of the plan, including provision for the establishment of a client advocacy system as required in section 112 of this Act;

(8) contain (A) provisions relating to the establishment and maintenance of personnel standards, which are consistent with any State licensure laws and regulations, including provisions relating to the tenure, selection, appointment, and qualifications of personnel, and (B) provisions relating to the establishment and maintenance of minimum standards governing the facilities and personnel utilized in the provision of vocational and comprehensive rehabilitation services, but the Secretary shall exercise no authority with respect to the selection, method of selection, tenure of office, or compensation of any individual employed in accordance with such provisions;

(9) provide, at a minimum, for the provision of the vocational rehabilitation services specified in clauses (1) through (3) of subsection (a) of section 103, and the remainder of such services specified in such section after full consideration of eligibility for similar benefits under any other program, except that, in the case of the vocational rehabilitation services specified in clauses (4) and (5) of subsection (a) of such section, such consideration shall not be required where it would delay the provision of such services to any individual;

(10) provide that an individualized written rehabilitation program meeting the requirements of section 102 will be developed for each handicapped individual, and that vocational and comprehensive rehabilitation services will be provided under the plan in accordance with such program;

(11) provide that the State agency will make such reports in such form, containing such information (including periodic estimates of the population of handicapped individuals eligible for services under this Act in such State, specifications of the number of such individuals who will be served with funds provided under this Act and the outcomes and service goals to be achieved for such individuals in each priority category specified in accordance with clause (5) of this paragraph, and the service costs for each such category), and at such time, as the Secretary may require to carry out his functions under this title, and comply with such provisions as he may find necessary to assure the correctness and verification of such reports;

(12) provide for entering into cooperative arrangements with, and the utilization of the services and facilities of, the State agencies administering the State's public assistance programs, other programs for the handicapped, veterans programs, manpower programs, and public employment offices, the Social Security Administration (Department of Health, Education, and Welfare), the Vet-

erans' Administration, and other Federal, State and local public agencies providing services related to the rehabilitation of the handicapped;

(13) provide satisfactory assurances to the Secretary that, in the provision of vocational rehabilitation and comprehensive rehabilitation services, maximum utilization shall be made of public or other vocational or technical training facilities or other appropriate resources in the community;

(14) provide that vocational rehabilitation and comprehensive rehabilitation services provided under the State plan shall be available to any civil employee of the United States disabled while in the performance of his duty on the same terms and conditions as apply to other persons;

(15) provide that no residence requirement will be imposed which excludes from services under the plan any individual who is present in the State;

(16) provide for continuing statewide studies of the needs of handicapped individuals and how these needs may be most effectively met (including the State's needs for rehabilitation facilities) with a view toward the relative need for services to significant segments of the population of handicapped individuals and the need for expansion of services to severely handicapped individuals;

(17) provide for (A) periodic review and reevaluation of the status of handicapped individuals placed in extended employment in rehabilitation facilities (including workshops) to determine the feasibility of their employment, or training for employment, in the competitive labor market, and (B) maximum efforts to place such individuals in such employment or training whenever it is determined to be feasible;

(18) provide that where such State plan includes provisions for the construction of rehabilitation facilities—

(A) the Federal share of the cost of construction thereof for a fiscal year will not exceed an amount equal to 10 per centum of the State's allotment for such year,

(B) the provisions of section 212 shall be applicable to such construction and such provisions shall be deemed to apply to such construction, and

(C) there shall be compliance with regulations of the Secretary designed to assure that no State will reduce its efforts in providing other vocational and comprehensive rehabilitation services (other than for the establishment of rehabilitation facilities) because its plan includes such provision for construction;

(19) provide satisfactory assurances to the Secretary that the State agency designated pursuant to paragraph (1) (or each State agency if two are so designated) and any sole local agency administering the plan in a political subdivision of the State will take into account, in connection with matters of general policy arising in the administration of the plan, the views of individuals and groups thereof who are recipients of vocational or comprehensive rehabilitation services (or, in appropriate cases, their parents or guardians), working in the field of vocational rehabilitation, and providers of vocational and comprehensive rehabilitation services; and

(20) provide satisfactory assurances to the Secretary that the continuing studies required under clause (16) of this subsection, as well as an annual evaluation of the effectiveness of the program in meeting the goals and priorities set forth in the plan, will form the basis for the submission, from time to time as the Secretary may require, of appropriate amendments to the plan.

(b) The Secretary shall approve any plan which he finds fulfills the conditions specified in subsection (a) of this section, and he shall disapprove any plan which does not fulfill such conditions. Prior to such disapproval, the Secretary shall notify a State of his intention to disapprove its plan and he shall afford such State reasonable notice and opportunity for hearing.

(c) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under this section, finds that—

(1) the plan has been so changed that it no longer complies with the requirements of subsection (a) of this section; or

(2) in the administration of the plan there is a failure to comply substantially with any such provision;

the Secretary shall notify such State agency that no further payments will be made to the State under this title (or in his discretion, that such further payments will be reduced, in accordance with regulations the Secretary shall prescribe or that further payment will not be made to the State only for the projects under the parts of the State plan affected by such failure), until he is satisfied there is no longer any such failure. Until he is so satisfied, the Secretary shall make no further payments to such State under this title (or shall limit payments to projects under those parts of the State plan in which there is no such failure).

(d) If any State is dissatisfied with the Secretary's action under subsection (b) or (c) of this section, such State may appeal to the United States district court for the district where the capital of such State is located and judicial review of such action shall be on the record in accordance with the provisions of the Administrative Procedure Act.

INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM

SEC. 102. (a) The Secretary shall insure that the individualized written rehabilitation program required by section 101(a)(9) of this Act in the case of each handicapped individual is developed jointly by the vocational rehabilitation counselor or coordinator and the handicapped individual (or, in appropriate cases, his parents or guardians), and that such program meets the requirements set forth in subsection (b) of this section. Such written program shall set forth the terms and conditions, as well as the rights and remedies, under which goods and services will be provided to the individual.

(b) Each individualized written rehabilitation program shall be reviewed on an annual basis at which time each such individual (or, in appropriate cases, his parents or guardians) will be afforded an opportunity to review such program and renegotiate its terms. Such program shall include, but not be limited to, (1) a statement of long-range rehabilitation goals for the individual and intermediate rehabilitation objectives related to the attainment of such goals, (2) a statement of the specific vocational and comprehensive rehabilitation services to be provided, (3) the projected date for the initiation and the anticipated duration of each such service, (4) objective criteria and an evalation procedure and schedule for determining whether such objectives and goals are being achieved, and (5) a detailed explanation of the availability of the client advocacy system established pursuant to paragraph (7) of subsection (a) of section 101.

(c) The Secretary shall also insure that (1) in developing and carrying out the individualized written rehabilitation program required by section 101 in the case of each handicapped individual primary emphasis is placed upon the determination and achievement of a vocational goal for such individual, (2) a decision that such an individual is not capable of achieving such a goal is made only in full consultation with such individual (or, in appropriate cases, his parents or guardians), and only upon the certification, as an amendment to such written program, that the evaluation of rehabilitation potential has demonstrated beyond any reasonable doubt that such individual is not then capable of achieving such a goal, and (3) any such decision shall be reviewed at least annually in accordance with the above procedure and criteria.

SCOPE OF VOCATIONAL REHABILITATION SERVICES

SEC. 103. (a) Vocational rehabilitation services provided under this Act are any goods or services necessary to render a handicapped individual employable, including, but not limited to, the following:

(1) evaluation of rehabilitation potential, including diagnostic and related services, incidental to the determination of eligibility for, and the nature and scope of, services to be provided, including, where appropriate, examination by a physician skilled in the diagnosis and treatment of emotional disorders, or by a licensed psychologist in accordance with State laws and regulations, or both;

(2) counseling, guidance, referral, placement, and client advocacy services for handicapped individuals, including follow-up, follow-along, and other postemployment services necessary to assist such individuals to maintain their employment and services designed to help handicapped individuals secure needed services from other agencies, where such services are not available under this Act;

(3) vocational and other training services for handicapped individuals, which shall include personal and vocational adjustment, books, and other training materials, and service to the families of such individuals as are necessary to the adjustment or rehabilitation of such individuals: *Provided*, That no training services in institutions of higher education shall be paid for with funds under this title unless maximum efforts have been made to secure grant assistance, in whole or in part, from other sources to pay for such training;

(4) physical and mental restoration services, including, but not limited to, (A) corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition which is stable or slowly progressive and constitutes a substantial handicap to employment, but is of such nature that such correction or modification may reasonably be expected to eliminate or substantially reduce the handicap within a reasonable length of time, (B) necessary hospitalization in connection with surgery or treatment, (C) prosthetic and orthotic devices, (D) eye glasses and visual services as prescribed by a physician skilled in the diseases of the eye or by an optometrist whichever the individual may select, (E) special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the treatment of individuals suffering from en-stage renal disease, and (F) diagnosis and treatment for mental and emotional disorder by a physician or licensed psychologist in accordance with State licensure laws;

(5) maintenance, not exceeding the estimated cost of subsistence, during rehabilitation;

(6) interpreter services for the deaf, and reader services for those individuals determined to be blind after an examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select;

(7) recruitment and training services for handicapped individuals to provide them with new employment opportunities in the fields of rehabilitation, health, welfare, public safety, and law enforcement, and other appropriate service employment;

(8) rehabilitation teaching services and orientation and mobility services for the blind;

(9) occupational licenses, tools, equipment, and initial stocks and supplies;

(10) transportation in connection with the rendering of any vocational rehabilitation service; and

(11) telecommunication, sensory, and other technological aids and devices.

(b) Vocational rehabilitation services, when provided for the benefit of groups of individuals, may also include the following:

(1) in the case of any type of small business operated by severely handicapped individuals the operation of which can be improved by management services and supervision provided by the State agency, the provision of such services and supervision, alone or together with the acquisition by the State agency of vending stands or other equipment and initial stocks and supplies; and

(2) the construction or establishment of public or nonprofit rehabilitation facilities and the provision of other facilities and services which promise to contribute substantially to the rehabilitation of a group of individuals but which are not related directly to the individualized rehabilitation written program of any one handicapped individual.

NONDUPLICATION

SEC. 104. In determining the amount of any State's Federal share of expenditures for planning, administration, and services incurred by it under a State plan approved in accordance with section 101, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any provision of law other than this title, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds.

PART B—BASIC VOCATIONAL AND COMPREHENSIVE REHABILITATION SERVICES

STATE ALLOTMENTS

SEC. 110. (a)(1) For the fiscal year ending June 30, 1973, and for each fiscal year thereafter with respect to such portion of the appropriations under subsection (a) of section 100 for such fiscal year as does not exceed $700,000,000, each State shall be entitled to an allotment of an amount bearing the same ratio to the amount appropriated under subsection (a) of section 100 for allotment under this section as the product of (1) the population of the State and (2) the square of its allotment percentage (as described in section 7) bears to the sum of the corresponding products for all the States. The allotment to any State (other than Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands) under the first sentence of this subsection for any fiscal year which is less than one-quarter of 1 per centum of the amount appropriated under section 100(a), or $2,250,000, whichever is greater, shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotments to each of the remaining such States under the first sentence of this subsection, but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than that amount.

(2) For the fiscal years ending after June 30, 1974, each State shall be entitled to an allotment, in addition to the allotment to which it is entitled under paragraph (1), of an amount equal to—

(A) ⅔ of the product obtained by multiplying—

(i) the excess (if any) of the total amount appropriated in excess of $700,000,000 for such year for allotment under this section over the total amount so appropriated for the fiscal year ending June 30, 1973, by

(ii) the quotient obtained by dividing the population of such State by the population of all the States, plus.

(B) ⅓ of the product obtained by multiplying—

(i) the excess (if any) of the total amount appropriated in excess of $700,000,000 for such year for allotment under this section over the total amount so appropriated for the fiscal year ending June 30, 1973, by

(ii) the quotient obtained by dividing the allotment percentage of such State by the sum of the allotment percentages of all the States.

(b) For each fiscal year the Secretary shall pay to each State an amount equal to the Federal share (determined as provided in section 6(6) of the cost of vocational and comprehensive rehabilitation services under the plan for such State approved under section 101, including expenditures for the administration of the State plan, except that the total of such payments to such State for such fiscal year may not exceed its allotment under subsection (a) of this section for such year and such payments shall not be made in an amount which would result in a violation of the provisions of the State plan required by clause (18) of section 101(a), and except that the amount otherwise payable to such State for such year under this section shall be reduced by the amount (if any) by which expenditures from non-Federal sources (except for expenditures with respect to which the State is entitled to payments under section 111) during such year under this title are less than expenditures under the State plan for the fiscal year ending June 30, 1972, under the Vocational Rehabilitation Act.

(c) For the purpose of determining the amount of payments to States for carrying out this section with respect to expenditures under State plans approved under section 101, and for carrying out section 111, the non-Federal share shall, subject to such limitations and conditions as may be prescribed in regulations of the Secretary, include contributions of funds made by any private agency, organiaztion, or individual to a State or local agency to assist in meeting the costs of construction or establishment of a public or nonprofit rehabilitation facility, which would be regarded as State or local funds except for the condition, imposed by the contributor, limiting use of such funds to construction or establishment of such facility.

(d) Whenever the Secretary determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this title, he shall make such amount available for carrying out the purposes of this title to one or more other States to the extent he determines such other State will be able to use such additional amount during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this Act, be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year.

(e) The method of computing and paying amounts pursuant to subsection (a) shall be as follows:

(1) The Secretary shall, prior to the beginning of each calendar quarter or other period prescribed by him, estimate the amount to be paid to each State under the provisions of such subsection 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 from the allotment available therefor, the amount so estimated by him for such 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 the State for any prior period under such subsection was greater or less than the amount which should have been paid to the State for such prior period under such subsection. Such payment shall be made prior to audit or settlement by the General Accounting Office, shall be made through the disbursing facilities of the Treasury Department, and shall be made in such installments as the Secretary may determine.

(f) From the amount allotted to each State under this section, each State shall set aside 1 per centum of such allotment for the purpose of establishing and maintaining the State Advisory Council required by section 211(b), and shall expend from the sums so set aside such amount as is needed to cover the costs of such activities, but in no event more than $150,000 or less than $50,000. Amounts so set aside and unexpended shall be available for carrying out the plan approved under section 101.

(g) No payment may be made from an allotment under this part relating to any cost with respect to which any payment is made under any other part or title of this Act.

INNOVATION AND EXPANSION GRANTS

SEC. 111. (a) (1) From the sums available pursuant to section 100(b) for any fiscal year for grants to States to assist them in meeting the costs described in paragraph (2) of this subsection, each State shall be entitled to an allotment of an amount bearing the same ratio to such sums as the population of the State bears to the population of all the States. The allotment to any State under the preceding sentence for any fiscal year which is less than $50,000 (or such other amount as may be specified as a minimum allotment in the Act appropriating such sums for such year) shall be increased to that amount, and for the fiscal years ending June 30, 1973, and June 30, 1974, no State shall receive less than the amount necessary to cover 90 per centum of the cost of continuing projects assisted under section 4(a)(2)(A) of the Vocational Rehabilitation Act, except that no such project may receive financial assistance under both the Vocational Rehabilitation Act and this Act for a total period of time in excess of three years. The total of the increases required by the preceding sentence shall be derived by proportionately reducing the allotments to each of the remaining States under the first sentence of this section, but with such adjustments as may be necessary to prevent the allotment of any of such remaining States from thereby being reduced to less than $50,000.

(2) From each State's allotment under this section for any fiscal year, the Secretary shall pay to such State or, at the option of the State agency designated pursuant to section 101(a)(1)(A), to a public or nonprofit organization or agency a portion of the cost of planning, preparing for, and initiating special programs under the State plan approved pursuant to section 101 to expand vocational and comprehensive rehabilitation services, including programs to initiate or expand such services to severely handicapped individuals, or of special programs under such State plan to initiate or expand services to classes of handicapped individuals who have unusual and difficult problems in connection with their rehabilitation, particularly handicapped individuals who are poor, and responsibility for whose treatment, education, and rehabilitation is shared by the State agency designated in section 101 with other agencies. The Secretary may require that any portion of a State's allotment under this section, but not more than fifty per centum of such allotment may be expended in connection with only such projects as have first been approved by the Secretary. Any grant of funds under this section which will be used for direct services to handicapped individuals or for establishing or maintaining facilities which will render direct services to such individuals must have the prior ap-

proval of the appropriate State ageny designated pursuant to section 101.

(b) Payments under this section with respect to any project may be made for a period of not to exceed three years beginning with the commencement of the project as approved. Payments with respect to any project may not exceed 90 per centum of the cost of such project. The non-Federal share of the cost of a project may be in cash or in kind and may include funds spent for project purposes by a cooperating public or nonprofit agency provided that it is not included as a cost in any other federally financed program.

(c) Payments under this section may be made in advance or by way of reimbursement for services performed and purchases made, as may be determined by the Secretary, and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of this section.

(d) Whenever the Secretary determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this section, he shall make such amount available for carrying out the purposes of this section to one or more other States which he determines will be able to use additional amounts during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for purposes of this Act, be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year.

CLIENT ADVOCACY

SEC. 112. (a) The Secretary shall set aside out of funds appropriated under section 100 such sums as may be necessary, but no less than 1 per centum of the funds appropriated, to establish a system of client advocacy for each geographical area in which programs or projects are being carried out with funds under this Act. Such client advocacy systems shall be funded directly through the State agency administering the State plan under this Act and shall function in the capacity of an ombudsman to seek to resolve as quickly and amicably as possible any complaints presented by clients or client applicants.

(b) Persons carrying out functions under the client advocacy systems shall not be employees, present clients, or in any way under the supervision of rehabilitation programs, projects, or facilities in connection with which they are performing client advocacy. Such persons shall be afforded prompt and reasonable access to responsible policymaking and administrative personnel in the State agency or agencies and the regional and central offices of the Rehabilitation Services Administration in order to resolve client complaints as quickly and effective as possible.

(c) Each client advocacy system shall submit an annual report through the State agency designated pursuant to section 101 to the Secretary on the operation of the system during the previous year, including such recommendations for legislative and administrative changes as are deemed appropriate in light of such operation, a description of each case in which a satisfactory resolution of the complaint was not achieved, and a uniform statistical tabulation of all cases handled. A copy of each such report shall be submitted to the appropriate committees of the Congress annually by the Secretary, together with his evaluations of such systems conducted during the preceding year and with a summary of, and commentary on, the individual reports submitted, including appropriate recommendations.

(d) In setting up client advocacy systems under this section, each State agency shall insure that maximum efforts are made to enter into cooperative arrangements with institutions of higher education to secure the services in such systems of graduate students who are undergoing clinical training activities in the fields of law, social services, rehabilitation counseling, psychology, education, and health and other related fields.

(e) No client or client applicant in any way assisted with funds under this Act shall be denied access to the appropriate client advocacy system or in any way threatened or discouraged from presenting complaints to such system. If the Secretary finds that a willful violation of this subsection has occurred, he may, in accordance with, and subject to, the procedures, rights, and remedies specified in subsection (c) of section 101, suspend or limit payments under this title, as provided in such subsection (c), to the State in connection with the facility in which such violation has occurred.

EXPERIMENTAL APPEAL PROJECTS

SEC. 113. (a) The Secretary may, in ten representative geographical areas, provide for the conduct of various types of client appeal and review systems, including the following:

(1) close examination of the present appeals system as carried out on a statewide basis in a State with a relatively small population;

(2) a system of appeals from actions of one rehabilitation facility to a panel of case-worker/counselor peers from other such facilities;

(3) a system of appeals to designated Federal officials at a regional office of the Department of Health, Education, and Welfare; and

(4) a system of appeals to one rehabilitation facility from actions of another such facility.

(b) The Secretary shall submit to the appropriate committees of the Congress within two years after the date of enactment of this Act a report on the results of each experiment carried out under this section, including the costs and personnel entailed in each, and an evaluation of the existing varieties of appeal systems throughout the United States.

PART C—SUPPLEMENTARY FUNDS FOR VOCATIONAL AND COMPREHENSIVE REHABILITATION SERVICES TO SEVERELY HANDICAPPED INDIVIDUALS

STATE ALLOTMENTS

SEC. 120. (a) From sums appropriated to carry out the provisions of this part for each fiscal year, each State shall be entitled to an allotment of an amount bearing the same ratio to such sums as the product of (1) the population of the State, and (2) its allotment percentage (as described in section 7) bears to the sum of the corresponding products for all of the States. The allotment to any State under the preceding sentence for any fiscal year which is less than $150,000 shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotments to each of the remaining States under the preceding sentence, but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than that amount.

(b) Whenever the Secretary determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this section, he shall make such amount available for carrying out the purposes of this section to one or more of the States which he determines will be able to use additional amounts during such year for carrying out such purpose. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purpose of this title, be regarded as an increase in the State's allotment (as determined under the preceding provisions of this section) for such year.

(c) Amounts allotted to a State under this part shall be available only for expenditure for the provision of vocational and comprehensive rehabilitation services under this title for a severely handicapped individual, to the extent that (A), for the fiscal year ending June 30, 1973, the cost of the purchase and provision of such services (including counseling) for such individual, because of the severity of his handicap, as determined in accordance with regulations which the Secretary shall prescribe, exceeds an amount equal to 200 per centum of the average cost per individual of the purchase and provision of such services for all handicapped individuals rehabilitated in the State in question during the preceding fiscal year under the Vocational Rehabilitation Act and (B) for subsequent fiscal years, the cost of the purchase and provisions of such services (including counseling) for such individual, because of the severity of his handicap, as determined in accordance wtih regulations which the Secretary shall prescribe, exceeds an amount equal to 200 per centum of the average cost per individual of the purchase and provision of such services for all handicapped individuals rehabilitated in the State in question during the preceding fiscal year with funds allotted under section 110 and section 120.

(d) Not more than 10 per centum of the total funds allocated to any State under this section and section 110 shall be expended for the purpose of providing comprehensive rehabilitation services.

(e) In the event that the Secretary, based upon estimates submitted to him by each State, determines that, for the fiscal year ending June 30, 1973, a State will not be able to utilize the amount available to it under the provisions of subsection (a) of this section, he shall reallocate such amount as provided under subsection (b) of this section and if, after such reallocation, amounts remain which he determines cannot be utilized under such subsection (b), such amounts shall be available for carrying out the purposes of subsection (d) of section 110 of part B of this title, and such amount shall be in addition to any other amounts made available for the purposes of subsection (d) of section 110.

STATE PROGRAMS

SEC. 121. As a condition for receiving grants under this Act for the fiscal year ending June 30, 1973, a State must submit within 180 days after the date of enactment of this Act an amendment to its plan submitted to the Secretary under section 101 or under section 5 of the Vocational Rehabilitation Act (29 U.S.C. 35) which includes a program for provision of vocational and comprehensive rehabilitation services to severely handicapped individuals. A State shall also include such a program in its plan under section 101 submitted for each subsequent fiscal year. Such program shall (1) designate the State agency or agencies administering the State plan for vocational rehabilitation as the agency or agencies to administer funds provided under this part; (2) describe the quality, scope, and extent of the services being provided; (3) demonstrate that the State has studied and considered a broad variety of means for providing vocational and comprehensive services to severely handicapped individuals, including but not limited to, regional and community centers, halfway houses, services to homebound and institutionalized individuals, and patient-release programs, where such programs are appropriate and beneficial; (4) be approved or disapproved under the criteria and procedures provided with respect to the State plan submitted under section 101; and (5) conform to such other requirements as the Secretary by regulation may prescribe.

PAYMENTS TO STATES

SEC. 122. From each State's allotment for a fiscal year under section 120, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under section 102. Such payments may be made (after necessary adjust-

ments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Secretary may determine.

TITLE II—SPECIAL FEDERAL RESPONSIBILITIES

GRANTS FOR CONSTRUCTION OF REHABILITATION FACILITIES

SEC. 200. (a) For the purpose of making grants and contracts under this section for construction of rehabilitation facilities, initial staffing, and planning assistance, there is authorized to be appropriated $35,000,000 for the fiscal year ending June 30, 1973; $40,000,000 for the fiscal year ending June 30, 1974; and $45,000,000 for the fiscal year ending June 30, 1975. Amounts so appropriated shall remain available for expenditure with respect to construction projects funded or initial staffing grants made under this section prior to July 1, 1977.

(b) (1) The Secretary is authorized to make grants to assist in meeting the costs of construction of public or private nonprofit rehabilitation facilities. Such grants may be made to States and public or nonprofit organizations and agencies for projects for which applications are approved by the Secretary under this section.

(2) To be approved, an application for a grant for a construction project under this section must conform to the provisions of section 212.

(3) The amount of a grant under this section with respect to any construction project in any State shall be equal to the same percentage of the cost of such project as the Federal share which is applicable in the case of rehabilitation facilities (as defined in section 645(g) of the Public Health Service Act (42 U.S.C. 291o(g)), in such State, except that if the Federal share with respect to rehabilitation facilities in such State is determined pursuant to section 645(b)(2) of such Act (42 U.S.C. 291o(b)(2)), the percentage of the cost for purposes of this section shall be determined in accordance with regulations prescribed by the Secretary designed to achieve as nearly as practicable results comparable to the results obtained under such subparagraph.

(c) The Secretary is also authorized to make grants to assist in the initial staffing of any public or nonprofit rehabilitation facility constructed after the date of enactment of this section (whether or not such construction was financed with the aid of a grant under this section) by covering part of the costs (determined in accordance with regulations of the Secretary) of compensation of professional or technical personnel of such facility during the period beginning with the commencement of the operation of such facility and ending with the close of four years and three months after the month in which such operation commenced. Such grants with respect to any facility may not exceed 75 per centum of such costs for the period ending with the close of the fifteenth month following the month in which such operation commenced, 60 per centum of such costs for the first year thereafter, 45 per centum of such costs for the second year thereafter, and 30 per centum of such costs for the third year thereafter.

(d) The Secretary is also authorized to make grants upon application approved by the State agency designated under section 101 to administer the State plan, to public or nonprofit agencies, institutions, or organizations to assist them in meeting the costs of planning rehabilitation facilities and the services to be provided thereby.

VOCATIONAL TRAINING SERVICES FOR HANDICAPPED INDIVIDUALS

SEC. 201. (a) For the purpose of making grants and contracts under this section, there is authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1973; $35,000,000 for the fiscal year ending June 30, 1974; and $40,000,000 for the fiscal year ending June 30, 1975.

(b) (1) The Secretary is authorized to make grants to States and public and nonprofit organizations and agencies to pay the Federal share of the cost of projects for providing vocational training services to handicapped, especially severely handicapped, individuals in public or nonprofit rehabilitation facilities.

(2) (A) Vocational training services for purposes of this subsection, shall include training with a view toward career advancement; training in occupational skills; related services, including work evaluation, work testing, provision of occupational tools and equipment required by the individual to engage in such training, and job tryouts; and payment of weekly allowances to individuals receiving such training and related services.

(B) Such allowances may not be paid to any individual for any period in excess of two years, and such allowances for any week shall not exceed $30 plus $10 for each of the individual's dependents, or $70, whichever is less. In determining the amount of such allowances for any individual, consideration shall be given to the individual's need for such an allowance, including any expenses reasonably attributable to receipt of training services, the extent to which such an allowance will help assure entry into and satisfactory completion of training, and such other factors, specified by the Secretary, as will promote such individual's capacity to engage in gainful and suitable employment.

(3) The Secretary may make a grant for a project pursuant to this subsection only on his determination that (A) the purpose of such project is to prepare handicapped, especially severely handicapped, individuals for gainful and suitable employment; (B) the individuals to receive training services under such project will include only individuals who have been determined to be suitable for and in need of such training services by the State agency or agencies designated as provided in section 102(a)(1) of the State in which the rehabilitation facility is located; (C) the full range of training services will be made available to each such individual, to the extent of his need for such services; and (D) the project, including the participating rehabilitation facility and the training services provided, meet such other requirements as he may prescribe in regulations for carrying out the purposes of this subsection.

(c) (1) The Secretary is authorized to make grants to public or nonprofit rehabilitation facilities, or to an organization or combination of such facilities, to pay the Federal share of the cost of projects to analyze, improve, and increase their professional services to handicapped individuals, their management effectiveness, or any other part of their operations affecting their capacity to provide employment and services for such individuals.

(2) No part of any grant made pursuant to this subsection may be used to pay costs of acquiring, constructing, expanding, remodeling, or altering any building.

LOANS AND LOAN GUARANTEES FOR MODERNIZATION AND CONSTRUCTION OF REHABILITATION FACILITIES

SEC. 202. With respect to the carrying out of the program under part B of title VI of the Public Health Service Act (42 U.S.C. 291j–1) to guarantee loans to nonprofit private agencies and to make loans to public agencies for the modernization or construction of nonprofit rehabilitation facilities, the Secretary shall, with respect to such facilities which are rehabilitation facilities as defined in section 6, assure compliance with all the requirements set forth in section 212.

ANNUAL INTEREST GRANTS FOR MORTGAGES FOR REHABILITATION FACILITIES

SEC. 203. (a) To assist States and public and nonprofit agencies to reduce the cost of borrowing from other sources for the construction of rehabilitation facilities, the Secretary may, subject to the provisions of section 212, make annual interest grants to such agencies.

(b) Annual interest grants under this section with respect to any rehabilitation facility shall be made over a fixed period not exceeding forty years, and provision for such grants shall be embodied in a contract guaranteeing their payment over such period. Each such grant shall be in an amount sufficient to reduce by 3 per centum the net effective interest rate otherwise payable on the loan: *Provided*, That the amount on which such grant is based shall be approved by the Secretary.

(c) (1) There are authorized to be appropriated to the Secretary such sums as may be necessary for the payment of annual interest grants in accordance with this section.

(2) Contracts for annual interest grants under this section shall not be entered into in an aggregate amount greater than is authorized in appropriation Acts; and in any event the total amount of annual interest grants which may be paid pursuant to contracts entered into under this section shall not exceed $1,000,000 with respect to contracts entered into prior to June 30, 1973; $2,000,000 with respect to contracts entered into prior to June 30, 1974; and $4,000,000 with respect to contracts entered into prior to June 30, 1975.

(3) Not more than 15 per centum of the funds expended under this section may be used within any one State in any one fiscal year.

SPECIAL PROJECTS AND DEMONSTRATIONS

SEC. 204. (a) (1) For the purpose of making grants under this section for special projects and demonstrations (and research and evaluation connected therewith), there is authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973, $100,000,000 for the fiscal year ending June 30, 1974, and $150,000,000 for the fiscal year ending June 30, 1975.

(2) Of the amounts appropriated pursuant to paragraph (1) of this subsection, 10 per centum, but in no event more than $10,000,000, in each such fiscal year shall be available only for the purpose of making grants under subsection (c) of this section, and there is authorized to be appropriated in each such fiscal year such additional amount as may be necessary to equal, when added to the amount made available for the purpose of making grants under such subsection, an amount of $10,000,000 to be available for each such fiscal year.

(b) The Secretary shall make grants to States and public and nonprofit organizations and agencies for paying part of the cost of special projects and demonstrations (and research and evaluation in connnection therewith) (1) for establishing facilities and providing services which, in the judgment of the Secretary, hold promise of expanding or otherwise improving rehabilitation services to handicapped individuals, especially severely handicapped individuals, and (2) for applying new types or patterns of services or devices (including opportunities for new careers for handicapped individuals and for other individuals in programs serving handicapped individuals).

(c) The Secretary is authorized to make grants to any State agency designated pursuant to a State plan approved under section 101, or to any local agency participating in the administration of such a plan, to pay the full cost of projects or demonstrations for the provision of vocational and comprehensive rehabilitation services to handicapped individuals who, as determined in ac-

cordance with rules prescribed by the Secretary of Labor, are migratory agricultural workers or seasonal farmworkers, and to members of their families (whether or not handicapped) who are with them, including maintenance and transportation of such individuals and members of their families where necessary to the rehabilitation of such individuals. Maintenance payments under this section shall be consistent with any maintenance payments made to other handicapped individuals in the State under this Act. Such grants shall be conditioned upon satisfactory assurance that in the provision of such services there will be appropriate cooperation between the grantee and other public and private nonprofit agencies having special skills and experience in the provision of services to migratory agricultural workers, seasonal farmworkers, or their families. This subsection shall be administered in coordination with other programs serving migrant agricultural workers and seasonal farmworkers, including those under title I of the Elementary and Secondary Education Act of 1965, section 311 of the Economic Opportunity Act of 1964, the Migrant Health Act, and the Farm Labor Contractor Registration Act of 1963.

(d) The Secretary is authorized to make contracts or jointly financed cooperative arrangements with employers and organizations for the establishment of projects designed to prepare handicapped individuals for gainful and suitable employment in the competitive labor market under which handicapped individuals are provided training and employment in a realistic work setting and such other services (determined in accordance with regulations prescribed by the Secretary) as may be necessary for such individuals to continue to engage in such employment;

(e)(1) The Secretary is authorized, directly or by contract with State vocational rehabilitation agencies or experts or consultants or groups thereof to provide technical assistance (A) to rehabilitation facilities, and (B), for the purpose of removal of architectural barriers, to any public or private agency or institution.

(2) Any such experts or consultants shall, while serving pursuant to such contracts, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the pro rata pay rate for a person employed as a GS–18, under section 5332 of H.R. 5, United States Code, including traveltime, and while so serving 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 section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

NATIONAL CENTER FOR DEAF-BLIND YOUTHS AND ADULTS

SEC. 205. (a) For the purpose of establishing and operating a National Center for Deaf-Blind Youths and Adults, there is authorized to be appropriated $5,000,000 for construction, which shall remain available until expended, and $800,000 for operations for the fiscal year ending June 30, 1973; $1,200,000 for operations for the fiscal year ending June 30, 1974; and $2,000,000 for operations for the fiscal year ending June 30, 1975.

(b) In order—

(1) to demonstrate methods of (A) providing the specialized intensive services, and other services, needed to rehabilitate handicapped individuals who are both deaf and blind, and (B) training the professional and allied personnel needed adequately to staff facilities specially designed to provide such services and training to such personnel who have been or will be working with deaf-blind individuals;

(2) to conduct research in the problems of, and ways of meeting the problems of rehabilitating, deaf-blind individuals; and

(3) to aid in the conduct of related activities which will expand or improve the services for or help improve public understanding of the problems of deaf-blind individuals;

the Secretary, subject to the provisions of section 212, is authorized to enter into an agreement with any public or nonprofit agency or organization for payment by the United States of all or part of the costs of the establishment and operation, including construction and equipment, of a center for vocational rehabilitation of handicapped individuals who are both deaf and blind, which center shall be known as the National Center for Deaf-Blind Youths and Adults (hereinafter in this section referred to as the "Center").

(c) Any agency or organization desiring to enter into such agreement shall submit a proposal therefor at such time, in such manner, and containing such information as may be prescribed in regulations by the Secretary. In considering such proposals the Secretary shall give preference to those proposals which (1) give promise of maximum effectiveness in the organization and operation of the Center, and (2) give promise of offering the most substantial skill, experience, and capability in providing a broad program of service, research, training, and related activities in the field of rehabilitation of deaf-blind individuals.

REHABILITATION CENTERS FOR DEAF INDIVIDUALS

SEC. 206. (a) For the purpose of making grants and contracts for the expansion and improvement of vocational and comprehensive rehabilitation services for deaf individuals (through the establishment of centers or other means), there is authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973; $7,500,000 for the fiscal year ending June 30, 1974; and $10,000,000 for the fiscal year ending June 30, 1975. Funds appropriated pursuant to this subsection shall remain available until expended.

(b) In order to—

(1) demonstrate methods of (A) providing the specialized services needed to rehabilitate and make maximum use of the vocational potential of deaf individuals, and (B) training the specialized professional and allied personnel required adequately to staff facilities designed to provide such services and training personnel who have been or will be working with such individuals;

(2) conduct research in the nature and prevention of the problems of such deaf individuals and in the rehabilitation of these individuals; and

(3) improve the understanding of the general public, employers in particular, of both the assets and problems of such deaf individuals,

the Secretary, subject to the provisions of section 212, is authorized to make grants to or contracts with any public or nonprofit agency or organization for payment by the United States of all or part of the costs of the establishment and operation, including construction and equipment, of one or more centers for the vocational rehabilitation of deaf individuals whose maximum vocational potential has not been achieved, which shall be known as Rehabilitation Centers for Deaf Individuals.

(c) Any agency or organization desiring to receive a grant or enter into a contract under this subsection shall submit a proposal therefor at such time, in such manner, and containing such information as may be prescribed in regulations by the Secretary. In considering such proposals the Secretary shall give preference to those proposals which (1) give promise of maximum effectiveness in the organization and operation of a Rehabilitation Center for Deaf Individuals, and (2) give promise of offering the substantial capability in providing a broad program of service and related research, training, and other activities in the field of rehabilitation of deaf individuals whose maximum vocational potential has not been achieved.

(d) For the purposes of this section, the Secretary shall prescribe regulations to—

(1) provide a means of determining the population of deal individuals whose maximum vocational potential has not been achieved;

(2) insure that, in carrying out the purposes of this section, provision has been made for coordination between the agency or organization receiving funds under this section on the one hand, and the State and local educational agencies in the area to be served on the other; and

(3) provide that an advisory board, comprised of qualified professional and expert individuals in the fields of rehabilitation and education of deaf individuals, be appointed to assure proper functioning of a Center established under this section in accordance with its stated objectives and to provide assistance in professional, technical, and other related areas; and that at least one-third of the members of such board shall be deaf individuals.

(e) To be eligible to receive vocational or comprehensive rehabilitation services under this section, a deaf individual must be sixteen years of age or older, must have reached the age at which the compulsory school attendance laws of the State in which he resides are no longer applicable to him, and must be an individual whose maximum vocational potential (as defined in regulations which the Secretary shall prescribe) has not been achieved.

(f) Programs carried out under this section shall be coordinated with programs carried out by the Bureau of Education for the Handicapped within the Office of Education in order to achieve a consistent education and rehabilitation philosophy, to provide for continuity of services and program purpose, and to avoid unnecessary duplication or overlap of programs.

NATIONAL CENTERS FOR SPINAL CORD INJURIES

SEC. 207. (a) For the purpose of establishing and operating National Centers for Spinal Cord Injuries, there is authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1973; $25,000,000 for the fiscal year ending June 30, 1974; and $30,000,000 for the fiscal year ending June 30, 1975. Funds appropriated under this section shall remain available until expended.

(b) In order—

(1) to help form a national network of centers with special competencies in providing prompt, complete vocational and comprehensive rehabilitation services and acute medical care to individuals with spinal cord injuries;

(2) to assist in meeting the costs of such services to such individuals;

(3) to encourage and assist the study and development of methods for the provision of such services; and

(4) to develop new methods of achieving cooperation with and among community and other public and nonprofit organizations concerned with the problems of spinal cord injury;

the Secretary, subject to the provisions of section 212, is authorized to enter into an agreement with any public or nonprofit private agency or organization to pay all or part of the costs of the establishment and operation, including construction and equipment, of centers to carry out the purposes of this subsection, which centers shall be known as National Centers for Spinal Cord Injuries.

(c) Any agency or organization desiring to enter into such an agreement shall submit a proposal therefor at such time, in such manner, and containing such information as may be prescribed in regulations by the Secre-

tary. In considering such proposals the Secretary shall provide an opportunity for submission of comments by the State agency administering the State plan under section 101, and shall give preference to those proposals which (1) give promise of maximum effectiveness in the organization and operation of National Centers for Spinal Cord Injuries, and which includes provisions to—

(A) establish, on an appropriate regional basis, a multidisciplinary system of providing vocational and comprehensive rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries including, but not limited to, acute medical care and periodic inpatient or outpatient followup;

(B) demonstrate and evaluate the benefits to individuals with spinal cord injuries served in, and the degree of cost effectiveness of, such a regional system;

(C) demonstrate and evaluate existing, new, and improved methods and equipment essential to the care, management, and rehabilitation of individuals with spinal cord injuries;

(D) demonstrate and evaluate methods of community outreach and advocacy for individuals with spinal cord injuries in areas such as housing, transportation, recreation, employment, and community activities;

and (2) give promise of offering substantial skill, experience, and capability in providing a comprehensive program of services and related activities in the field of rehabilitation of individuals with spinal cord injuries.

GRANTS FOR SERVICES FOR END-STAGE RENAL DISEASE

SEC. 208. (a) For the purpose of providing services under this section for the treatment of individuals suffering from end-stage renal disease there is authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1973; $25,000,000 for the fiscal year ending June 30, 1974; and $30,000,000 for the fiscal year ending June 30 1975. Funds appropriated under this subsection shall remain available until expended.

(b) From sums available therefor for any fiscal year, the Secretary shall make grants to States and public and nonprofit organizations and agencies for paying all or part of the cost of projects for providing special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the rehabilitation of individuals suffering from end-stage renal disease.

(c) Payments under this section may be made in advance or by way of reimbursement for services performed and purchases made, as may be determined by the Secretary, and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of this section.

REHABILITATION SERVICES FOR OLDER BLIND INDIVIDUALS

SEC. 209. (a) For the purpose of providing rehabilitation services to older blind individuals, there is authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1973; $20,000,000 for the fiscal year ending June 30, 1974; and $30,000,000 for the fiscal year ending June 30 1975. Of the amounts appropriated in each such fiscal year under this subsection, at least 10 per centum in each such year shall be available only for projects authorized under subsection (h) of this section.

(b) (1) For each fiscal year each State shall be entitled to an allotment of an amount bearing the same ratio to the amount authorized to be appropriated by subsection (a) of this section for meeting the costs described in paragraph (2) of this subsection, as the product of (A) the population of the State, and (B) its allotment percentage (as described in section 7 of this Act) bears to the sum of the corresponding products for all the States. The allotment to any State under the preceding sentence for any fiscal year which is less than $50,000 shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotments to each of the remaining States under the preceding sentence, but with such adjustments as may be necessary to prevent the allotment of any of such remaining States from being thereby reduced to less than that amount.

(2) The Secretary shall pay to each State an amount equal to the Federal share of the cost of rehabilitation services furnished to older blind individuals under a plan of such State approved under section 101, including the cost of any rehabilitation services furnished by the designated State vocational rehabilitation agency or agencies, except that the total of such payments to such State for such fiscal year may not exceed its allotment under paragraph (1) for such year. The cost of rehabilitation services provided under this section shall not include any amounts paid by another public or private agency for the provision of rehabilitation services.

(c) For the purpose of this section, the term "older blind individuals" means individuals, age 55 and older, whose severe visual impairment makes gainful employment less readily attainable in the light of current employment practices.

(d) No payment may be made from an allotment under this section with respect to any cost with respect to which any payment is made under any other provision in this Act.

(e) The Secretary shall approve that portion of a State plan which contains a program for rehabilitation services for other blind individuals if in addition to the general requirements of section 101, it—

(1) contains the plan, policies, and methods to be followed in providing services under the State plan for rehabilitation of older blind individuals and in the administration and supervision of such services, and, in case rehabilitation services cannot be provided all older blind individuals who apply for such services, set forth the order to be followed in selecting those to whom such services will be provided;

(2) contains provisions relating to the establishment and maintenance of personnel standards and the establishment and maintenance of minimum standards governing facilities and personnel utilized in the provision of rehabilitation services for older blind individuals consistent with the provisions of the State plan, and;

(3) provides for cooperation by the State agency with other public and private agencies concerned with blind or older individuals and joint undertakings to further the effectiveness of rehabilitation services for older blind individuals.

(f) If the Secretary determines that a State agency has failed to comply substantially with the provisions of this section, he shall discontinue payments under this section in the same manner and on the same basis as he is required by section 101(c)(2) to discontinue payments under sections 110, 111, and 120 of this Act and judicial review of such action shall be available in the same manner as is provided in section 101(d).

(g) The provisions of section 212 shall apply to assistance provided under this section, unless the context of such provisions indicates to the contrary.

(h) In order—

(1) to demonstrate methods of (A) providing the specialized intensive services, as well as other services, needed to rehabilitate older blind individuals, and (B) training the professional and allied personnel needed to provide such services;

(2) to conduct research in the problems of, and ways of meeting the problems of rehabilitating older blind individuals; and

(3) to aid in the conduct of related activities which will expand or improve the services for, or help improve public understanding of, the problems of older blind individuals;

the Secretary is authorized to make grants to and contracts with public and nonprofit agencies for payment by the United States of all or part of the cost of projects to carry out the purposes of this subsection.

NATIONAL ADVISORY COUNCIL ON REHABILITATION OF THE HANDICAPPED

SEC. 210. (a) There is established in the Department of Health, Education, and Welfare a National Advisory Council on Rehabilitation of the Handicapped (hereinafter referred to in this section as the "Council") consisting of twenty members appointed by the Secretary without regard to civil service laws. Such twenty members shall be leaders in fields concerned with rehabilitation or in public affairs, and ten of such twenty shall be selected from among leading medical, educational, or scientific authorities with outstanding qualifications in the rehabilitation of handicapped individuals. Eight of such twenty members shall be persons who are themselves handicapped or who have received vocational rehabilitation services. Each such member of the Council shall hold office for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor is appointed shall be appointed for the remainder of such term and except that, of the members first appointed, five shall hold office for a term of two years, and five shall hold office for a term of one year, as designated by the Secretary at the time of appointment. None of such members shall be eligible for reappointment until a year has elapsed after the end of his preceding term. The Council shall meet not less than four times a year at the call of the Chairman, who shall be selected from among its membership by the members.

(b) The Council shall—

(1) provide policy advice and consultation to the Secretary on the planning (including determination of priorities), conduct, and review of programs (including research and training) authorized under this Act;

(2) review the administration and operation of vocational rehabilitation (including research and training) programs under this Act, including the effectiveness of such programs in meeting the purposes for which they are established and operated and the integration of research and training activities with service program goals and priorities, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this Act) to the Secretary for annual transmittal to the Congress;

(3) advise the Secretary with respect to the conduct of independent evaluations of programs (including research and training) carried out under this Act; and

(4) provide such other advisory services as the Secretary may request.

(c) (1) Adequate technical assistance and support staff for the Council shall be provided from the Office for the Handicapped, the Rehabilitation Services Administration, or from any other Federal agency, as the Council may reasonably request.

(2) There is authorized to be appropriated for the purpose of carrying out clause (1) of this subsection $100,000 for the fiscal year ending June 30, 1973, and $150,000 for each of the two succeeding fiscal years.

(d) The Council shall review the possible duplication among vocational rehabilitation programs and other programs serving handicapped individuals within the same geographical areas and shall make annual reports of the extent to which unnecessary duplication or overlap exists, together with its findings and recommendations, to the Secretary for submission to the Congress. In

making these reports, the Council shall seek the opinions of persons familiar with vocational rehabilitation and the employment of persons who have received vocational and comprehensive rehabilitation services in each State as well as persons familiar with labor, business and industry, education and training, health, and manpower programs.

(e) Members of the Council, while attending meetings or conferences thereof, or otherwise serving in business of the Council, or at the request of the Secretary, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including traveltime, and while so serving 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 section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

STATE ADVISORY COUNCILS

SEC. 211. (a) Any State which receives assistance under this Act for any fiscal year ending after June 30, 1973, shall, with the aid of amounts set aside pursuant to section 110(f), established and maintain a State Advisory Council, which shall be appointed by the Governor, or, in the case of a State in which members of the State board which governs vocational rehabilitation are elected (including election by the State legislature), by such board.

(1) The State Advisory Council shall include as members persons who are familiar with problems of vocational rehabilitation in the State and the administration of vocational rehabilitation programs, and who are experienced in the education and training of the handicapped; persons who are representative of labor and management, including persons who have knowledge of the employment of persons who have received vocational rehabilitation services and employment of the handicapped; and individuals who are handicapped and who are receiving or who have received vocational rehabilitation services and who shall constitute a majority of the total membership of the State Advisory Council.

(2) The State Advisory Council, in accordance with regulations prescribed by the Secretary, shall—

(A) advise the Governor and the State agency on the development of and policy matters arising in the administration of the State plan submitted pursuant to this Act;

(B) advise with respect to long-range planning and studies to evaluate vocational rehabilitation programs, services, and activities assisted under this Act; and

(C) prepare and submit to the Governor through the State agency having authority over vocational rehabilitation programs, and to the National Advisory Council on Rehabilitation of the Handicapped established pursuant to section 210 of this Act, an annual report of its recommendations, accompanied by such additional comments of the State agency as that agency deems appropriate.

(b) Not less than one hundred twenty days prior to the beginning of any fiscal year ending after June 30, 1973, the appointing authority under subsection (a) of this section shall inform the Secretary of the establishment of, and membership of, its State Advisory Council. The Secretary shall, upon receiving such information, certify that each such council is in compliance with the membership requirements set forth in subsection (a)(1) of this section.

(c) Each State Advisory Council shall meet within thirty days after certification has been accepted by the Secretary under subsection (b) of this section and select from among its membership a chairman. The time, place, and manner of subsequent meetings shall be provided by the rules of the State Advisory Council, except that such rules must provide that each such council meet at least four times each year, including at least one public meeting at which the public is given the opportunity to express views concerning vocational rehabilitation.

(d) Each State Advisory Council is authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to enable them to carry out their functions under this section.

GENERAL GRANT AND CONTRACT REQUIREMENTS

SEC. 212. (a) The provisions of this section shall apply to all projects (including annual interest grants) approved and assisted under this title. The Secretary shall insure compliance with this section prior to making any grant or entering into any contract or agreement under this title, except projects authorized under sections 201, 208, 210, and 211.

(b) To be approved, an application for assistance for a construction project under this title must—

(1) contain or be supported by reasonable assurances that (A) for a period of not less than twenty years after completion of construction of the project it will be used as a public or nonprofit facility, (B) sufficient funds will be available to meet the non-Federal share of the cost of construction of the project, and (C) sufficient funds will be available, when construction of the project is completed, for its effective use for its intended purpose;

(2) provide that Federal funds provided to any agency or organization under this title will be used only for the purposes for which provided and in accordance with the applicable provisions of this section and the section under which such funds are provided;

(3) provide that the agency or organization receiving Federal funds under this title will make an annual report to the Secretary, which he shall summarize and comment upon in his annual report to the Congress submitted under section 404;

(4) be accompanied or supplemented by plans and specifications in which due consideration shall be given to excellence of architecture and design, and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project), and which comply with regulations of the Secretary relating to minimum standards of construction and equipment (promulgated with particular emphasis on securing compliance with the requirements of the Architectural Barriers Act of 1968 (Public Law 90–480)), and with regulations of the Secretary of Labor relating to occupational health and safety standards for rehabilitation facilities; and

(5) contain or be supported by reasonable assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by payments pursuant to any grant under this section will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with Davis-Bacon Act, as amended (40 U.S.C. 276a–276a5); and the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(c) Upon approval of any application for a grant for a project under this section, the Secretary shall reserve, from any appropriation available therefor, the amount of such grant determined under this title. In case an amendment to an approved application is approved, or the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the appropriation from which the original reservation was made or the appropriation for the fiscal year in which such amendment or revision is approved.

(d) If, within twenty years after completion of any construction project for which funds have been paid under this section, the facility shall cease to be a public or nonprofit facility, the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.

(e) Payment of grants or reservation of funds made pursuant to this title may be made (after necessary adjustment on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Secretary may determine.

(f) A project for construction of a rehabilitation facility which is primarily a workshop may, where approved by the Secretary as necessary to the effective operation of the facility, include such construction as may be necessary to provide residential accommodations for use in connection with the rehabilitation of handicapped individuals.

(g) No funds provided under this title may be used to assist in the construction of any facility which is or will be used for religious worship or any sectarian activity.

(h) If any funds provided under this title will be used for providing direct services to handicapped individuals or for establishing facilities which will provide such services, such services must be carried out in a manner not inconsistent with the State plan approved pursuant to section 101.

(i) Prior to making any grant or entering into any contract under this title, the Secretary shall afford reasonable opportunity to the State agency or agencies designated pursuant to section 101 to comment on such grant or contract.

TITLE III—RESEARCH AND TRAINING

DECLARATION OF PURPOSE

SEC. 300. The purpose of this title is to authorize Federal assistance to States and public and other nonprofit organizations to—

(a) plan and conduct research, demonstrations, and related activities in the rehabilitation of handicapped individuals, and

(b) plan and conduct courses of training and related activities designed to provide increased numbers of trained rehabilitation personnel, to increase the levels of skills of such personnel, and to develop improved methods of providing such training.

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. (a) In order to make grants and contracts to carry out the purposes of this title, there is authorized to be appropriated:

(1) For the purpose of carrying out section 302 of this title, $75,000,000 for the fiscal year ending June 30, 1973, $100,000,000 for the fiscal year ending June 30, 1974, and $150,000,000 for the fiscal year ending June 30, 1975, of which 15 per centum, 25 per centum, and 25 per centum of the amounts appropriated in the first, second, and third such fiscal years, respectively, shall be available for the purpose of carrying out activities under section 302(b)(2) of this Act.

(2) For the purpose of carrying out section 303 of this title, $50,000,000 for the fiscal year ending June 30, 1973, $75,000,000 for the fiscal year ending June 30, 1974, and $100,000,000 for the fiscal year ending June 30, 1975.

(b) Funds appropriated under this title shall remain available until expended.

RESEARCH

SEC. 302. (a) The Secretary is authorized to make grants to and contracts with States and public and nonprofit organizations, including institutions of higher education, to pay part of the cost of projects for the pur-

pose of planning and conducting research, demonstrations, and related activities which bear directly on the development of methods, procedures, and devices to assist in the provision of vocational and comprehensive rehabilitation services to handicapped and severely handicapepd individuals under this Act. Such projects may include medical and other scientific, technical, methodological, and other investigations into the nature of disability, methods of analyzing it, and restorative techniques; studies and analyses of industrial, vocational, social, psychological, economic, and other factors affecting rehabilitation of handicapped individuals; special problems of homebound and institutionalized individuals; and related activities which hold promise of increasing knowledge and improving methods in the rehabilitation of handicapped and severely handicapped individuals.

(b) In addition to carrying out projects under subsection (a) of this section, the Secretary is also authorized to make grants to pay part or all of the cost of the following specialized research activities:

(1) Establishment and support of Rehabilitation Research and Training Centers to be operated in collaboration with institutions of higher education for the purpose of providing coordinated and advanced programs of research in rehabilitation, and training of rehabilitation research personnel including, but not limited to, graduate training. Grants may include funds for services rendered by such a center to handicapped individuals in connection with such research and training activities.

(2) Establishment and support of Rehabilitation Engineering Research Centers to (A) develop innovative methods of applying advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems through planning and conducting research, including cooperative research with other public and private organizations, designed to produce new scientific knowledge, equipment, and devices suitable for solving problems in the rehabilitation of handicapped individuals and for reducing environmental barriers, and to (B) cooperate with the Office for the Handicapped and State agencies designated pursuant to section 101 in developing systems of information exchange and coordination to promote the prompt utilization of engineering and other scientific research to assist in solving problems in the rehabilitation of handicapped individuals.

(3) Conduct of a program for spinal cord injury research in support of the National Centers for Spinal Cord Injuries established pursuant to section 207 which will (A) insure dissemination of research findings among all such centers, (B) provide encouragement and support for initiatives and new approaches by individual and institutional investigators, and (C) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts, in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigators.

(4) Conduct of a program for international rehabilitation research, demonstration, and training for the purpose of developing new knowledge and methods in the rehabilitation of handicapped individuals in the United States, cooperating with and assisting in developing and sharing information found useful in other nations in the rehabilitation of handicapped individuals, and initiating a program to exchange experts and technical assistance in the field of rehabilitation of handicapped individuals with other nations as a means of increasing the levels of skill of rehabilitation personnel.

(c) The provisions of section 212 shall apply to assistance provided under this section, unless the context indicates to the contrary.

TRAINING

SEC. 303. (a) The Secretary is authorized to make grants to and contracts with States and public and nonprofit organizations, including institutions of higher education, to pay part of the cost of projects for training, traineeships, and related activities designed to assist in increasing the numbers of personnel trained in providing vocational and comprehensive rehabilitation services to handicapped individuals and in performing other functions necessary to the development of such services.

(b) In making such grants or contracts, funds made available for any year will be utilized to provide a balanced program of assistance to meet the medical, vocational, and other personnel training needs of both public and private rehabilitation programs and institutions, to include projects in rehabilitation medicine, rehabilitation counseling, rehabilitation social work, physical therapy, occupational therapy, speech pathology, and audiology, rehabilitation nursing, workshop and facility adminstration, prosthetics and orthotics, psychology, specialized personnel in services to the blind and the deaf, recreation for the ill and handicapped, and other fields contributing to the rehabilitation of the handicapped, including homebound and institutionalized individuals. No grant shall be made under this section for furnishing to an individual any one course of study extending for a period in excess of four years.

REPORTS

SEC. 304. The Secretary shall include in the annual report to the Congress required by section 404 a full report on the research and training activities carried out under this title and the extent to which such research and training has contributed directly to the development of methods, procedures, devices, and trained personnel to assist in the provision of vocational and comprehensive rehabilitation services to handicapped and severely handicapped individuals under this Act.

TITLE IV—ADMINISTRATION AND PROGRAM AND PROJECT EVALUATION

ADMINISTRATION

SEC. 400. (a) In carrying out his duties under this Act, the Secretary shall—

(1) cooperate with, and render technical assistance (directly or by grant or contract) to States in matters relating to the rehabilitation of handicapped individuals;

(2) provide short-term training and instruction in technical matters relating to vocational and comprehensive rehabilitation services, including the establishment and maintenance of such research fellowships and traineeships, with such stipends and allowances (including travel and subsistence expenses), as he may deem necessary, except that no such training or instruction (or fellowship or scholarship) shall be provided any individual for any one course of study for a period in excess of two years, and such training, instruction, fellowships, and traineeships may be in the fields of rehabilitation medicine, rehabilitation nursing, rehabilitation social work, rehabilitation psychology, rehabilitation counseling, physical therapy, occupational therapy, speech pathology and audiology, prosthetics and orthotics, recreation for ill and handicapped individuals, and other specialized fields contributing to vocational rehabilitation; and

(3) disseminate information relating to vocational and comprehensive rehabilitation services, and otherwise promote the cause of rehabilitation of handicapped individuals and their greater utilization in gainful and suitable employment..

(b) The Secretary is authorized to make rules and regulations governing the administration of this title and titles V and VI of this Act, and to delegate to any officer or employee of the United States such of his powers and duties under such titles, except the making of rules and regulations, as he finds necessary to carry out the provisions of such titles. Such rules and regulations, as well as those prescribed by the Commissioner of the Rehabilitation Services Administration under titles I, II, and III of this Act, shall be published in the Federal Register, on at least an interim basis, no later than ninety days after the date of enactment of this Act.

(c) The Secretary is authorized (directly or by grants or contracts) to conduct studies, investigations, and evaluation of the programs authorized by this Act, and to make reports, with respect to abilities, aptitudes, and capacities of handicapped individuals, development of their potentialities, their utilization in gainful and suitable employment, and with respect to architectural transportation, and other environmental and attitudinal barriers to their rehabilitation including the problems of homebound, institutionalized, and older blind individuals.

(d) There is authorized to be included for each fiscal year in the appropriation for the Department of Health, Education, and Welfare such sums as are necessary to administer the provisions of this Act.

(e) In carrying out his duties under this Act, the Secretary shall insure the maximum coordination and consultation, at both national and local levels, with the Administrator of Veterans' Affairs and his designees with respect to programs for and relating to the rehabilitation of disabled veterans carried out under title 38, United States Code.

PROGRAM AND PROJECT EVALUATION

SEC. 401. (a) (1) The Secretary shall measure and evaluate the impact of all programs authorized by this Act, in order to determine their effectiveness in achieving stated goals in general, and in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

(2) In carrying out his responsibilities under this subsection, the Secretary, in the case of research, demonstrations, and related activities carried out under section 302, shall, after taking into consideration the views of State agencies designated pursuant to section 101, on an annual basis—

(A) reassess priorities to which such activities should be directed; and

(B) review present research, demonstration, and related activities to determine, in terms of the purpose specified for such activities by subsection (a) of such section 302, whether and on what basis such activities should be continued, revised, or terminated.

(3) The Secretary shall, within 12 months after the date of enactment of this Act, and on each April 1 thereafter, prepare and furnish the appropriate committees of the Congress a complete report on the determination and review carried out under paragraph (2) of this subsection, together with such recommendations, including any recommendations for additional legislation, as he deems appropriate.

(b) Effective after June 30, 1973, before releasing funds for the programs and projects covered by this Act, the Secretary shall

develop and publish general standards for evaluation of the program and project effectiveness in achieving the objectives of this Act. He shall consider the extent to which such standards have been met in deciding, in accordance with procedures set forth in sections 101 (b), (c), and (d), whether to renew or supplement financial assistance authorized under any section of this Act. Reports submitted pursuant to section 404 shall describe the actions taken as a result of these evaluations.

(c) In carrying out evaluations under this title, the Secretary shall, whenever possible, arrange to obtain the specific views of persons participating in and served by programs and projects assisted under this Act about such programs and projects.

(d) The Secretary shall publish the results of evaluative research and summaries of evaluations of program and project impact and effectiveness no later than ninety days after the completion thereof. The Secretary shall submit to the appropriate committees of the Congress copies of all such research studies and evaluation summaries.

(e) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with assistance under this Act shall become the property of the United States.

OBTAINING INFORMATION FROM FEDERAL AGENCIES

SEC. 402. Such information as the Secretary may deem necessary for purposes of the evaluations conducted under this title shall be made available to him, upon request, by the agencies of the executive branch.

AUTHORIZATION OF APPROPRIATIONS

SEC. 403. There is authorized to be appropriated such sums as the Secretary may require, but not to exceed an amount equal to one-half of 1 per centum of the funds appropriated under titles I, II, and III of this Act or $2,000,000, whichever is greater, to be available to conduct program and project evaluations as required by this title.

REPORTS

SEC. 404. Not later than 120 days after the close of each fiscal year, the Secretary shall prepare and submit to the President and to the Congress a full report on the activities carried out under this Act. Such annual reports shall include (1) statistical data reflecting, with the maximum feasible detail, vocational and comprehensive rehabilitation services provided handicapped individuals during the preceding fiscal year, (2) specifically distinguish among rehabilitation closures attributable to physical restoration, placement in competitive employment, extend or terminal employment in a sheltered workshop or rehabilitation facility, employment as a homemaker or unpaid family worker, and provision of comprehensive rehabilitation services, and (3) include a detailed evaluation of services provided with assistance under part C of title I of this Act.

SHELTERED WORKSHOP STUDY

SEC. 405. (a) The Secretary shall conduct a study of the role of sheltered workshops in the rehabilitation and employment of handicapped individuals, including a study of wage payments in sheltered workshops. The study shall incorporate guidelines which are consistent with criteria provided in resolutions adopted by the Committee on Labor and Public Welfare of the United States Senate or the Committee on Education and Labor of the United States House of Representatives, or both.

(b) The study shall include site visits to sheltered workshops, interviews with handicapped trainees or clients, and consultations with interested individuals and groups and State agencies designated pursuant to section 101.

(c) Any contracts awarded for the purpose of carrying out all or part of this study shall not be made with individuals or groups with a financial or other direct interest in sheltered workshops.

(d) The Secretary shall report to the Congress his findings and recommendations with respect to such study within eighteen months after the date of enactment of this Act.

TITLE V—OFFICE FOR THE HANDICAPPED

ESTABLISHMENT OF OFFICE

SEC. 500. There is established within the Office of the Secretary in the Department of Health, Education, and Welfare an Office for the Handicapped (hereinafter in this title referred to as the "Office"). The Office shall be headed by a Director, who shall serve as a Special Assistant to the Secretary and shall report directly to him, and shall be provided such personnel as are necessary to carry out the functions set forth in section 501. In selecting personnel to fill all positions in the Office, the Secretary shall give special emphasis to qualified handicapped individuals.

FUNCTION OF OFFICE

SEC. 501. It shall be the function of the Office, with the assistance of agencies within the Department, other departments and agencies within the Federal Government, handicapped individuals, and public and private agencies and organizations, to—

(1) prepare and submit to the Secretary, for submission to the Congress within one year after the date of enactment of this Act, a five-year plan for the provision of services to handicapped individuals and for programs of research, evaluation, and training related to such services and individuals;

(2) analyze and review, on a continuing basis, program operation and budgeting with a view to assure, consistent with applicable provisions of law, progress toward meeting the goals and priorities set forth in the plan required under clause (1), the integration of all programs providing services to handicapped individuals, and the elimination of unnecessary duplication and overlap in such programs under the jurisdiction of the Secretary;

(3) coordinate and encourage cooperative planning designed to produce maximum effectiveness, sensitivity, and continuity in the provision of services for handicapped individuals by all programs under the jurisdiction of the Secretary;

(4) provide assistance (including staff assistance) to the National Advisory Council on Rehabilitation of the Handicapped established by section 210 of this Act, the National Advisory Council on the Education of the Handicapped established by section 604 of the Education of the Handicapped Act (title VI, public Law 91-230), and other committees advising the Secretary on programs for handicapped individuals;

(5) develop means of promoting the prompt utilization of engineering and other scientific research to assist in solving problems in education, health, employment, rehabilitation, and other areas so as to bring about the full integration of handicapped individuals into all aspects of society;

(6) provide a central clearinghouse for information and resources availability for handicapped individuals through (A) the evaluation of systems within the Department of Health, Education, and Welfare, other departments and agencies of the Federal Government, public and private agencies and organizations, and other sources, which provide (i) information and data regarding the location, provision, and availability of services and programs for handicapped individuals, regarding research and recent medical and scientific developments bearing on handicapped conditions (and their prevention, amelioration, causes, and cures), and regarding the current numbers of handicapped individuals and their needs, and (ii) any other such relevant information and data which the Office deems necessary; and (B) utilizing the results of such evaluation and existing information systems, the development within such Department of a coordinated system of information and data retrieval, which will have the capacity and responsibility to provide general and specific information regarding the information and data referred to in subclause (A) of this clause to the Congress, public and private agencies and organizations, handicapped individuals and their families, professionals in fields serving such individuals, and the general public; and

(7) carry out such additional functions and responsibilities as may be assigned to it by the Secretary or the President.

AUTHORIZATION OF APPROPRIATIONS

SEC. 502. There are authorized to be appropriated for the purposes of this title $1,000,000 for the fiscal year ending June 30, 1973, $2,000,000 for the fiscal year ending June 30, 1974, and $2,000,000 for the fiscal year ending June 30, 1975.

TITLE VI—MISCELLANEOUS

EFFECT ON EXISTING LAWS

SEC. 600. The Vocational Rehabilitation Act (29 U.S.C. 31-42) is repealed 90 days after the date of enactment of this Act and references to such vocational Rehabilitation Act in any other provision of law shall, 90 days after such date, be deemed to be references to the Rehabilitation Act of 1972. Unexpected appropriations for carrying out the Vocational Rehabilitation Act may be made available to carry out this Act, as directed by the President. Approved State plans for vocational rehabilitation, approved projects, and contractual arrangements authorized under the Vocational Rehabilitation Act will be recognized under comparable provisions of this Act so that there is no disruption of ongoing activities for which there is continuing authority.

FEDERAL INTERAGENCY COMMITTEE ON HANDICAPPED EMPLOYEES

SEC. 601. (a) There shall be established within the Federal Government an Interagency Committee on Handicapped Employees (hereinafter in this section referred to as the "Committee"), comprised of the following (or their designees whose positions are Executive Level IV or higher): the Chairman of the Civil Service Commission, the Administrator of Veterans' Affairs, and the Secretaries of Labor and Health, Education, and Welfare. The Chairman of the President's Committee on Employment of the Handicapped and the Chairman of the President's Committee on Mental Retardation shall serve as ex officio members of the Interagency Committee, and the Secretary of Health, Education, and Welfare shall serve as Chairman of the Committee. The resources of such President's Committee shall be made fully available to the Committee established pursuant to this section. The Commissioner of the Rehabilitation Services Administration shall serve as Executive Director of the Committee. It shall be the purpose and function of the Committee to insure, through the establishment of affirmative action programs, the adequacy of hiring, placement, and advancement practices with respect to handicapped individuals by each department, agency, and instrumentality in the executive branch of Government, and that the special needs of such individuals are being met.

(b) Each department, agency, and instrumentality in the executive branch shall, within 180 days after the date of enactment of this Act, submit to the Committee an affirmative action program plan for the hir-

ing, placement, and advancement of handicapped individuals in such department, agency, or instrumentality. Such plan shall include a description of the extent to which and methods whereby the special needs of handicapped employees are being met.

(c) The Committee shall develop and recommend to the Secretary for referral to the appropriate State agencies, policies and procedures which will facilitate the hiring, placement, and advancement in employment of individuals who have received rehabilitation services under State vocational rehabilitation programs, veterans' programs, or any other program for handicapped individuals, including the promotion of job opportunities for such individuals. The Secretary shall encourage such State agencies to adopt and implement such policies and procedures.

(d) The Committee shall, on June 30, 1973, and at the end of each subsequent fiscal year, make a complete report to the appropriate committees of the Congress with respect to the practices of hiring, placement, and advancement of handicapped individuals by each department, agency, and instrumentality and the effectiveness of the affirmative action programs required by subsection (b) of this section, together with recommendations as to legislation or other appropriate action to insure the adequacy of such practices. Such report shall also include a description of the effectiveness of the Committee's activities under subsection (c) of this section.

(e) An individual who, as a part of his individualized rehabilitation written program under a State plan approved under this Act, participates in a program of unpaid work experience in a Federal agency, shall not, by reason thereof, be considered to be a Federal employee or to be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(f)(1) The Secretary of Labor and the Secretary of Health, Education, and Welfare are authorized and directed to cooperate with the President's Committee on Employment of the Handicapped in carrying out its functions.

(2) There are authorized to be appropriated for salaries and expenses of the President's Committee on Employment of the Handicapped $1,000,000 for the fiscal year ending June 30, 1973, and $1,250,000 for the fiscal year ending June 30, 1974.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SEC. 602. (a) There is established within the Federal Government the Architectural and Transportation Barriers Compliance Board (hereinafter referred to as the "Board") which shall be composed of the heads of each of the following Departments or Agencies (or their designees whose positions are Executive Level IV or higher):

(1) Department of Health, Education, and Welfare;

(2) Department of Transportation;

(3) Department of Housing and Urban Development;

(4) Department of Labor;

(5) Department of the Interior;

(6) General Services Administration;

(7) United States Postal Service; and

(8) Veterans' Administration.

(b) It shall be the function of the Board to: (1) insure compliance with the standards prescribed by the General Services Administration, the Department of Defense, and the Department of Housing and Urban Development pursuant to the Architectural Barriers Act of 1968 (Public Law 90-480), as amended by the Act of March 5, 1970 (Public Law 91-205); (2) investigate and examine alternative approaches to the architectural, transportation, and attitudinal barriers confronting handicapped individuals, particularly with respect to public buildings and monuments, parks and parklands, public transportation (including air, water, and surface transportation whether interstate, foreign, intrastate, or local), and residential and institutional housing; (3) determine what measures are being taken by Federal, State, and local governments and by other public or private nonprofit agencies to eliminate the barriers described in clause (2) of this subsection; (4) make reports to the President and to Congress, which shall describe in detail the results of its investigations under clauses (2) and (3) of this subsection; and (5) make to the President and to the Congress such recommendations for legislation and administration as it deems necessary or desirable to eliminate the barriers described in clause (2) of this subsection.

(c) In carrying out its functions under this section, the Board shall conduct investigations, hold public hearings, and issue such orders as it deems necessary to insure compliance with the provisions of the Acts cited in subsection (b). Sections 1001 to 1011 of title 5, United States Code, shall apply to procedures under this section, and an order of compliance issued by the Board shall be a final order for purposes of judicial review.

(d) The Board is authorized to appoint as many hearing examiners as are necessary for proceedings required to be conducted under this section. The provisions applicable to hearing examiners appointed under section 3105 of title 5, United States Code, shall apply to hearing examiners appointed under this subsection.

(e) The departments or agencies specified in subsection (a) of this section shall make available to the Board such technical, administrative, or other assistance as it may require to carry out its functions under this section, and the Board may appoint such other advisers, technical experts, and consultants as it deems necessary to assist it in carrying out its functions under this section.

(f) The Board shall, at the end of each fiscal year, report its activities during the preceding fiscal year to the Congress. Such report shall include an assessment of the extent of compliance with the Acts cited in subsection (b) of this section, along with a description and analysis of investigations made and actions taken by the Board.

(g) There is authorized to be appropriated for the purpose of carrying out the duties and functions of the Board under this section $1,000,000 for the fiscal year ending June 30, 1973; $1,250,000 for the fiscal year ending June 30, 1974; and $1,500,000 for the fiscal year ending June 30, 1975.

EMPLOYMENT UNDER FEDERAL CONTRACTS

SEC. 603. (a) Any contract entered into by any Federal department or agency for the procurement of personal property and nonpersonal services (including construction) for the United States shall contain a provision requiring that, in employing persons to carry out such contract, the party contracting with the United States shall take affirmative action to employ and advance in employment qualified handicapped individuals as defined in section 6(7). The provisions of this section shall apply to any subcontract entered into by a prime contract or in carrying out any contract for the procurement of personal property and nonpersonal services (including construction) for the United States. The President shall implement the provisions of this section by promulgating regulations within ninety days after the date of enactment of this section.

(b) If any handicapped individual believes any contractor has failed or refuses to comply with the provisions of his contract with the United States, relating to employment of handicapped individuals, such individual may file a complaint with the Department of Labor. The Department shall promptly investigate such complaint and shall take such action thereon as the facts and circumstances warrant consistent with the terms of such contract and the laws and regulations applicable thereto.

NONDISCRIMINATION UNDER FEDERAL GRANTS

SEC. 604. No otherwise qualified handicapped or severely handicapped individual in the United States, as defined in section 6 of this Act, shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or actively receiving Federal financial assistance.

TITLE VII—AMENDMENTS TO RANDOLPH-SHEPPARD ACT

SEC. 700. This title may be cited as the "Randolph-Sheppard Act for the Blind Amendments of 1972".

AUTHORIZATION AND PREFERENCE FOR OPERATION OF VENDING FACILITIES ON FEDERAL PROPERTY

SEC. 701. The first section of the Act entitled "An Act to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes," (hereinafter referred to as the "Randolph-Sheppard Act") approved June 20, 1936, as amended (20 U.S.C. 107), is amended by striking out all after the enacting clause and inserting in lieu thereof the following:

"That (a) for the purposes of providing blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make themselves self-supporting, blind persons licensed under the provisions of this Act shall be authorized to operate vending facilities on any Federal property.

"(b) In authorizing the operating of vending facilities on Federal property, preference shall be given to blind persons licensed by a State agency as provided in this Act; and the head of each department or agency in control of the maintenance, operation, and protection of Federal property shall, after consultation with the Secretary, and with the approval of the President, prescribe regulations designed to assure that such preference is given to such licensed blind persons (including assignment of vending machine income to achieve and protect such preference) without adversely affecting the interests of the United States."

STATE LICENSING AGENCIES AND QUALIFICATIONS FOR LICENSEES

SEC. 702. (a) Section 2(a) of the Randolph-Sheppard Act is amended as follows:

(1) paragraph (1) is amended to read as follows:

"(1) make surveys of concession vending opportunities for blind persons on Federal and other property in the United States;"

(2) paragraph (4) is amended by—

(A) striking out "at least twenty-one years of age";

(B) striking out "articles dispensed automatically or in containers or wrapping in which they are placed before receipt by the vending stand, and such other articles as may be approved for each property by the department or agency in control of the maintenance, operation, and protection thereof and the State licensing agency in accordance with the regulations prescribed pursuant to the first section:" and inserting in lieu thereof the following: "foods, beverages, and other such articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, as determined by the State licensing agency:"; and

(C) striking out "stands" and "stand" and inserting in lieu thereof "facilities" and "facility", respectively.

(b) Section 2(b) of such Act is amended by—

(1) striking out "stand" where it appears in the first and second sentences and inserting in lieu thereof "facility";

(2) striking out "and have resided for at least one year in the State in which such stand is to be located"; and

(3) striking out "but are able, in spite of such infirmity, to operate such stands".

(c) Section 2(c) of such Act is amended by striking out "stand" in both places in which it appears and inserting in lieu thereof "facility".

(d) Section 2 of such Act is further amended by adding a new subsection (d) at the end thereof as follows:

"(d)(1) After January 1, 1973, no department, agency, or instrumentality of the United States shall own, rent, lease, or otherwise occupy, in whole or in part, any building unless, after consultation with the Secretary and the State licensing agency, it is determined by the Secretary that (A) such building includes a satisfactory site or sites for the location and operation of a vending facility by a blind person, or (B) if a building is to be constructed, substantially altered, or renovated for use by such department, agency, or instrumentality, the design for such construction, substantial alteration, or renovation, includes a satisfactory site or sites for the location and operation of a vending facility by a blind person.

"(2) The provisions of paragraph (1) shall not apply (A) when the Secretary and the State licensing agency determine that the number of people using the property is or will be insufficient to support a vending facility, and (B) to any privately owned building, any part of which is leased by any department, agency, or instrumentality of the United States and in which, (i) prior to the execution of such lease, the lessor or any of his tenants had in operation a restaurant or other food facility in a part of the building not included in such lease, and (ii) the operation of such a vending facility by a blind person would be in proximate and substantial direct competition with such restaurant or other food facility.

"(3) For the purposes of this subsection, the term 'satisfactory site' means an area determined by the Secretary to have sufficient space, electrical and plumbing outlets, and such other facilities as the Secretary may by regulation prescribe, for the location and operation of a vending facility by a blind person."

ARBITRATION BETWEEN OPERATORS AND LICENSING AGENCIES

SEC. 703. Section 3 of the Randolph-Sheppard Act is amended by—

(1) striking out in paragraph (2) "stand" in both places in which it appears and inserting in lieu thereof "facility";

(2) striking out in paragraph (3) "stands", in both places in which it appears, and "stand", and inserting in lieu thereof "facilities" and "facility", respectively; and

(3) by striking out in paragraph (6) "stand" and inserting in lieu thereof "facility", and by inserting immediately before the period at the end of such paragraph the following: ", and to agree to submit the grievances of any blind licensee not otherwise resolved by such hearing to binding arbitration as provided in section 6 of this Act.

ARBITRATION BETWEEN AGENCIES; ARBITRATION BOARD

SEC. 704. The Randolph-Sheppard Act is further amended by redesignating sections 6 through 8 as sections 8 through 10, respectively, and inserting immediately after section 5, the following new sections:

"SEC. 6. (a) Any blind licensee who is dissatisfied with any action arising from the operation or administration of the vending facility program may file a complaint with the Secretary who shall convene a panel to arbitrate the dispute pursuant to section 7 of this Act, and the decision of such panel shall be final and binding on the parties except as otherwise provided in this Act.

"(b) Whenever any State licensing agency, designated as such by the Secretary under this Act, determines that any department, agency, or instrumentality of the United States that has control of the maintenance, operation, and protection of Federal property is failing to comply with the provisions of this Act or any regulations issued thereunder such licensing agency may file a complaint with the Secretary who shall convene a panel to arbitrate the dispute pursuant to section of this Act, and the decision of such panel shall be final and binding on the parties except as otherwise provided in this Act.

"SEC. 7. (a) Upon receipt of a complaint filed under section 6 of this Act, the Secretary shall convene an ad hoc arbitration panel as provided in subsection (b). Such panel shall, in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, give notice, conduct a hearing, and render its decision which shall be a final agency action within the meaning of section 704 of such title 5. The appropriate court of appeals shall have jurisdiction of any appeal from the decision of any such panel in accordance with the provisions of chapter 7 of such title 5.

"(b)(1) The arbitration panel convened by the Secretary to hear the grievances of licensed blind persons shall be composed of three members appointed as follows:

"(A) one individual designated by the head of the State licensing agency;

"(B) one individual designated by the licensed blind operator; and

"(C) one individual jointly designated by the members appointed under subparagraph (A) and (B) who shall serve as chairman.

If any party fails to designate a member under paragraph (1) (A), (B), or (C) the Secretary shall designate such member on behalf of such party.

"(2) The arbitration panel convened by the Secretary to hear complaints filed by a State licensing agency shall be composed of three members appointed as follows:

"(A) one individual, who shall serve as chairman, designated by the Secretary;

"(B) one individual designated by the head of the Federal department, agency, or instrumentality controlling the Federal property over which the dispute arose; and

"(C) one individual jointly designated by the members appointed under subparagraphs (A) or (B).

If any party fails to designate a member under paragraph (2) (A), (B), or (C), the Secretary shall designate such member on behalf of such party. If the panel appointed pursuant to paragraph (2) finds that the acts or practices of any such department, agency, or instrumentality are in violation of this Act, or any regulation issued thereunder, the head of any such department, agency, or instrumentality shall cause such acts or practices to be terminated promptly and shall take such other action as may be necessary to carry out the decision of the panel.

"(c) The decisions of any panel convened by the Secretary pursuant to this section shall be matters of public record and shall be published in the Federal Register."

DEFINITIONS

SEC. 705. (a) Section 6(b) of the Randolph-Sheppard Act is amended to read as follows:

"(b) The term 'blind person' means a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees. In determining whether an individual is blind, there shall be an examination by a physician skilled in diseases of the eye or by an optometrist, whichever the individual shall select."

(b) Section 6(c) of such Act is amended by inserting after "possession," the words "Puerto Rico,".

(c) Section 6 of such Act is further amended by adding at the end thereof the following new subsection:

"(f) The term 'vending facility' means (1) automatic vending machines, snackbars, cart service, shelters, counters, and such other appropriate auxiliary equipment as the Secretary may prescribe by regulation as being necessary for the sale of the articles or services described in section 2(a)(4) and which may be operated by blind licensees, and (2) cafeterias if, upon a demonstration by the State licensing agency, the Secretary determines that the inclusion of such facilities is feasible and that there is a program of training and supervision of blind licensees that will assure the development of the skills needed to operate such a facility."

EFFECTIVE DATE

SEC. 706. Except as provided in section 702 (d), this title shall become effective on the date of its enactment.

The PRESIDING OFFICER. There is a time limit on this bill.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent—with no time limitation being applied—that the pending business be laid aside temporarily and that the Senate proceed to the consideration of unobjected-to items on the calendar, beginning with Calendar No. 1150, up to and including Calendar No. 1159

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

JERRY L. CHANCELLOR

The bill (H.R. 7946) for the relief of Jerry L. Chancellor was considered, ordered to a third reading, read the third time, and passed.

HAROLD J. SEABORG

The bill (H.R. 6467) for the relief of Harold J. Seaborg was considered, ordered to a third reading, read the third time, and passed.

DAVID J. FOSTER

The bill (H.R. 10012) for the relief of David J. Foster was considered, ordered to a third reading, read the third time, and passed.

SARA B. GARNER

The bill (H.R. 12099) for the relief of Sara B. Garner was considered, ordered to a third reading, read the third time, and passed.

ANNE M. SACK

The bill (H.R. 12903) for the relief of Anne M. Sack was considered, ordered to a third reading, read the third time, and passed.

HERBERT IMPROTE

The bill (H.R. 10363) for the relief of Herbert Improte was considered, ordered

to a third reading, read the third time, and passed.

AUGUST F. WALZ

The Senate proceeded to consider the bill (S. 3008) for the relief of August F. Walz, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That, on such terms that it deems just, the United States Postal Service is authorized to compromise, release, or discharge in whole or in part the liability of August F. Walz, postmaster, United States Post Office, Wilmington, Delaware, of the sum of $28,978.62, representing the amount of a revenue deficiency charged to his postal account as postmaster. Such deficiency resulting from unpaid postage on second-class transient mailings of the "Wilmington Suburban News" and the financial inability of the owner of such newspaper, and after his death, his estate, to pay any part of such amount.

The amendment was agreed to.

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

MAURICE MARCHBANKS

The Senate proceeded to consider the bill (S. 3055) for the relief of Maurice Marchbanks, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That Maurice Marchbanks is relieved of all liability to repay to the United States the sum of $667.20, the amount he was reimbursed by the United States in special expenses incurred in a move from the State of Texas to the State of Arizona for the purpose of employment with the United States Forest Service which expenses the United States Forest Service specially promised to pay and/or reimburse. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be given for the respective amounts for which liability is relieved by this Act.

SEC. 2. The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Maurice Marchbanks, the sum of any amounts received or withheld from him with respect to the indebtedness for which liability is relieved by this Act.

SEC. 3. No part of the amount appropriated in the first section of this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The amendment was agreed to.

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

CPL. BOBBY R. MULLINS

The Senate proceeded to consider the bill (H.R. 11629) for the relief of Cpl. Bobby R. Mullins, which had been reported from the Committee on the Judiciary with an amendment on page 2, line 8, after the word "withheld", strike out "of" and insert "from".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

DONALD W. WOTRING

The Senate proceeded to consider the bill (H.R. 11047) for the relief of Donald W. Wotring, which had been reported from the Committee on the Judiciary with amendments on page 1, line 6, after the word "of", where it appears the first time, strike out "$688.26,", and insert "$662.61,";

In line 7, after the word "period", strike out "beginning July 1, 1967, and ending"; and insert "January 1, 1967, through".

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 Senate continued with the consideration of the bill (S. 3987) to replace the Vocational Rehabilitation Act, to extend and revise the authorization of grants to States for vocational and comprehensive rehabilitation services, to authorize supplementary funds for vocational and comprehensive rehabilitation services to severely handicapped individuals, to expand special Federal responsibilities and research and training with respect to handicapped individuals, to establish an Office for the Handicapped within the Department of Health, Education, and Welfare, and for other purposes.

REHABILITATION ACT OF 1972

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Mr. President, I ask unanimous consent that I may now ask for the yeas and nays on the pending measure, although, after discussing the Senate measure, we will substitute a House measure and insert into it the Senate amendments.

The PRESIDING OFFICER. The Senator should ask unanimous consent that it be in order to order the yeas and nays on the House bill. Will the Senator please identify the bill by number?

Mr. CRANSTON. I so ask with respect to H.R. 8395.

The PRESIDING OFFICER. Without objection, it is in order to order the yeas and nays on H.R. 8395.

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

The yeas and nays were ordered.

Mr. CRANSTON. Mr. President, I ask unanimous consent that during consideration of S. 3987 and its companion measure, House bill 3395, the following staff members be afforded the privileges of the floor: From the majority staff of the Committee on Labor and Public Welfare, Jonathan Steinberg, Robert Humphreys, Michael Burns and Lisa Walker; from the minority staff of the committee, Roy Millenson, and from the staff of Senator STAFFORD, the ranking minority member of the Subcommittee on the Handicapped, Mike Francis.

The PRESIDING OFFICER. Without objection, it is ordered.

Mr. CRANSTON. Mr. President, I do wish to make a few general remarks at this point regarding the extraordinary contributions made to the development of this legislation by so many individuals. First, I wish to express my personal gratitude to the chairman of the Subcommittee on the Handicapped, the distinguished Senator from West Virginia (Mr. RANDOLPH), who some time ago requested that I act as chairman of the subcommittee for the purpose of consideration of the legislation to extend the Vocational Rehabilitation Act which expired on June 30, 1972. I was privileged to carry out these responsibilities and was favored at all times with the utmost cooperation and assistance by the Senator from West Virginia. The bill which we have brought forth from the committee bears the unmistakable imprint of his outstanding contributions.

Also providing great input and leadership in the drafting and movement through committee of this legislation was the distinguished Senator from New Jersey (Mr. WILLIAMS), the chairman of the full Committee on Labor and Public Welfare. He has likewise afforded us magnificent assistance and cooperation in this effort.

But this bill is in no way a product of the majority party of the committee. Rather it is the concerted effort of six Senators—three from the majority and three from the minority. The contributions of the Senator from Vermont (Mr. STAFFORD), the distinguished ranking minority member of the Subcommittee on the Handicapped, and those of the Senator from New York (Mr. JAVITS), the ranking minority member of the full committee, have been most substantial and their assistance and bipartisan spirit have been absolutely indispensable in bringing us to the point of floor consideration today. Finally, I want to thank for his efforts, the Senator from Ohio (Mr. TAFT), who introduced the administration bill, S. 3368.

Mr. President, this truly bipartisan measure is also due directly to the enormous energies of staff members representing these six Senators. They spent countless hours in staff meetings working out the details of the bill as reported, and thus I would like to pay tribute to these individuals for the high purpose and dedication which they have brought to this measure. I refer specifically to Bob Humphreys on behalf of Senator RANDOLPH; Lisa Walker on behalf of Chairman WILLIAMS, Roy Millenson on behalf of Senator JAVITS and the committee minority, Mike Francis on behalf of Senator STAFFORD, Pat Gwaltney who worked on this measure for Senator TAFT, and Mike Burns and Jon Steinberg who have worked with me.

Also, Mr. President, a special word of appreciation is due to the technical support which we received, throughout our consideration of this legislation from the Department of Health, Education, and Welfare and particularly from the Rehabilitation Services Administration.

Noteworthy in that regard was the great dedication, patience and cooperative spirit which Dr. Bill Bean, of the Rehabilitation Services Administration, brought to the work of responding to our many questions and requests.

Mr. President, it is a great privilege to have been afforded the task of managing on the floor today, S. 3987 as which I reported it from the Committee on Labor and Public Welfare. This is the major piece of legislation affecting handicapped individuals in the United States. Over the 3 years of authorized programs in the bill, as reported, there are authorized to be appropriated $4,910,570,000 in order to carry out the six titles of the bill.

In fiscal year 1972, approximately 1,110,045 disabled persons were served by State vocational rehabilitation agencies, and the Rehabilitation Services Administration in HEW reports that 326,138 of them were considered to be rehabilitated. This is not an insignificant achievement if these figures can indeed be verified, but even this number of successful cases must be taken in the context of the estimated 7 to 12 million handicapped individuals in the Nation who have not realized their vocational potentials.

Specifically, a great deal more—just in the case of quantity—needs to be done. But that is not the principal thrust of this bill. Even with full funding of the appropriations levels authorized for the next 3 fiscal years, the committee recognizes that there will not be available sufficient funds to serve anywhere near the numbers requiring vocational rehabilitation, as well as those for whom a more independent life, although no vocational goal, is possible. Thus, the thrust of this bill, in terms of the basic vocational rehabilitation program, is to require that far more individuals with severe handicaps be served than at present.

Recognizing that the final goal of all rehabilitation services must be to better the lives of the individuals served, this bill places particular emphasis on a method of providing services which will be responsive to individual needs, and will insure that no individual will be excluded from the program merely because his handicap is too severe.

The committee bill follows House intent to provide an emphasis on services to severely handicapped individuals, by expanding the range of services that may be provided and by earmarking funds out of the basic program so that the States will be better able to provide the services severely handicapped individuals will need. Included in the expansion of services are comprehensive rehabilitation services which include services which will enable severely handicapped individuals, for whom a vocational goal is impossible, to prepare to live more independently.

However, the committee bill, in recognition that a productive and financially independent life is of primary importance, insures that no individual may be excluded from vocational training, counseling and related rehabilitation services aimed at a vocational goal without thorough and detailed evaluation of his rehabilitation potential and an explicit statement by the rehabilitation counselor encompassing the reasons why he has concluded beyond a reasonable doubt that a vocational goal is not appropriate.

In addition, the committee bill places greater emphasis on research and on the development of innovative rehabilitation techniques, equipment and devices which will ameliorate the effects of handicapping conditions and make employment more feasible for a severely handicapped individual. By increasing funding and authority available for these purposes, and giving statutory responsibility to the Commissioner of the Rehabilitation Services Administration for all vocational rehabilitation services, research, and training in connection with services to handicapped individuals, the committee bill seeks to place greater emphasis on expanding and improving services to handicapped individuals, with particular emphasis on the needs of more severely handicapped individuals.

The committee bill also responds to the need for services within certain target populations—including spinal cord injured individuals, those suffering from end-stage renal disease, severely handicapped deaf, deaf-blind and older blind individuals and handicapped migrants—for whom services are presently inadequate, by providing special Federal categorical programs to serve these persons. The committee bill also deals with problems such as discrimination in Federal employment and Federal grants, architectural barriers, and the coordination and improvement of programming for handicapped individuals, which because of their complex nature and wide-ranging effects cannot be dealt with only by the Rehabilitation Services Administration but have a profound effect on the delivery of relevant and effective services to handicapped individuals, by establishing a number of agency-wide and executive branch-wide special programs to meet the needs of handicapped individuals.

Mr. President, while the Senate bill agrees with much of the substance in the House bill and generally concurs with the purposes of the House bill, there are certain differences in approach and emphasis, which I wish to summarize briefly at this point.

SUMMARY OF PROVISIONS

1. SERVICES TO SEVERELY HANDICAPPED INDIVIDUALS

Rather than set up a separate authorization of appropriations for supplementary services for the severely handicapped, as was done by the House, the Committee bill earmarks 15 percent of the authorization under the basic vocational rehabilitation program (part B) to be used as supplementary funds (part C) for providing vocational or comprehensive rehabilitation services. Vocational rehabilitation services which contribute to gainful employment; comprehensive rehabilitation services include all vocational rehabilitation services and other services which may be necessary to enable severely handicapped individuals to live more independently and self-sufficiently.

In order to ensure that emphasis is put on developing vocational goals for severely handicapped individuals, a 10 percent limitation is put on the expenditure of funds under part B and part C for severely handicapped individuals for whom a vocational goal is not indicated.

Supplementary funds under part C can be used only after the agency has exceeded, because of the severity of the individual's handicap, twice the average cost in providing services to an individual. This provision was included to try to ensure that agencies have the additional funds needed to provide full services to severely handicapped individuals, thus providing an incentive to these agencies to undertake to serve them. At the same time, the bill requires that the basic costs for services—vocational or comprehensive rehabilitation—will be paid from part B funds in order that there be no counterincentive to spend part C funds for those individuals who are truly severely handicapped.

Provisions have been included in the State plan requirements to ensure that planning for severely handicapped individuals is undertaken, and to require a special emphasis on serving these individuals.

An important procedural provision has been included in the committee bill requiring an individualized written rehabilitation program be drawn up for every handicapped individual served, and to be drawn up in consultation with that individual. The counselor is required to explore every means for establishing a vocational or job-oriented goal for each individual, and to specify fully in the written program the reasons why this was impossible if he finds beyond a reasonable doubt that the individual cannot realize a vocational goal.

2. RESEARCH AND TRAINING

The committee bill provides a statutory basis for the Rehabilitation Services Administration, and provides that all authority for the carrying out of functions under titles I, II, and III of the Act shall be administered only by the Commissioner of RSA, which authorities the Secretary of HEW shall delegate to him. In addition, the bill sets up within RSA a Division of Research, Training and Evaluation, and within that Division a Center for Technology Assessment and Evaluation; the Division is assigned at least 10 personnel positions to carry out purposes related to research, training and evaluation.

The bill places a great deal of emphasis on applied research and the development of technology and devices to aid in solving rehabilitation problems of handicapped individuals. Besides the general research authority, the bill directs RSA to establish and operate Rehabilitation Engineering and Research Centers in order to aid in the development of this technology. In addition, for the first time, telecommunication, sensory, and other technological devices are specified as services under the basic vocational rehabilitation program.

A program of international research and exchange of personnel and technical assistance is also included so that the United States may more fully make

use of the many scientific and technological applications that have been made overseas.

3. OTHER PROVISIONS

The committee bill requires that a client advocacy system be established in each state to provide ombudsmen to seek to resolve, quickly and effectively, the complaints of clients and client applicants in each program or project assisted with funds under the Rehabilitation Act. This is a provision that I feel is extremely important and promises tremendous possibilities for improving many social services programs if it can work effectively in the vocational rehabilitation program.

The proposal for a client advocacy system to serve vocational rehabilitation clients has its genesis in the growing number of hospitals which are establishing patient advocates to attempt to give the institutionalized person a sense of being able to affect the environment in which he is confined and the rules and regulations governing his day-to-day existence. This system is intended to provide a quick, informal, and inexpensive method of providing real accountability on the part of the vocational rehabilitation system to the very personal needs of individual handicapped clients.

The Committee bill includes special programs for spinal cord injury, end-stage renal disease, severely handicapped deaf individuals, deaf-blind and older blind individuals, and an earmarking of money under special projects for migratory agricultural workers.

The Committee bill carries a Federal Interagency Committee on Handicapped Employees—and directs it to undertake an affirmative action program for hiring in each Federal agency—an Architectural and Transportation Barriers Compliance Board, requires affirmative action in employment of handicapped individuals in employment under Federal contracts, and prohibits discrimination against qualified handicapped individuals under Federal grants.

The Committee bill includes in title VII certain provisions amending the Randolph-Sheppard Act with regard to vending facilities on Federal property, which were based upon S. 2506.

Mr. President, the provisions of the bill are explained in detail in the Committee report (No. 92–1135) and I ask unanimous consent that certain excerpts from that report, with printing errors corrected, including a very detailed section-by-section analysis, be set forth in the RECORD at this point as part of my remarks.

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

* * * * *

EXPLANATION OF PROVISIONS

Sections 1–9

1. Provides a statutory basis for the Rehabilitation Services Administration and, unlike the House bill, creates within such Administration a new Division of Research, Training and Evaluation, and within such Division, a new Center for Technology Assessment and Application; and provides that all authorities provided to the Secretary under titles I through III of the bill shall be delegated to the RSA Commissioner.

2. Specifies new definitions, not contained in the House bill or existing law, for the Act which may be summarized as follows: defines "handicapped individual" to mean any individual who has a substantial mental or physical handicap to employment and who can be expected to benefit from vocational or comprehensive rehabilitation services; defines "comprehensive rehabilitation services" as vocational rehabilitation services and any other goods or services which will make a substantial contribution in helping a handicapped or severely handicapped individual to improve his ability to live independently or function normally with his family and community (this provides authority for services leading to a nonvocational goal for the first time); and defines "severely handicapped individual" as any handicapped individual whose ability to engage in employment or to function normally is so limited by the severity of his disability that services appreciably more costly and of greater duration are required, by virtue of the severity of his handicap, to improve his ability to engage in employment or live independently or function normally in his community or family.

TITLE I: VOCATIONAL AND COMPREHENSIVE REHABILITATION SERVICES

1. Requires the State in the State plan to include a description of the method to be used to expand services to the severely handicapped, and to provide that an order of selection be included if services cannot be provided to all eligible handicapped individuals, but differs from the House bill by specifying that this order must place special emphasis on providing services to severely handicapped individuals; requires the State plan to contain policy, plans and methods to be followed in delivering comprehensive rehabilitation services to severely handicapped individuals; in a change from existing law, redefines minimum services to be provided to all handicapped individuals as evaluation of rehabilitation potential for up to 18 months duration, counseling, guidance, referral, placement and client advocacy services, vocational and other training services and family services where necessary to the adjustment or rehabilitation of a handicapped individual, physical and mental restoration services (subject to reimbursement from other programs and private insurance) and maintenance payments during the process of rehabilitation; and expands from existing law and the House bill the scope of vocational and comprehensive services to include as a discretionary service the provision of telecommunication, sensory and other aids and devices; requires the vocational rehabilitation counselor or coordinator to develop for each individual an individualized written rehabilitation program which will be reviewed on an annual basis by the counselor and the client (or where appropriate, his parent or guardian), and will contain a statement of long-range rehabilitation goals and intermediate objectives for the individual and a timetable for achieving them. Primary emphasis in the development of this program must be the determination and achievement of a vocational rehabilitation goal. The decision that this goal is not possible can be made only in full consultation with the individual (or his parent or guardian). The individual program is reviewed annually at which time the client is given the opportunity to renegotiate its terms.

2. Increases the authorization for basic vocational and comprehensive rehabilitation services (see separate charts on authorization levels under "cost estimate"), in part B and earmarks 15% of all appropriations for the basic program as supplementary funds for the provision of vocational or comprehensive rehabilitation services for a severely handicapped individual which may be used for that individual only after the cost of purchase and provision of such services (including counseling) exceeds, by virtue of the severity of his handicap (as determined in accordance with regulations prescribed by the Secretary), 200% of the average cost per individual of the purchase and provision of such services for all handicapped individuals rehabilitated in the State in the preceding fiscal year. In addition, a 10% limitation is placed on funds expended under Part B and Part C for the provision of services to individuals who do not have a vocational goal. This is a major change from the House bill which provides a separate title for services to severely handicapped individuals, and emphasized through report language a priority for the severely handicapped under the basic program.

3. Establishes a new mandatory program of client advocacy systems within each State which will provide ombudsmen to seek to resolve complaints of clients and client applicants, and authorizes the Secretary to carry out experimental client appeal and review systems. Neither provision is contained in existing law or in the House bill.

4. Proposes to make a modification effective in FY 1974 in the State allotment formula for the basic program (part B) by distributing all funds up to $700,000,000 according to the existing formula—multiplying the population of a State by the square of its allotment percentage and placing the result in ratio to all other States, and for fiscal years after FY 1973 for portions of title I appropriations up to $700,000,000 which are available for allotment under part B (85% of 700=$595,000,000), the sums in excess of that amount ($595 million) shall be apportioned as follows: ⅔ of it on the basis of population and ⅓ of it by allotment percentage. This change is not contained in the House bill.

TITLE II—SPECIAL FEDERAL RESPONSIBILITIES

Establishes new authority, similar to the House bill, for annual interest grants, to defray part of the mortgage cost on rehabilitation facilities, for Rehabilitation Centers for severely handicapped deaf individuals, for the establishment and operation of Centers for Spinal Cord Injury, for grants for services for individuals suffering from end-stage renal disease and for services to older blind individuals; and provides for the establishment of State Advisory Councils on Rehabilitation of the Handicapped, a provision not contained in the House bill; provides for an expanded program of grants for special projects and demonstrations including an expansion of the special grant program for rehabilitation services for handicapped migratory or seasonal farm workers and their families, a provision similar to the House provision; continues authority from existing law for grants for construction of rehabilitation facilities, construction and operation of the National Center for Deaf-Blind Youths and Adults, and grants for vocational training for handicapped individuals (including weekly allowances for maintenance); and expands the size and broadens the authority of the present National Advisory Council on Vocational Rehabilitation.

TITLE III—RESEARCH AND TRAINING

Consolidates all research and training authority in present law in one title; follows the intent of the House bill to provide greater emphasis on research and training relating directly to the rehabilitation of handicapped individuals, by providing that all such authorities shall be delegated to and carried out and administered only by the Commissioner of the Rehabilitation Services Administration; and further identifies priorities for research by providing for the establishment and support of new Rehabilitation Research and Training Centers, the establishment and support of Rehabilitation Engineering Research Centers, grants for spinal cord injury research, and grants for international

rehabilitation research and exchange of personnel and technical assistance.

TITLE IV—PROGRAM AND PROJECT EVALUATION

Expands upon similar provisions in the House bill to provide a Federal responsibility for program and project evaluation of the impact and effectiveness of all programs authorized under the Act, and to determine and redetermine priorities for research, demonstration and related activities; and expands upon the House provision under which the Secretary would undertake a comprehensive study of the role of sheltered workshops, including a study of wage payments.

TITLE V—OFFICE FOR THE HANDICAPPED

Establishes an Office for the Handicapped in the Office of the Secretary to develop a Federal five-year plan for delivery of services to handicapped individuals and to evaluate, review, and take steps to achieve coordination in existing Federal programs for handicapped individuals; and incorporates in this Office the function of the National Information and Resources Center for the Handicapped contained in the House bill to evaluate existing data and information systems and to develop a coordinated system of information and data retrieval and dissemination relating to services, programs and information for handicapped individuals.

TITLE VI—MISCELLANEOUS

Provides for agency-wide programs, not contained in the House bill, to focus on problems of handicapped individuals, including the establishment of an Interagency Committee on Handicapped Employees to ensure the adequacy of hiring, placement and advancement practices in the Federal government in relation to handicapped employees and applicants, and the requirement of an affirmative action program to employ qualified handicapped employees by all Federal contractors and of non-discrimination by all Federal grantees.

TITLE VII—AMENDMENTS TO RANDOLPH SHEPPARD ACT

Contains amendments to the Randolph Sheppard Act for the Blind, which were ordered reported to the full Committee by the Subcommittee on the Handicapped in S. 2506 earlier this year (not part of the Rehabilitation Act of 1972).

HISTORICAL BACKGROUND

The initial interest of the Congress in the rehabilitation needs of the disabled was centered in the returning World War I veterans. Proposals were first directed to "soldier rehabilitation," but bills introduced in 1917 and 1918 also contained provisions for the rehabilitation of the industrially disabled. A decision was made, however, to proceed initially with the veteran's program.

SMITH-FESS ACT

The veteran's legislation and interest in the needs of the civilian industrially disabled led to the vocational rehabilitation program enacted on June 2, 1920, when President Woodrow Wilson signed into law the Smith-Fess Act (Public Law 66-236).

The rehabilitation program is one of the nation's oldest grant-in-aid programs. In the fifty-two years since the start of the program its basic concepts have continued mainly unchanged, with substantial enlargement of scope and effectiveness in legislative authority in 1943, 1954, 1965, 1967 and 1968.

The program initially offered limited services for the physically handicapped. Each client was eligible for training, counseling, and placement services. The program finally became permanent with the passage of the Social Security Act in 1935 (P.L. 74-271), in which Congress authorized annual appropriations.

1943 AMENDMENTS

World War II brought forth the next major step in the rehabilitation program. In the summer of 1943 Congress authorized for the first time the provision of (1) medical, surgical, and other physical restorative services to eliminate or reduce an individuals disability; (2) and expanded beyond physical disability to provide services for mentally ill and mentally retarded individuals. Under the bill passed that year (P.L. 78-113) provision was first made for the entry into the Federal-State program of the separate State agency serving the blind.

In addition, the law made a significant change in the concept of rehabilitation. The law defined "vocational rehabilitation" and "vocational rehabilitation services" as "any services necessary to render a disabled individual fit to engage in a remunerative occuption."

1954 AMENDMENTS

The passage of the 1954 amendments (P.L. 83-565) provided the next major forward movement in the nations rehabilitation program. The 1954 amendments provided provisions to improve financing and included authority for research, demonstration, and training activities to advance the State rehabilitation programs as well as voluntary programs. These provisions to support program efforts substantially added to other grant-in-aid programs.

The financing provisions were changed to provide a system for alloting Federal funds in order to give greater financial support to States with relatively small per capita income. Extension (the term was changed to "expansion" in 1965) and improvement project grants to States were initiated, with Federal matching of up to 75 percent, to induce States to develop new aspects of their programs and extend their services to additional disability groups and geographical areas not previously reached.

1965 AMENDMENTS

In 1965, another major set of amendments was enacted (P.L. 89-333). The amendments were designed to expand and enlarge the public program to achieve the rehabilitation of a much larger number of handicapped individuals. Federal financing was liberalized to encourage States to provide greater matching appropriations. Provisions to improve, strengthen, and assist in workshops and rehabilitation centers, and to construct new facilities were made.

There were other 1965 legislative developments which impacted directly upon the Vocational Rehabilitation program: the medicare provision of the Social Security Act included for the first time authority to make Social Security trust funds available to the State vocational rehabilitation agencies to pay for rehabilitation services for old-age and survivors disability insurance beneficiaries. In 1965 legislation was also enacted to carry out the recommendations of the President's Commission on Health, Disease, Cancer and Stroke. In order to move promptly in this important field Congress approved special appropriations to the Vocational Rehabilitation Administration.

The Vocational Rehabilitation Administration also became involved in a 3-year study of manpower needs in the correctional field, authorized under the Correctional Rehabilitation Study Act of 1965.

1967 AMENDMENTS AND REORGANIZATION

In 1967, the President and the Congress took steps to improve and expand rehabilitation programs for the Nation's disabled. The program of basic grants to the States for rehabilitation services was extended and expanded. Provisions were enacted to establish a National Center for Deaf-Blind Youths and Adults and to extend services to disabled migrants and their families where necessary to the rehabilitation of the handicapped migrant worker. In addition, State vocational rehabilitation agencies were required to provide services to handicapped individuals without regard to their place of residence.

In a major reorganization in the Department of Health, Education, and Welfare, in August, 1967, the Vocational Rehabilitation Administration was renamed the Rehabilitation Services Administration and became one of the program bureaus forming the Social and Rehabilitation Service, which was established at that time.

1968 AMENDMENTS

In 1968, the Congress again amended the Vocational Rehabilitation Act (P.L. 90-341) by extending and expanding the basic programs through 1971 and by establishing a new program of vocational evaluation and work adjustment to serve the disadvantaged (including the disabled). (This provision has never been funded.)

The Federal share for basic support grants was increased to 80 percent and a minimum allotment to the States of $1 million was established. New authority was enacted to recruit and train handicapped persons in public service employment and to encourage individuals to enter rehabilitation work. Authority for projects with industry to train handicapped individuals was also provided.

Rehabilitation services were broadened and defined to include (1) follow-up services, (2) services which promise to contribute to the rehabilitation of a group of individuals, (3) services to families, (4) establishment and construction of rehabilitation facilities, and (5) new employment opportunities for the handicapped. Another amendment defined rehabilitation facilities to include centers, workshops, and other facilities established, for the primary purpose of providing vocational rehabilitation services to, or gainful employment for, handicapped individuals.

In 1970, the Congress extended for one year, until June 30, 1972, the programs authorized in the Act without making any substantive changes in the legislation.

ACCOMPLISHMENTS

Since the inception of the Federal-State program of vocational rehabilitation in 1920, over 3 million handicapped people have been rehabilitated.

The program through the years has represented a true partnership in serving and rehabilitating handicapped individuals. Since the last major amendments in 1968 to the Vocational Rehabilitation Act, many additional accomplishments have occurred.

A milestone was achieved in FY 1971 in that for the first time over 1 million handicapped individuals were provided vocational rehabilitation services during a single year. In fiscal year 1972, State Vocational Rehabilitation agencies served 1,110,045 physically and/or mentally disabled persons and rehabilitated 326,138 persons to productive and meaningful lives. More than 37,000 of those rehabilitated in FY 1971[1] were mentally retarded, twice the number of retarded rehabilitated four years ago.

Through these efforts and innovation projects of State agencies new knowledge is being obtained to help rehabilitate the victims of cerebral palsy, epilepsy, aphasia, arthritis, and many other disabling conditions; some of the problems of deaf individuals and of handicapped homemakers are being solved. In FY 1972, four model regional research programs in spinal cord care were begun, to add to one operation in the previous year. New techniques are being developed for helping individuals of heart disease, cancer, and stroke; in the design of artificial limbs; in mobility for the blind, and in the development of halfway houses for the mentally ill to help them adjust to jobs and the community. Projects to enhance employment and rehabilitation of disabled welfare recipients have been funded through expansion grants.

Forty-six special Training Services Projects in 30 States provided 4400 disabled peo-

[1] At time of report, data analysis was not completed in depth for FY 1972.

ple special training and work opportunities. Twenty-five percent of these were public assistance clients. Over the past several years the administration has stressed rehabilitating an increasing number of handicapped individuals who are on public assistance. It is estimated that the annual cost of maintenance of a person on public assistance in FY 1971 is $850. In FY 1972, State vocational rehabilitation agencies rehabilitated 51,084 public assistance recipients. The cost for public assistance for those persons it is estimated would amount to over $40,500,000. The Committee notes this trend with both approval and concern. It does not believe that any greater proportion of services under this Act should be targeted on handicapped welfare recipients but rather urges the purchase of services from State VR agencies with 75/25 Social Security Act matching social services funding.

Vocational rehabilitation can be justified on the basis of services to a very needy portion of the population. Even on a cost-benefit basis, the achievements of these vocational rehabilitation efforts clearly indicate the value of making a greater Federal investment. A number of benefit-cost analyses of the rehabilitation program have been completed. Although they differ with respect to methods and assumptions, they all agree on one crucial fact—the benefits of the rehabilitation program are many times its cost. Conservative estimates of the ratio of benefits to costs have ranged between 8 to 1 and 35 to 1. For instance, the total annual earnings of 291,272 individuals rehabilitated in fiscal year 1971 are estimated at $1 billion or a net increase of $750,000,000 of earnings at the time individuals entered the rehabilitation system. In addition to this contribution to the GNP, the Rehabilitation Services Administration estimates that these individuals, at a minimum, will be contributing approximately 5% of their total income or $58 million to Federal, State and local governments for taxes. This contribution is in addition to the estimated savings to the program by the government through either the removal of clients from the Public Assistance rolls or by reducing clients' dependency.

HEARINGS AND COMMITTEE ACTION

The Subcommittee on the Handicapped of the Committee on Labor and Public Welfare held hearings (generally morning and afternoon) on May 15, 18, and 26, 1972, as well as on June 2, 1972 and June 6, 1972. In the course of these five days of testimony, more than forty witnesses were heard. They were representatives of the Administration, the groups representing persons with various disabilities and consumers of vocational rehabilitation services as well as providers of services, the state agencies, rehabilitation medicine physicians, and other concerned persons. The Committee believes that these were at least as comprehensive a set of hearings as has ever been held on the Vocational Rehabilitation program. In addition, numerous written statements were taken for the record. The combination of the two has produced a most extensive hearing record, and has formed the basis for the legislation that accompanies this report.

The bills included in the hearings were: the House-passed measure, H.R. 8395; the bill introduced by Senator Taft, on behalf of the Administration, as amendments to the present Vocational Rehabilitation Act, S. 3368; S. 3158, a bill to create an Office for the Handicapped; S. 1030, to provide rehabilitation services for older blind individuals; S. 41, to provide a national Information Center for the Handicapped; and S. 2812 to provide treatment for end-stage renal disease patients.

On September 13, 1972, the Subcommittee on the Handicapped met in executive session and unanimously ordered favorably reported to the full Committee an original bill, based on H.R. 8395, but with substantial modifications, as explained in this report, and incorporating the provisions of S. 3158, S. 1030, and certain provisions of S. 3368. Also included as title VII of the bill were the provisions of S. 2506, amending the Randolph-Sheppard Vending Stand Act, which measure was reported from the Subcommittee earlier this year. This title is discussed separately as the last item under "Discussion". On September 14, 1972, that clean bill was introduced with bipartisan support as S. 3987. On September 15, 1972, the full Committee in executive session unanimously ordered favorably reported S. 3987, after adopting certain amendments set forth above under "Committee Amendments".

DISCUSSION

NEED FOR LEGISLATION

The Committee, after careful consideration of the hearing testimony and a review of the present RSA program, concluded that substantial legislative changes were necessary. The Rehabilitation Services Administration and the states who provide 20 per cent of the funds for the program are not reaching those who are in the greatest need for rehabilitation services. During the hearings, the Committee heard varying estimates of the numbers who could benefit from rehabilitation services in the United States. Administration witnesses placed the number at near 7 million individuals. Other witnesses claimed the total to be as high as 12 million. The actual numbers, or even an accurate approximation, is not known, and the Committee believes that such data must be collected as soon as possible.

Whichever figure is accepted, it is known that rehabilitation agencies last year reached only one million handicapped people, and something just less than 250,000 of those were classified successfully rehabilitated. Testimony indicated that not even one quarter of those successfully aided could be classified as severely handicapped. The Committee saw the need for definite legislation which would not only provide more service for more people, but focus more directly on those who most need the services, the severely handicapped individual.

The focus of the Committee is very much on that group, and the burden of reaching them has been placed on the rehabilitation agencies squarely throughout the bill. Giving the Rehabilitation Services Administration direct statuory authority for the first time is aimed at making them more accountable for the way in which the program is carried out.

The Committee also found that there was a large segment of the handicapped population that could not be served under the present program parameters due to the fact that no vocational goal could be achieved, or might not seem achievable at the time of the attempt by the individual to enter the program. The Committee feels a strong responsibility to see that these individuals do receive the services that they need, particularly that maximum efforts are made to develop a vocational goal for them. The bill attempts to achieve these objectives, by stressing services to severely handicapped individuals and providing for services (not in excess of 10% of any state's basic funds) for individuals for whom a vocational goal is really not possible.

Generally, the Committee agreed with the findings of the House, and the goals of the bill that has resulted does not vary greatly from the underlying philosophy of H.R. 8395, although some of the methods adopted are different.

INTENT OF THE BILL

The key to the intent of the bill is the Committee's belief that it will provide more services for more individuals while at the same time providing more vocational and comprehensive services to individuals whose handicap is most severe. It is the bill's intent to be more responsive to the needs of the handicapped individual by providing a better basic program of service as well as some specialized programs to aid those with handicaps that need more attention than the basic program can provide. Additionally, the Committee has added provisions that will help the handicapped individual to better his life through an increase in the research and training activities to help make employment and participation in society more accessible.

SHORT TITLE

The new short title of the bill, the "Rehabilitation Act of 1972", expresses the new thrust of the bill in that, for the first time, those individuals who apply for services need not have a vocational goal. It allows entrance into the program for those whose eventual vocational outcome may not be clear when they first apply, or whose eventual goal may be only a more independent life style. While the Committee expects fully that the program will remain vocationally oriented, it does believe that there are handicapped individuals whose handicaps are so severe, or because of other circumstances, such as age, that they may never achieve employment. The Committee feels that they should not be denied services. Their being served may have the eventual outcome of freeing other members of the handicapped individual's family to return to employment, with a resultant gain in tax revenue and a rise in the standard of living of the family.

DECLARATION OF PURPOSE

The Committee fully agreed with the House that there should be a well defined declaration of purpose contained in the law. There is not now such a provision. In general terms it spells out the programs that are authorized under the bill and provides a summary of the purposes the Committee wishes to be carried out under the subsequent provisions by RSA.

REHABILITATION SERVICES ADMINISTRATION

In the course of the hearings, the Committee heard overwhelming testimony to the effect that RSA should have a statutory basis. S. 3987 provides for that basis, as does the House bill. It is the opinion of the Committee that if the Commissioner of RSA is to be called upon to answer for the effectiveness of the rehabilitation programs carried out under the bill, then, he should have direct authority to do so. The Committee intends to place the responsibility for carrying out titles I, II, and III solely in the RSA Commissioner, to whom the Secretary shall delegate his functions under these titles. The Committee has given the Commissioner many new responsibilities, especially in the area of research and training, that he does not now have. It is felt that the overall programmatic emphasis will be strengthened by placing this responsibility within RSA. The Committee also feels that, in being given this new authority and a statutory basis, as well as an authorization for 60 more personnel to carry out the functions, RSA will be far more accountable both to the public and the Congress.

With full authority over the research, training and innovation grants and contracts, RSA should be able to provide a firm direction for such programs toward easing the burden of handicapping conditions, especially severe handicaps.

In order to provide for the experience and expertise needed for an effective research and training program, the bill requires a new Division of Research, Training, and Evaluation within RSA and within that division, a new Center for Technology Assessment and

Application, headed by an Assistant Commissioner of RSA. It is the Committee's intent that this Division and its Assistant Commissioner will serve as the focal point for research and development and training funds under this Act and that he will be held responsible for the redirection of research priorities. It is expected that the Assistant Commissioner will cooperate and coordinate his programs with other agencies in HEW and if need be stimulate competition to obtain the best results. The interface of social services programs should not suffer with the placing of the research and development and training authority for RSA in this Assistant Commissioner.

ADVANCE FUNDING

The Committee recognizes that in order to have more efficient programs and prudent planning, it is desirable to have advance funding made available for the program. The Committee agrees with the House that this is a most desirable feature and hopes the administration will request and the Appropriations Committees will approve appropriations on an advance funding basis.

DEFINITIONS

The Committee chose to consolidate all of the definitions that are operative throughout the bill in one section. Many of them have not been significantly changed from present law, but there are several departures that should be noted in order better to understand the philosophy of S. 3987.

Consistent with changes the Committee has made in the operation of the basic state program for the provision of rehabilitation services, the Committee has emphasized in the definition of handicapped individual that the program is expected to serve those individuals who have substantial handicaps to employment as long as there is a reasonable expectation that they can benefit from the provision of services. While existing law conditions the provision of services on a reasonable expectation that the individual will be rendered fit to engage in a gainful occupation, the Committee agrees with the House bill that a change is needed in this part of the definition. The Senate bill thus extends services to individuals who may not, at the time of evaluation, have a vocational goal for two reasons: that the individual may be brought to a point through the provision of services that he may have a vocational goal, and that many of the services available through the vocational rehabilitation program will enable individuals without a vocational goal to live more independently. The Committee believes that the definition in existing law is too limiting, making the assumption that no change will occur over time. This limitation can operate to exclude many handicapped individuals who could greatly benefit from the program, and denies services to those individuals most in need.

In line with the change in definition, the Committee has also included a definition of severely handicapped individuals. The Committee asked virtually every witness to define "severely handicapped." Recognizing that to develop a definition which would be accurate across every disability group is extremely difficult, the Committee believes that the concept is best approximated in terms of duration and cost of services which are necessitated by the severity of a handicap and are needed to bring that individual to a vocational or independent living goal. The Committee is very clear in its conviction that individuals who are severely handicapped can and should have vocational goals, and that maximum effort must be expended to provide these individuals with a broad range of services to enable them to realize this potential. The Committee is cognizant of the fact that it may take greater effort to set up a rehabilitation program for these individuals, and it expects rehabilitation counselors to make this effort.

However, the Committee, in changing the definition of handicapped individual, has recognized that there are severely handicapped individuals who may not have a vocational goal, but who can greatly benefit from rehabilitation services. While emphasizing that every effort should be expended to provide services to individuals so that they may reach a vocational goal, the Committee also believes that individuals can benefit from rehabilitation services which will enable then to live more independently and to be more self-sufficient. For this reason, the Committee has defined comprehensive rehabilitation services to mean vocational rehabilitation services and any other service which will make a substantial contribution in helping a handicapped or severely handicapped individual improve his ability to live independently or function normally with his family and community.

The Senate bill defines, for the first time, evaluation of rehabilitation potential, including all those services which were contained in section 15 of the existing law as mandatory services under the basic program to be provided to handicapped individuals.

The definition of Federal share is changed from existing law. While the Committee has retained the Federal share at 80% under Part B for the basic formula grant program, the Federal share for Part C, supplementary funds for vocational and comprehensive rehabilitation services to severely handicapped individuals, has been set at 85%. The Committee believes that this additional support from the Federal Government is needed in order to assist the States to expand their services and provide opportunities for more severely handicapped individuals. Unless otherwise specified in the bill, the Federal share is 85%, except for construction grants where the Committee has retained the matching requirements of existing law. (See section 200(b) in the "Section-by-Section Analysis".)

Finally, the Committee points out that it has included Indian tribal organizations, or a combination of such organizations, in the definition of local agency.

TITLE I. VOCATIONAL AND COMPREHENSIVE REHABILITATION SERVICES

Allotment Formula for Basic Programs

For some time questions have been raised with respect to the State program allocation formula under the Vocational Rehabilitation Act. This formula is the product of population multiplied by the square of a reversed per capita income factor. It is this squaring aspect which, it has been felt, distorts the desirable policy of giving States with low per capita income a formula advantage, by creating widely varying differences between what various States receive for each handicapped individual residing there. Thus, while the average per capita vocational rehabilitation grant for handicapped persons for the Nation is $81.30, seven States receive less than $50 per capita while six States receive more than $100 per capita, as do the Virgin Islands, Puerto Rico, and the District of Columbia. This problem presented by the present "squared" formula would be exacerbated by the bill's appreciably increasing the authorization for basic State programs from $700 million in FY 1972 to $1.15 billion for part B programs in FY 1975 (85 percent of $1.35 billion title I authorization).

Thus, it seems clear that with the appreciable increase in funding in view, it would be a propitious time to revise the formula since no individual State is being faced with a diminution of funds—especially if protective provisions (as has been done) are inserted.

In order to avoid any dislocation as a result of a formula change, the Committee bill provides that (1) the formula change will not be effective until FY 1974, (2) that the present formula will continue to be applicable for the amount of part B funds available for allotment based upon an appropriation in excess of $700 million (the FY 1972 appropriation for State programs was $560 million); and (3) in those programs not having a State allotment formula (e.g., Special Projects and Demonstrations for which $150 million is authorized to be appropriated in FY 1975), special consideration shall be given to those States which would have received a greater allotment of funds under Part B of Title I of the Act for FY 1974 and subsequent years. With respect to this latter provision, the Secretary is required to include in his annual report the results of such computation for each State and the special consideration afforded as a result of such computations.

Under the bill, for part B of title I effective in fiscal years beginning after June 30, 1973, each State will receive for the first $595 million (85 per cent of $700 million) available for allotment under Part B an allocation computed in accord with the formula stipulated in present law. When appropriations exceed that amount, the funds appropriated in excess will be allocated as follows: Two-thirds of the additional appropriation will be distributed on a proportional population basis, a State receiving that portion of the funds so available as the ratio of its population bears to the national population; one-third of such additional appropriation will be distributed on a proportional reversed per capita income factor. Thus, with respect to this latter factor, a State having a per capita income below the national average would receive a greater distribution per capita than a State with a per capita income above the national average.

The Committee expects RSA and the Secretary of HEW to do all that is possible to arrive at a figure which would represent a close approximation of the handicapped population in each state. Only when that type of information is available can there be a truly equitable distribution of funds to states based on their handicapped population.

The Committee directs the Department of Health, Education and Welfare to cooperate with the Census Bureau and all other federal agencies concerned to ascertain this information as soon as possible and to supply it to the appropriate Committees of Congress.

Authorization of Appropriations

The authorizations that are provided by the Senate bill are approximately the same in overall amount as those in the House bill, combining the provisions of Titles I, II, III from the House bill (see table under "Cost Estimate".) The amount authorized for the basic State formula grant program in the Senate bill is $900,000,000 for FY 1973. Within the basic amount, the Committee mandates that 15% of the amount appropriated every fiscal year will be set aside as supplementary funds to provide services to severely handicapped individuals who by virtue of the severity of their handicap are more costly or require a longer duration of services to rehabilitate. Access to these funds is gained after two hundred percent of the average cost of rehabilitation (including counseling) is spent on a given individual case to ameliorate a severe handicap.

Services For Severely Handicapped Individuals

The Committee has chosen to organize the basic program provision of the bill in a manner different from the House version. S. 3987 provides for the basic program as well as the special emphasis for the severely handicapped in the same title, instead of having a separate title devoted to services for the severely handicapped. The Committee's intent was

the same as that of the House bill, which was to give more attention to the rehabilitation of the severely handicapped. The Senate bill attempts to achieve this through the earmarking of funds for services for severely handicapped individuals within the basic program, thereby assuring that funds will be available for this purpose and that there is adequate incentive for the states to engage in the rehabilitation of severely handicapped individuals. By requiring that a definite amount of basic program money be spent prior to the drawing on the supplementary funds for services to severely handicapped individuals, the Committee bill attempts to ensure that the client who is severely handicapped will be served in the same manner as one who is not defined as severely handicapped.

Consistent with this philosophy, the first part of title I includes all of the administrative provisions for the rest of the title. This insures that the funds and programs for persons who are handicapped and those who are severely handicapped are treated in a uniform fashion.

State Plans

Part A of title I sets forth the requirements of the state plan, much of which is unchanged or only slightly changed from present law. As in present law and the House bill, a single state agency must be designated, unless the state has a separate state agency for the blind, in which case such separate agency, would be designated to administer that part of the plan which deals with the blind. The bill requires that the basic state agency selected must be primarily concerned with the rehabilitation of handicapped individuals or with education or vocational education needs. Further, the plan must provide for the required state participation in the funding of the program before the Federal share can be released.

The state plan must set forth the priority of selection of individuals for services and must show that special emphasis is placed on severely handicapped individuals. It is the Committee's strong feeling that this emphasis should not, in light of the increased appropriations authorizations contained in the bill, lead to any significant diminution in the number of individuals who are being served in the program under present law.

The bill also provides in the State plan requirements that the Commissioner of RSA shall establish priorities for services and that the order of priorities in the state plan shall not be inconsistent with such prescribed national order. It should be noted that the Committee, in giving RSA greater control over, and therefore accountability for establishing these priorities, does not intend to permit him to place any greater emphasis than at present on services to handicapped welfare recipients, except on the basis of reimbursement through welfare funding under the Social Security Act.

The Senate bill has provided that comprehensive rehabilitation services shall be provided to handicapped and severely handicapped individuals, and has included a limitation of 10% on the total of funds which may be spent under Part B and Part C together within the State in providing such services. The Committee intends that these services be available, but emphasizes that as many individuals as feasible are to be provided with vocationally-oriented services. The Committee has, therefore, included a provision in the State plan which specifies that the State provide satisfactory assurances that vocational rehabilitation funds for comprehensive services shall not be utilized until maximum efforts have been made to obtain assistance, in part or entirely, from such other sources as Medicare, Medicaid and social service programs under the Social Security Act, and local and State programs similar to such programs. The Committee has included this provision to ensure that as much of the funding as possible be available for expenditure on vocationally-oriented services.

The plan must also contain a complete and detailed explanation of the state policies and plans that will be used to carry out the provision of services under part C of the basic program. The specification of these plans and policies and methods of providing these services will include the scope and quality of these additional services and the extent to which they will be provided.

The bill also directs the State to consider in its plan a broad range of services for homebound individuals. It also suggests some of the modes of providing services, such as patient-release programs, which the Committee wishes to see the State consider as possibilities. This is the first time that States have been required to attempt to try to find methods and services, and methods of delivery of those services, from which the homebound could benefit. It was apparent in testimony received by the Committee from a number of witnesses that this group is not now being served, even in a superficial way, under the present Vocational Rehabilitation Act. The Committee is concerned that homebound individuals may be left out of the mainstream of life simply because no priority has been placed upon serving them.

The Senate bill directs the State to provide as mandatory services under the State plan evaluation of rehabilitation potential, counseling, guidance, referral, placement, client advocacy services, vocational and other training services, and family services and to provide the remainder of all vocational and comprehensive rehabilitation services after consideration of eligibility for similar benefits under other programs. The Committee believes that physical and mental restoration services and maintenance during rehabilitation are necessary and very important services, and wishes to ensure that handicapped individuals will be provided these services as soon as possible. The Committee, therefore, has specified that eligibility considerations will not be required where it will delay the provision of such services to any individual and when such delay will mean any discomfort and hardship for the individual.

The State plan must also provide that the State will continue to study new methods of meeting the needs of handicapped and severely handicapped and how these needs may most effectively be met with a view towards the overall effectiveness of the program.

The State plan must provide a periodic review of all those individuals who have been placed in extended employment in rehabilitation facilities, especially sheltered workshops with the aim to remove them from this type of employment and move them into the competitive labor market as quickly as possible. It is not the Committee's position that the sheltered workshop is not an acceptable place for transitional employment for handicapped and severely handicapped individuals. But overwhelming testimony in the hearings suggested that far too many individuals are placed in workshops in a "terminal" employment situation. The Committee believes that this is not a wise course to follow in rehabilitation and wishes to insure that only those without any hope of competitive employment are placed terminally in workshops. There is a body of substantial testimony that far too many states overuse the workshop as a substitute for employment and not enough effort is made to run a vigorous employment placement program. In the committee's opinion, the sheltered workshop has become far too convenient a placement site. The Committee, therefore, strongly believes that maximum efforts should be made to use public and private training and education programs available in the community as alternatives to workshop placements.

Finally, the plan requirements direct the State to include in its report on the operation and administration of the State plan periodic estimates of the population of handicapped individuals eligible for services and specification of the number of individuals who will be served, and the outcomes and service goals to be achieved for such individuals, and an estimate of the service costs. The Committee believes that far too little emphasis has been placed on comprehensive planning and surveying the needs of handicapped individuals in the State, and therefore expects RSA to require the States to place greater emphasis on such concrete planning in the future.

The Committee took full cognizance of the consolidated rehabilitation plan—under this Act and the Development Disabilities Act—provided for in the House bill. It did not feel, nor did it find in testimony, real justification for allowing the States, at their option, to consolidate the two programs. The Committee feels that the Developmental Disabilities Program is more one of habilitation than rehabilitation and that due to its unique features and its recent origins it would not be in the best interests of either program to allow the two plans to be combined, even though in some States, they may be administered by the same agency.

Individualized written rehabilitation program

After hearing extensive testimony and reviewing the data supplied to the Committee by RSA and HEW, it became apparent that the individual client was not being sufficiently consulted in his own behalf in tailoring the rehabilitation program to his individual need. This, plus the obvious need to be certain that the funds authorized by part C of title I were expended in the manner in which the committee had intended, led to the adoption of the formal written rehabilitation program for every individual who is served under the bill. It should be expressed clearly at the outset that the Committee's purpose was in no way to attempt to burden the counsellors and rehabilitation coordinators with unnecessary and cumbersome paperwork. It was felt rather that the requirement of section 102 will work to improve communication between the handicapped individual to be served and the rehabilitation counsellors who sincerely wish to see them served. A written program, with the required annual review of the program by the handicapped individual and the counselor, should serve both as a way to ensure that the rights of the individual are being protected and that the counselor feels satisfactory progress is being made towards a stated goal. The Committee wishes to make clear that this written plan is to serve as the blueprint for the rehabilitation of the severely handicapped individual as well as the handicapped individual. The bill stresses that the program should be developed with a vocational goal always in mind.

Should that goal not be achieveable, it will be up to the agent of the state to demonstrate in writing, after the fullest consultation with the client, beyond any reasonable doubt the infeasibility of achieving a vocational goal. It should rarely be the case that an individual should be judged at the time of entry into the program as needing services only to achieve a non-vocational goal. One of the explicit reasons why the Committee earmaked supplemental funds for serving severely handicapped individuals which could be used only after a certain amount of basic program funds had been expended, was to avoid the arbitrary classification of individuals into categories. The basic funds for vocational or comprehensive rehabilitation services for severely handicapped individuals are provided from the part B allotment.

It is the purpose of the Committee, in requiring an individualized written rehabilitation program to assure that each handi-

capped individual has an opportunity to participate in the decisionmaking regarding services he is or is not to receive; to have a written understanding that specifies such services and the objectives they are to achieve; to be able to obtain information on the progress he is making on the basis of the program; and to rewrite jointly with the rehabilitation agency the program when it is apparent that objectives cannot be achieved. It must be demonstrated beyond a reasonable doubt that the individual cannot achieve any vocational goal, with the full consent of the individual in the written program before independent living goals can be acceptable.

The individualized written rehabilitation program represents an understanding between the vocational rehabilitation agency and the handicapped individual. It is expected that its terms will be carried out, unless there are special mitigating circumstances. In such cases it is expected that alternative service approaches or timetables will be sought and that rehabilitation objectives previously agreed upon will not be altered unless renegotiated by both parties. Each handicapped individual is to have the right to review his plan at least annually and together, with the rehabilitation agency, to revise the program terms if the objectives of the programs are not being achieved.

The Committee expects that the Commissioner will utilize the written programs as a means of assessing the effectiveness of rehabilitation services in achieving the stated objectives. The Committee realizes that there may be mitigating circumstances as to why indicated objectives are not achievable. These might be, for example, lack of available funds or services. In his annual report to the Congress on the effectiveness of rehabilitation services, the Commissioner shall include specifically his assessment of the degree to which rehabilitation objectives are or are not being achieved. This shall document the reasons why such objectives have not been achieved and recommend corrective legislation or propose appropriate administrative action.

Scope of Vocational Rehabilitation Services

The scope of services that are required under the bill and the services which may be provided are specified in an operative provision of the bill, rather than in a definition provision, as in present law and the House bill. Added to those presently in existing law and the House bill are the individual written rehabilitation program, which has been described above; the access to client advocacy services which must be fully explained to the individual in conjunction with the formulation of his written program; follow-up services, which refer to services given normally for one year after case closure; and follow-along services, which refer to services which may be necessary, and are provided for longer than one year.

The Committee also limited the use of program funds for individuals who are pursuing higher education under paid for by this program to those for whom all alternative means of funding have been sought and were not available. The Committee feels that the costs for instruction at colleges should be borne by some other source of funds if in any way possible. Statistics provided to the Committee show that many states do not limit the amount that may be spent on a handicapped individual's higher education, thus diminishing basic program monies.

In view of the fact that the resources available to treat handicapped individuals and to provide for their rehabilitation will obviously not be unlimited in the foreseeable future, it is the intent of the Committee to stress services to those with the most severe handicaps.

While it is fully recognized that there is justification for serving those individuals whose only handicap may be their environment or social disadvantagement, the Committee feels that to the extent possible, these individuals who have no other handicap should be served under programs already in existence for their benefit—manpower training programs, Office of Economic Opportunity Act programs, welfare (WIN) programs.

The Committee also notes that statutory age limitations were removed from the program in the 1965 Amendments to the Vocational Rehabilitation Act. The current regulations are clear in their intent that planning for individual clients should begin when it is determined that the point at which vocational training is appropriate has been reached. Information received by the Committee indicates that some state agencies are still adhering to the prior criteria and thus anyone under the age of 16 years old, or the age up to which school attendance is required, is not being served. It is the Committee's view that services which enhance the long-term vocational potential of an individual should be provided as soon as they will be effective. Exclusion of all children below the age of 16 years may be arbitrary, and the Committee believes that the Rehabilitation Services Administration and the state agencies should be cognizant of the fact that prospective clients may benefit from services and planning at an age earlier than 16. The Committee expects that regulations implementing this Act will make clear that such individuals are not to be excluded based solely on the age factor.

Innovation and Expansion Grants

The Committee, as well as placing the authority for making innovation and expansion grants in RSA, has also allowed each state to establish project priorities within the purposes of statutory provisions with respect to no less than 50 percent of its formula allotment. With respect to the remaining allotment funds, the Commissioner may fund projects which he deems to be of a priority nature. The bill directs that these grants should be used to improve and expand services for the classes of individuals for whom rehabilitation is particularly difficult, including those whose rehabilitation may be retarded by socioeconomic factors, or who have other serious problems in connection with their rehabilitation. These grants are also expected to be used to improve services and programs for the severely handicapped. In order to provide incentives, Federal payments for these projects are set at the level of 90 percent and are to be used particularly for those individuals whose rehabilitation needs are also the responsibility of other state or federal agencies, and the allotment for each State is determined on a formula based on population (with a $50,000 State minimum). The Committee feels that too liberal an interpretation by RSA of the "in kind" provision regarding the 10 percent non-Federal share could, in some cases, result in less total services being given to handicapped individuals requiring them and, therefore, urges the special care be given with respect to the evaluation of the in-kind component.

Client Advocacy

The hearing testimony pointed up a serious lack of communication between the counselor and the client, and the administrator of a facility and the client, and the inability of the average client truly to understand the maze of bureaucratic procedures in the program. The Committee felt strongly that this was a marked deficiency in the program which must be remedied. To this end, the individualized written rehabilitation program was established and mandated as a basic service that must be provided to the handicapped or severely handicapped individual. This step insures that the client will understand what is being done, what he can expect to be done in his behalf, and what his alternatives are if his progress is not satisfactory.

The Committee felt, however, that all this awareness by the client may not be of great value unless the system could be made to work for him not on or at him. The Committee recognizes that many handicapped and severely handicapped individuals need a way to have the system translated to them in terms they understand, and conversely, have the system understand their wishes through the same type of translation. The client advocate method was agreed to as a viable method and endorsed by virtually every witness that appeared before the committee.

In view of that testimony, and the Committee's belief in this type of system as an excellent way to achieve this goal of translation of the system to the client and the translation of the client's needs and desires to the system, the client advocacy system was included in the bill. There is no similar provision in the House bill or the present law. It is intended that the function to be performed by the client advocacy system set up with respect to all programs and projects funded under the bill is to seek to resolve difficulties that the client is having with the program as quickly and amicably as possible.

The Committee feels that the advocate must also be responsive to the program; that it is within his function to act as liaison between the individuals responsible for the programs and treatment functions as well. In order to do this and do it well, the advocate of necessity must have prompt and reasonable access to the appropriate personnel in the state agencies and the regional and central offices of the Rehabilitation Services Administration.

The advocate is further charged with the responsibility to report fully his activities to the Commissioner, including any recommendations that he may have which would make this program more responsive both for the client and to aid the administration of the program. The state agency shall make every effort that arrangements are entered into, where possible, with institutions of higher learning in order to draw upon graduate students in clinical training in certain disciplines to assist in performance of the client advocacy function. The advocate shall at no time be a client or former client of the state agency nor an employee of the state agency whose task it is to administer the plan.

The Committee fully recognizes the fact that a close relationship between client and and counselor is most important for a successful rehabilitation program. It is not intended that the advocate should stand in the way of that relationship, nor supplant or reduce it in any way. The function of the advocate is merely to see that the written rehabilitation program is determined and carried out to the benefit of the handicapped individual and that complex issues which might arise should be minimized quickly. Access to the advocate must be assured if he is to aid the program and the client. The client must know that he is available; the state agency, therefore, is required to make sure that the advocacy process is available to the client as part of the process of formulating his written rehabilitation plan. It is the Committee's firm belief that the advocate can work actively with the client and the agency and that a better program should result.

The proposal for a client advocacy system to serve vocational rehabilitation clients has its genesis in the growing number of hospitals which are establishing patient advocates to attempt to give the institutionalized person a sense of being able to affect the environment in which he is confined and the rules and regulations governing his day-to-day existence. The Committee believes that the ombudsmen-type of approach is ideally suited to the structure of the rehabilitation program at this time, and further believes that this program, if successful, could be

the forerunner of advocacy-type programs in numerous federal, state and local social services programs.

The Committee envisions that a typical advocacy system for a medium-sized city could be structured approximately as follows:

1. Out of the funds reserved for establishing client-advocacy systems, the state agency could hire two full-time advocates, who might be beginning their careers in fields such as law, social work, public administration, or psychology, and 1 or 2 clerical assistants.

2. The state agency and the advocates hired for the system in this city could then contact the local colleges and universities and attempt to arrange for graduate students, engaged in clerical programs, to carry out their academic responsibilities for a given period of time (a quarter, a semester, or even a full year) by working as "assistant" advocates in the system and operating under the direct supervision of the full-time client advocates. They would very likely be assigned responsibility for preliminary interviews with client complainants and the initial follow-up to determine whether or not a *prima facie* case exists. After a sufficient period of experience, such an assistant advocate might well be assigned the responsibility for conciliating particular grievances. At all times, however, they would be in contact with the full-time advocate supervising their work.

3. Based upon a prototype for this sort of program carried out quite recently, there is strong reason to believe that universities would be extremely interested in placing graduate students in such a program. This would have a double benefit: first, of providing energetic, committed, and talented young professional students to invigorate the system; and second, of involving in the advocacy system, on an informal basis, all of the good services and offices available from any college or university and particularly from the instructor or professor responsible for the clinical clerkship of the "assistant" client advocate. This academic relationship should provide an objectivity to the process because the graduate students would not be remaining in the program long enough to develop a vested interest in any particular bureaucratic structure or relationship.

4. This advocacy system—blending the expertise of the full-time advocate and the objectivity, freshness of approach and energy of the graduate students—would be responsible for handling client grievances for all of the rehabilitation programs and projects in the particular city. It is believed that after the break-in period, a substantial amount of expertise will be developed in handling clients grievances and that resolution, particularly in cases of poor communication and misunderstanding, will be quickly forthcoming.

5. Moreover, it is anticipated that the very existence of an objective and concerned client advocacy system will serve to produce considerable interpersonal sensitivity on the part of the rehabilitation programs after they have had initial experience with an effective grievance investigation and resolution process carried out by the system. Thus, although at first the case load will undoubtedly be substantial, in time this should level out and probably drop once the system proves its effectiveness in securing equity for the client—in an even-handed manner with sensitivity to the problems faced by the buraeucracy as well—to the satisfaction of both individual clients and rehabilitation projects and programs.

Experimental Appeal Projects

During the course of the hearings, many witnesses were asked their opinion of the present appeal system as to its adequacy and fairness. The Administration witnesses admitted that the appeal process may not be as well known to the client as it could be. Many of the other witnesses felt that the process was too slow or not effective enough. The Committee bill deals with this issue by setting up a system of experimental appeal projects. It is the Committee's intent that where these systems are not put into use, the system currently provided for in regulations should continue to be in effect.

The types of appeals that the Committee wishes to see implemented as experimental projects are four; a close examination of the current system in a state of appropriate size to give a wide range of experience; a system of appeals to a regional office level within the Department of Health, Education, and Welfare; appeals from the actions of one rehabilitation facility which is providing evaluation and other services to another similar facility; and a peer review in connection with the same type of facilities by counsellors and rehabilitation coordinators in another facility. The Committee feels that these experimental projects, when completed and reported on, will benefit the agency officials and the Congress in better understanding the types of problems clients have and how they should be best resolved in a formal setting.

The Committee bill directs that these experiments be carried out in representative geographical areas. It is the intent of the Committee that these geographic areas should be large enough to provide a cross section of the program, but it does not wish them to be carried out in extremely large areas with dense population since this would complicate implementation and delay analysis of the results.

Part C—Supplementary Funds for Vocational and Comprehensive Rehabilitation Services for Severely Handicapped Individuals

The bill sets aside 15 percent of title I appropriations for services that are appreciably more costly and of longer duration for severely handicapped individuals. There are no such special funds in present law, and the House bill deals with the matter of the severely handicapped in a separate title with a separate appropriations authorization. The Committee chose this approach to ensure maximum incentive for the states to serve more severely handicapped individuals than they are now. These supplementary funds are to be used for a severely handicapped client only after 200% of the average rehabilitation cost in the previous fiscal year is exceeded based on the severity of the individual's handicap. At the same time, it is not the intent of the Committee that these funds be used strictly for individuals with independent living goals.

Witness after witness testified that the severely handicapped badly need services, but that those services should not be oriented towards any defined goal other than those provided under the basic program. The Committee feels strongly that severely handicapped individuals do not want goals any different from those wanted by individuals defined as handicapped, but that because the nature of their handicap those goals may be more difficult to attain and may require more costly services and services for a longer duration of time. The severely handicapped do not want, in the main, preferential treatment, but only the chance to compete fairly with others for vocations of their choice. Unfortunately, the severity of their handicap makes it necessary for them to undergo a more prolonged period of rehabilitation, and sometimes at a greater cost. The Committee feels that the method provided in the bill will ensure the delivery of those more costly necessary services.

The average cost referred to in this part, is the average amount that was expended on a successful rehabilitation case in the preceding year. This cost enlarged by 200% is the amount that must be spent from part B funds before part C funds can be used in the rehabilitation of a severely handicapped individual.

While these part C funds are authorized on a state-by-state basis, the Committee fully recognizes that the funds may not be most effectively spent if a state spreads them into all its political subdivision. It may be more effective for funds for certain programs to be concentrated in those areas where significant numbers of severely handicapped individuals reside and where the facilities and services needed for their rehabilitation are available. Thus, the state plan with respect to severely handicapped individuals does not require that they be served on a state-wide basis using part C supplementary funds.

The Committee also recognizes that due to a lack of experience with this type of program, and the amount of time allowed in the bill (120 days) for submission of the addendum to the state plan, the regulations issued for determining when extended and costly services are due to a severe handicap (rather than, for example, merely to pay for higher education) under this part may, of necessity, be generalized until some experience is gained. It is expected that after the first year of operation more definitive regulations can, and will be drawn. The Committee expects that the states and the Rehabilitation Services Administration will make every effort to expedite the refinement of the necessary regulations, and to provide, and operate under guidelines, which will lead to excellence in the provision of these services as soon as possible.

The Committee bill, therefore, directs RSA to report to Congress in the annual report on the new program provided for under part C. It is hoped that this will include any further recommendations for changes in the law that will help facilitate the efficient provision of services to severely handicapped individuals. It is also expected that in such report, particular emphasis will be placed on the ways in which the independent living goals part of the program is being carried out.

Funds are distributed under this new part C program on a 85/15 percent Federal/non-Federal grant basis determined by a formula based on population multiplied by the allotment percentage.

TITLE II: SPECIAL FEDERAL RESPONSIBILITIES

Title II of the Committee bill contains all special programs, grants and related service activities which are not carried out by the State rehabilitation agency, but provide the basis for improvement of services and expansion of services to special target populations of handicapped individuals. This title incorporates, with changes and additions the following provisions from the Vocational Rehabilitation Act: Section 4(a)(2), with the exception of expansion grants; section 12, construction of facilities and initial staffing programs; section 13, programs related to vocational training services to handicapped individuals (including maintenance payments during training); section 16, the National Center for Deaf-Blind Youths and Adults; and section 17, the special program for handicapped migratory and agricultural workers; and provides new authority for Rehabilitation Centers for the Deaf, Centers for Spinal Cord Injuries, project grants for services to older blind individuals, and project grants for services to individuals with end-stage renal disease.

New Target Programs

The bill concentrates on providing flexibility under the basic program so that all individual needs may be served, and on building in procedural safeguards and emphases throughout the bill to ensure that the most severely handicapped individuals are able to receive services through rehabilitation agencies. Yet the Committee is aware that segments of the population of handicapped individuals have special needs, and that funding is necessary to focus attention on these needs. The committee bill therefore, includes a limited number of categorical programs to target Federal money on these special needs and to demonstrate improved methods of

providing services. The Committee does not anticipate that emphasis on these categorical programs will be continued on a long-term basis, but has provided limited funding for special purposes in order to improve and expand services, and to demonstrate an effective way of providing them.

Rehabilitation Centers for Deaf Individuals

Section 206 provides authority for grants and contracts to expand and improve vocational and comprehensive rehabilitation services for deaf individuals, and specifies that this may be done through the established of centers for this purpose. The comparable section in the House bill authorizes Comprehensive Centers for Deaf Youths and Adults to demonstrate methods of providing the specialized services needed to rehabilitate low-achieving deaf persons. The Senate bill has placed a number of limitations on these centers which will be detailed below.

During hearings on H.R. 8395 in the Senate, the Commission was told that rehabilitation services do not always meet the needs of deaf individuals. Quite often counselors are not available who can communicate with deaf clients, and services for individuals with severe communicative disorders which will deal comprehensively with the individuals total needs are seldom provided. Witnessse from the deaf community also reported to the Committee that there were limited training options available for deaf individuals who leave secondary schools with no technical skills, and thus have great difficulty finding employment. This is especially a problem for the more severely handicapped deaf individual with limited communicative abilities and some behavioral disorders. Witnesses testified that while facilities exist for higher education and post-secondary technical training for the deaf individuals, academic post-secondary training is not feasible for individuals with severe handicaps and existing facilities such as Gallaudet College, the National Training Institute for the Deaf, and facilities at Hot Springs, Arkansas, and Delevan, Wisconsin, cannot fill the need. For individuals who are older, specialized training programs are needed, separate from other programs for handicapped individuals who do not have such severe communicative disorders.

The Committee, however, also heard testimony questioning the wisdom of creating separate facilities which would further segregate certain deaf individuals from the deaf ppoulation and from the society at large.

The Committee recognized the need to act to provide assistance in coping with the severe problems of training for deaf individuals with behavioral and communicative limitations. However, the Committee is concerned that the creation of permanent facilities for "low-achieving" deaf youths and adults, especially for young deaf individuals, may provide an additional avenue by which the existing educational system might further dispose of those individuals who are more difficult to provide with adequate services. The Committee, therefore, has included in the bill a program for grants and contracts for the improvement of services to deaf individuals who are 16 years of age or older who have passed the age of compulsory school attendance for the State in which they reside. The Committee sees this program as a demonstration program, and has specified that one means by which this demonstration might be carried out is through the establishment of demonstration Rehabilitation Centers. This authority includes training of necessary personnel, and the Committee believes that emphasis within training should include counselors for rehabilitation agencies and trained counselors who can work with individuals, especially younger individuals, through the school system.

The Committee has limited this authority to individuals who are beyond school age because it did not wish to provide other program authority for facilities and services which should be available through education programs, but are not. It therefore expects to re-examine this entire question of the adequacy of the elementary, secondary and postsecondary educational system for deaf individuals when authorization of the Elementary and Secondary Education Act comes up for renewal in the next session of the Congress. The Committee further takes note of the fact that several bills have been introduced in the Senate which would expand federal assistance for the education of handicapped individuals, including authority for continuing, adult and higher educational services, and it suggests that these bills are appropriate vehicles for reforming and improving the educational system so that the needs of deaf individuals are met. However, in order to take an initial step in the direction of improving these services for those generally already beyond the reach of the education system, the Committee has provided authority for demonstration programs for improvement of rehabilitation programs for the deaf through the creation of centers or otherwise, and has required coordination in the planning of these programs between the Rehabilitation Services Administration and the Bureau of Education for the Handicapped within the Office of Education.

National Centers for Spinal Cord Injury

Section 207 contains a program to support the establishment and operation of National Centers for Spinal Cord Injuries. This section corresponds to a similar section in the House bill which provided support for demonstration of methods of specialized intensive services in the treatment of spinal cord injuries, training of personnel, and research in rehabilitation methods and related activities to expand services or improve public awareness of the nature of the problem of the spinal cord injury. The Senate bill, however, differs substantially from the House provision.

During hearings on H.R. 8395, testimony from experts in the field of spinal cord injury such as Dr. John Young, Dr. Henry Betts, Dr. Edward Lowman, and Dr. Howard Rusk suggested that a broader program than the research-oriented program contained in the House bill was needed. Of particular note in this testimony was stress placed on the need for a regional program of spinal cord injury centers which would have the capacity of providing vocational and comprehensive rehabilitation services through a team of multidisciplinary staff, and which could provide acute medical care. This testimony also emphasized the need for a coordinated system of provision of services, and for cooperation among all organizations and agencies which provide services to individuals with spinal cord injury, and the need to provide assistance to help cover the cost of services.

The Committee believes that the testimony on the effectiveness of a regional network of spinal cord injury centers was compelling, and that the effectiveness of such a system should be tested. Often the effectiveness of treatment and the ability for restoration depends entirely on prompt and thorough treatment at the site of injury and immediate care following. Yet current methods in general use for providing services to the spinal cord injured cannot provide this immediate care because of a lack of accessible facilities, equipped with modern equipment and a multidisciplinary team of attendants. Therefore, the special target program in the Senate bill authorizes a program of grants and contracts to assist in the forming of a national network of centers, for the delivery of rehabilitation services and acute medical care, to assist in meeting the costs of services, and to assist in the development of methods for provision of services, and achieving cooperation with all organizations and agencies concerned with spinal cord injury.

In order to test the effectiveness of a regional system, preference is given to proposals which will establish on a regional basis, a multidisciplinary system of providing rehabilitation services, which will test and evaluate the benefits and cost effectiveness of such a regional system. The Committee was impressed by the testimony of witnesses about the development of new techniques, methods and equipment which are able in many instances to recapture much of the ability the individual has lost through spinal cord injury, and thus the bill gives emphasis in the awarding of grants and contracts to the evaluations of such methods, and the evaluation of new methods of outreach and advocacy in broad social areas so that individuals with spinal cord injuries will not continue to be limited by societal barriers.

Services for end-stage renal disease

Section 208 of the bill authorizes the third target program—for individuals suffering from end-stage renal disease. This section authorizes the Commissioner to make grants to States and nonprofit organizations and agencies for paying the costs of special services (including transplantation and dialysis), artificial kidneys and supplies necessary for the rehabilitation of individuals suffering from end-stage renal disease. This section is identical to the program authorized by the House bill.

Both transplantation and kidney dialysis, and special services and supplies, are included as services which may be paid for under this section. Funds authorized under this program should be utilized to pay for physical restoration services rendered to patients in need of care. The Committee believes there is a critical need for these services and that expenditures under the program should be closely regulated to assure that the highest quality services are available at the most reasonable cost. The Committee does not believe that funds available under this section should be used to pay for additional facilities, training of personnel or research, but that other funding sources should be utilized for such activities.

Testimony presented on behalf of this provision emphasized that many more lives could be saved if individuals were able to find assistance to pay for treatment. Currently, of the 7000–8000 patients who could benefit from dialysis or transplantation per year, only 2,000 individuals are able to receive it because of limitation of financial assistance. According to these same witnesses, kidney treatment facilities, training programs and treatment teams have been established throughout the country through efforts made by the Regional Medical Program funded under the Public Health Service Act. The last link in this system is assistance to the patient so that he may be able to afford this costly, but life-saving treatment.

The Committee is aware of the fact that rehabilitation agencies in as many as 42 states provide services to individuals suffering from endstage renal disease. Often, however, these agencies' ability to help an individual depends on the individual's having a source of financial aid, whether it is private income, other private sources, or the Medicaid program. The Committee, however, believes that it is a tragedy and counter productive from the point of the individual and society that individuals must give up their source of livelihood in order to become eligible for financial assistance through Medicaid. While the Committee recognizes that a national health insurance program, or insurance covering catastropic diseases, may be a more appropriate method of providing the much needed assistance so that individuals may be saved through transplantation or dialysis, there is an immediate unmet need to help thousands of individuals who could be saved through dialysis or transplantation, and it furthermore believes that the rehabili-

tation programs offers the comprehensive counseling, training and job placement services that are often needed by individuals suddenly faced with kidney failure.

Rehabilitation of older blind individuals

Section 209 authorizes a fourth target program included in the Senate bill—to provide rehabilitation services to older blind individuals (defined as age 55 and older). There is no similar provision in the House bill. The Senate provision contains a State formula grant program, uses a formula of population multiplied by the allotment percentage unsquared and earmarking 10% of all sums appropriated to be used for a special demonstration program for demonstrating special services needed to rehabilitate older blind individuals, for training personnel for research and for related activities which will expand services or improve public understanding of problems confronted by older blind individuals. More than 75% of all blind individuals are middle-aged or older, as a result of the fact that many individuals suffer severe vision impairment later in life, their blindness often accompanying or precipitated by some other health problem. This is especially true in the case of diabetics. Estimates show that 1 out of every 6 blind individuals was blinded by diabetes. Witnesses pointed out that becoming blind late in life often produces a total change in an individual's life, yet avenues to employment are closed off, rehabilitation services are more difficult to obtain, and sources of other support are limited. In addition, they cited a need for mobility training services, and comprehensive counseling for which social welfare agencies will not provide money. Recognizing the size of the population of older blind individuals, and the severity of their handicap and agreeing with the needs pointed out above the Committee provides authority for a State grant program, and for a specialized demonstration program to help meet these needs.

Provisions for facilities

Section 200, 201, 202, 203, and 212 of the bill contain provisions relating to rehabilitation facilities, including construction and initial staffing grants, annual interest grants for mortgages, project grants for vocational training of handicapped individuals within rehabilitation facilities including weekly allowances for such individual while undergoing vocational training programs, and general grant and contract requirements for facilities. Provisions relating to construction, project grants and annual interest grants were contained in the House bill; the only changes in these sections made by the Senate are technical, or reflect increases in authorizations or rates of allowance payments, made necessary by cost of living increases.

Availability of Mortgage Guarantees for Rehabilitation Facilities

The Senate bill, however, has deleted a provision contained in the House bill relating to mortgage insurance to multipurpose rehabilitation facilities, and has replaced this provision with a provision for loan guarantees for modernization and construction of rehabilitation facilities. This deletion was based upon reliance on a Department of the Treasury report advising the Committee that loan guarantees for rehabilitation facilities are available under the Public Health Service Act (42 U.S.C. 291j–1), and therefore, the mortgage insurance provision contained in the House bill is not necessary. The agency comment from the Department of the Treasury also stated the administration was strongly opposed to Federal guarantees of tax-exempt obligations for the following reasons: that guaranteeing such obligations results in greater Federal tax revenue loss than the corresponding interest savings for the borrower; that the guarantee of such obligations disproportionately benefits investors in high Federal income tax brackets, that guaranteed obligations heighten and competition for limited funds available to State and local borrowers from high tax brackets; that guaranteed obligations heighten the competition projects for which direct Federal credit aid is not provided; and that the guarantee of such obligations conflicts with Federal debt management policy by creating a class of tax-exempt securities which the Federal Government itself is prohibited from issuing by the Public Debt Act of 1941.

The Treasury Department letter cited the new Part B of title VI projects for which direct Federal credit aid is not provided, and raises the cost of financing other local interest savings for the borrower, that the guarantee of such obligations under the Public Health Service Act (added by Public Law 91–296), which authorized the Secretary of Health, Education and Welfare to provide credit assistance and subsidize interest rates to public and private agencies for modernization and construction of medical facilities under which rehabilitation facilities are specifically eligible as a sufficient source of credit assistance for such facilities.

Representatives of the International Association of Rehabilitation Facilities point out, however, that the Public Health Service Act provisions relate only to rehabilitation facilities which are connected with a health or medical facility supervised by a physician, and that the need for construction of facilities is so great that additional Federal assistance is clearly necessary. That being the case and since the Committee deleted the mortgage insurance provision in reliance on the availability of loan guarantees under the Hill-Burton program, an amendment to section 202 of the bill would seem to be in order.

Annual interest grants

The Senate has authorized the Secretary to make annual interest grants to States and public and nonprofit agencies to reduce the cost of borrowing from other sources for the construction of rehabilitation facilities. For the purposes of this section, there are authorized to be appropriated such sums as may be necessary for the payment of the grants. However, the section places a limitation on the total amount of interest grants which may be paid as follows: the total amount shall not exceed $1,000,000 for the fiscal year ending June 30, 1973, $2,000,000 for the fiscal year ending June 30, 1974, and $4,000,000 for the fiscal year ending June 30, 1975. Grants paid under this section may be made to any rehabilitation facility for a period not to exceed forty years. Therefore, the total amount which is authorized to be appropriated for this section must be calculated over the forty-year time period, thus amounting to $1,000,000 in each of forty years, or $40 million as a result of the amount authorized for the fiscal year ending June 30, 1973; an additional $1 million in new monies for the fiscal year ending June 30, 1974, or $40 million; and an additional $2 million for the fiscal year ending June 30, 1975, or $80 million.

Total amounts so authorized are $160 million over the fixed time period of forty-three years.

General provisions

The Senate bill also combines in one section (212) all general requirements for grants and contracts approved under title II. This section contains provisions relating to: uses of facilities constructed under Federal contract (including a prohibition of use for religious or sectarian activities), uses of Federal funds, submission of annual reports, inclusion of excellence of design and architecture in plans for construction, conformance with the Architectural Barriers Act (P.L. 90–480), conformance with the Davis-Bacon Act (wage payments and labor standards), payment provisions, residential accommodations in rehabilitation facility construction, and general conformance with the State plan for the provision of vocational and comprehensive rehabilitation services.

Most of the general provisions of section 212 were contained in the House bill, and in existing law. However, the Senate bill emphasizes the importance of facilities being in compliance with occupational health and safety regulations, and with the provisions of the Architectural Barriers Act. The Committee heard repeated testimony during hearings on this legislation that many of the rehabilitation facilities do not meet minimum standards for safety of the individuals to whom they are providing training or evaluation services. In order to meet this concern, the Committee has directed the Secretary to prescribe regulations which bring these facilities into compliance with the Architectural Barriers Act, and with occupational health and safety standards prescribed by the Secretary of Labor. The Committee has also included a specific prohibition on use of funds for construction of such portion of a facility as will be used for religious worship or sectarian activities.

The Committee substitute deletes authority for the National Policy and Performance Council which was contained in existing law and in the House bill. The Committee has expanded the authority of the National Advisory Councils (and renamed it), mandated the establishment of State Advisory Councils, and directed the Secretary to undertake an expanded program of program and project evaluation, and, therefore, believes that this Council is no longer necessary.

Special projects and services for migrants

Section 204 of the Committee bill contains all authority provided to the Commissioner for making grants for special and demonstration projects, which hold promise of expanding and improving rehabilitation services to handicapped individuals. This section is comparable to a similar section in the House bill for special projects, and authority contained in existing law. Both the Senate and the House bill have included under special projects a provision for grants for vocational and comprehensive rehabilitation services for migratory agricultural workers (seasonal farmworkers are also specified in the Senate bill), a provision contained in section 17 of existing law which has never been funded. The House bill contained a provision which allowed the Secretary to allow funds appropriated for other parts of this Act to be used for project grants for migrant and seasonal farmworkers if sums appropriated for the special projects section were not sufficient to fund 66⅔% of grants approved by him for services to such workers. The Committee believes strongly that the provision of services to migrants and seasonal farmworkers is a priority. However, it also believes that providing authority to the Secretary to transfer funds across program lines is an unwise precedent and is not an effective method of insuring funding of this program since project applications need not be approved even if meritorious. In order to achieve the required result, the Senate bill therefore earmarks 10% of all sums appropriated for special projects to be used for projects to provide vocational and comprehensive rehabilitation services to handicapped migrants and their families, and provides an additional authorization, if sums appropriated for special projects are not sufficient to result in the availability of $10 million for such services.

The Committee is well aware of the difficulties faced by migrant and seasonal agricultural workers in receiving their fair share of social services, and urges the Commissioner to search for innovative projects which may serve as models for other social service delivery to such individuals. The Committee

believes that difficulties of delivery of such services can be overcome, and considers the implementation of this provision as a priority.

Special projects, in general, are an important method of experimentation and development of new patterns of service delivery, and should lead to the development of techniques which can greatly improve services to handicapped individuals throughout the nation. The Committee has directed the Commissioner to give special emphasis to projects which will improve such services to severely handicapped individuals, and believes that projects ought to be awarded with distinct goals in mind for this improvement, and for the extension of techniques, methods and patterns of delivery of services to the basic rehabilitation program throughout the States.

National center for deaf-blind youths and adults

Section 205 continues the authority for the construction and operation of the National Center for Deaf-Blind Youths and Adults, and authorizes for fiscal year 1973 the appropriation of $5 million for construction and $800,000 for operations; for fiscal year 1974, $1.2 million for operations; and $2 million for operations in fiscal year 1975. This section is identical to provisions contained in the House bill, with the exception of specific authorizations. The amounts authorized were requested during the hearings as required amounts to complete construction of the National Center and provide sufficient operating funds. The Committee was impressed with the plans for the Center and the range of services which this Center promises to provide for deaf-blind individuals. Recognizing that this Center will not be able to to serve the estimated 10,000 deaf-blind population of the country, the Committee would urge that this Center and the Industrial Home for the Blind undertake plans to ensure that techniques and methods of providing services to deaf-blind individuals developed in the Center will be transferred to the entire population of such individuals. The Committee therefore expects the Center to enter into cooperative and coordinated arrangements with schools and other institutions which provide services to individuals who are both deaf and blind so that these institutions may further benefit from the experience of the Center.

Advisory councils

The Senate bill replaces the National Advisory Council on Vocational Rehabilitation of Handicapped Individuals, expanding its functions and its membership, and creates mandatory State Advisory Councils. The 12-member National Advisory Council under present law has been expanded to 20 persons, 10 of whom are to be selected from among leading medical, educational or scientific authorities outstanding in rehabilitation, and 8 of the 20 are to be handicapped individuals, or individuals who have received vocational rehabilitation services. The House bill increased membership on the existing National Advisory Council and retained its function to review applications for special projects. However, testimony indicated that the Council as a panel has not reviewed applications for some time, and, as a matter of fact, has been meeting only on an irregular basis, and the Senate bill does not provide for such application review function for the Council.

The Committee believed that a panel of such leading authorities and experts would be extremely knowledgeable about needs within the field and therefore has provided this Council with broad advisory powers for planning, determination of priorities, review of programs operation, and evaluation of effectiveness of the programs administered by the Rehabilitation Services Administration. The Committee is particularly interested in the effectiveness of the program in meeting programs goals, and expects that this Council to be well equipped to carry out such an evaluation. The Committee has expanded the research authority for the Rehabilitation Services Administration, and has emphasized throughout this Act a need for priority of services to the severely handicapped and greater importance to be given to biomedical engineering and applicants of research. The Committee expects the National Advisory Council to play an active role for the defining and carrying out of these priorities, and has directed the Council to submit annual reports to the Congress on the results of its reviews.

Throughout the hearings, testimony was given on the lack of consumer input at the State level and individual program level. The Committee believes that this form of input is necessary and extremely valuable at all levels of government, and therefore has provided for mandatory State Advisory Councils which will advise the Governor on the State plan, provide advice on long-range planning and evaluation, and make a report of recommendations to the Governor annually on the effectiveness of the State program, areas in which services should be extended, and the need for change within the program. One percent of the total State allocation, within the ranges of $50,000 to $100,000, are to be used to carry out the activities of the State Advisory Councils. The Councils will be appointed by the Governor, from individuals with experience in the rehabilitation program and in education, representatives of labor and management, and persons who are knowledgeable about the employment of individuals who have received vocational rehabilitation services. The Committee has specified that at least a majority of the Council must be handicapped individuals or individuals who have received vocational rehabilitation services. The Committee expects that Council to oversee the implementation of the Rehabilitation Act of 1972 within its State, and believes that the most valuable role this Council could play would be to advise the State agency and local programs on methods of including and training more severely handicapped individuals and undertaking a more active role in the placement of such individuals in the competitive job market. The Committee expects that the Councils will report on the results of this activity in the reports they are required to submit annually to the National Advisory Committee, and that the National Council will summarize these activities in their report to the Congress.

The structure of the State councils, and their interaction with the National Council and with State and Federal authorities, is patterned after the State Council structure found in the Vocational Education Act of 1968, a structure which has proven successful in the education field.

TITLE III—RESEARCH AND TRAINING

Title III of the Senate bill consolidates all research and training authority in existing law and includes it in one title to be administered by the Commissioner of the Rehabilitation Services Administration. This title is comparable to Section 509(a)(1) of the House bill, but, unlike the House bill, specifically mandates four major priorities: the establishment and support of Rehabilitation Research and Training Centers, the establishment and support of Rehabilitation Engineering Research Centers, the conduct of a program for spinal cord injury research, and the conduct of a program for international rehabilitation research and the international exchange of personnel and technical information.

The Committee bill places authority and control over the expenditure of research and training funds in the hands of the Commissioner of the Rehabilitation Services Administration in order to ensure that funds that have been authorized for the purposes of research in rehabilitation methods and techniques and training of specialized personnel for delivery of such services to handicapped individuals will be used for only that purpose. The Committee emphasizes that rehabilitation of handicapped individuals is the only thrust of the Rehabilitation Act of 1972 and this rehabilitation involves complex problems and specialized needs which do not necessarily apply to the general population of persons served by other HEW programs. Until these problems have been solved and these specialized needs have been served, the Committee does not wish to have research and training funds expended to solve generic problems. With the tremendous technological, scientific, and medical knowledge within the United States, there is no excuse for failure to make full use of that knowledge because of shifting priorities and piecemeal efforts. The Committee has emphasized throughout the bill the need for the Rehabilitation Services Administration to expand its services to severely handicapped individuals, and to improve the effectiveness and focus its services to those who are not so severely handicapped.

The Committee expects the States through title I of this Act to place major emphasis on services to the severely handicapped. There is no question that to carry out this purpose, a tremendous increase in knowledge, innovative methods, devices and techniques will be needed. In order to provide the technical assistance that will be necessary a substantial and imaginative research program must be undertaken. The Committee expects the Rehabilitation Services Administration to be on the forefront of major technological breakthroughs in biomedical engineering and applied technology which would ameliorate many of the handicapping conditions of the individuals it serves. In the future, the Committee will ask that Administration to provide, in its required annual report on research, full explanation and justification for its activities, goals and priorities in the areas of research and training, focusing on the targeting of research and personnel on particular problems affecting particular disability groups.

The Committee wishes to stress that it firmly expects the research orientation to be aimed at overcoming the disability itself, not just solving a few minor service-related problems and that the goal should be enabling the handicapped individual to be employed or to receive further training or education, whenever feasible.

Division of Research, Training, and Evaluation

In order to enable the Rehabilitation Services Administration to carry out this charge, the bill has established within that Administration a Division of Research, Training and Evaluation, and within such Division a Center for Technology Assessment and Evaluation. The Committee has provided the Administration with authorization for 10 additional personnel of outstanding medical and scientific achievement to ensure that this Division and its subordinate Center will have individuals of outstanding expertise to provide direction and evaluation of the program. The Committee has also specified that the Division will carry out its duties and functions with the advice and consultation of the National Science Foundation and the National Academy of Sciences. The Committee cannot emphasize too strongly that it expects this Division to be the primary authority within the the Department of Health, Education, and Welfare on rehabilitation technology, research and training.

The Committee reviewed during the hearings the specialized needs in research and training, and was impressed with the potential of applied research in solving the problems of severely handicapped individuals.

The Committee provides general authority for research grants and projects which bear directly on development of methods, procedures and devices to assist in provision of services to handicapped as well as severely handicapped individuals.

However, the Committee believes that a commitment must be made now in the training of rehabilitation research personnel, the development of new techniques, methods and devices, and the sharing of information across international boundaries.

New priorities

Therefore, the Committee bill mandates four major priorities: (1) the establishment extension and support of Rehabilitation Research and Training Centers to be operated in collaboration with institutions of higher education, to train rehabilitation research personnel that will be needed to develop new methods, techniques and devices for the rehabilitation of handicapped individuals;

(2) the establishment and support of Rehabilitation Engineering Research Centers to develop new methods of applying technology, breakthroughs in medical and other scientific knowledge, and to develop methods of information exchange to aid in the prompt utilization and application of engineering and other knowledge to rehabilitation problems;

(3) the carrying out of a program of spinal cord injury research, in support of the National Centers for Spinal Cord Injuries, to encourage the sharing of new knowledge and the support of new approaches and to coordinate efforts in research carried on by other governmental and voluntary agencies, and

(4) the carrying out of a program of international rehabilitation research and training so that all knowledge may be utilized and shared across international boundaries.

The Committee is aware of many developments in the area of rehabilitation that have been made in other countries, an encourages the utilization of this knowledge and expertise and the sharing of scientific information. It therefore directs the Rehabilitation Services Administration to undertake this program of information, personnel and research exchange and to apply the results as soon as possible.

The Committee bill also provides general authority for the training of personnel and specifically directs RSA to utilize funds available in any year to support a balanced program of assistance to meet personnel training needs.

The Committee has combined all research and training in this title and specified four major priorities because it wishes to make very clear the importance it places on a coordinated research and training endeavor in the area of rehabilitation. The Committee was informed in hearings that although many of the priorities specified in this title are being carried out now under the authority of the Vocational Rehabilitation Act, research efforts are piecemeal and little effect is being felt in the field. The Committee has been disturbed about the budgeting trend to eliminate research funds and cutback on training funds, and the concomitant diluting of emphasis on the particular needs of handicapped individuals. It fully expects that through the creation of a Division for Research, Training and Evaluation and the increase in personnel provided, the Rehabilitation Services Administration will undertake a major effort to coordinate research and training programs in the area fo rehabilitation, in order that these efforts will have a more profound effect on the lives of individuals with handicaps. The Committee was greatly impressed with testimony reporting the development of many exciting, innovative techniques and believes that RSA should make a special effort to ensure that developments can be transferred to the field as soon as possible.

In order to emphasize even more strongly the importance it places on the application of technology to the rehabilitation of handicapped individuals, the Committee earmarked 15%, 25%, and 25% of the total funds available for research and training for the next three fiscal years to be used for the establishment and support of Rehabilitation Engineering Research Centers. It expects that these Centers will be a major force in the extension of medical, technological and scientific knowledge to rehabilitation problems, and has directed these Centers to cooperate with State agencies to ensure that prompt utilization is made of new developments, and with the Office for Handicapped so that these developments may be made known across program lines.

TITLE IV—ADMINISTRATION AND PROGRAM AND PROJECT EVALUATION

Title IV combines provisions of existing law relating to Secretarial responsibilities for administration and evaluation, and includes, with changes and additions the following: Section 7, relating to administration; section 8, promotion of employment opportunities; section 9, submission of reports; section 10, appropriations for administration; and section 13(c) provision of technical assistance and consultants. In addition, title IV of the Senate bill contains new provisions relating to program and project evaluation, and directs the Secretary to undertake a comprehensive study of sheltered workshops (and wage payments). Except for provisions relating to program and project evaluation, this title is comparable to title V of the House bill.

Specifically, the title contains provisions for Secretarial administration, including authority for technical assistance to the States, short-term training and instruction, dissemination of information, the making of rules, regulations and delegation of powers, and the conduct of studies and obtaining information of from Federal agencies. In addition, however, the Committee is concerned that little coordination and cooperation exists between the Department of Health, Education and Welfare and the Veterans' Administration with regard to comparable programs or rehabilitation. While the Committee recognizes that responsibility for such coordination rests on both administrators, the Committee directs the Secretary to ensure that maximum coordination and consultation takes place with the VA at the national and local levels with respect to rehabilitation services and related programs for disabled veterans.

Program and project evaluation

The Committee bill also contains new provisions relating to program and project evaluation which the Committee believes are necessary to help determine program effectiveness. The Committee directs the Secretary to evaluate all programs authorized by this Act to determine their effectiveness in achieving stated goals. Especially with regard to research, demonstrations and related activities carried out under title III, the Committee directs the Secretary to reassess priorities for such activities on an annual basis and to review each project to determine whether and on what basis it should be continued, and to report to the Congress the results of the evaluation of research activities within 12 months, and on April 1st each year thereafter. Thus a system of checks and balances is established with respect to research and training for which operational responsibility is assigned to RSA but priority assessment and redirection and project evaluation left to the Secretary to carry out based on his overview.

The Secretary is also directed to develop and publish general standards for evaluation, against which he shall determine whether funds under the basic program shall be denied a State submitting a State plan under the bill.

The Committee finds it necessary to question the effectiveness of the vocational rehabilitation program in meeting its stated goals. Witness after witness during the hearings raised questions regarding the population that State agencies are serving, and whether the program was being as effective as it might be in delivering services to those handicapped individuals who are most in need of the program's assistance. Although the vocational rehabilitation program continues to serve a larger number of individuals in each fiscal year, questions which were raised made it necessary for the Committee to reiterate its intent that the program should be serving only handicapped individuals whose handicap constitutes a substantial handicap to employment, and to emphasize its belief that the program must serve more severely handicapped individuals. The Department produced figures which indicated that 25% of the caseload of the basic program were severely handicapped individuals; however the Committee does not find that percentage high enough, nor does it have reason to believe that all of the 25% cited by the Department are in fact severely handicapped.

Weighted reporting and closures

The Committee met with officials of the General Accounting Office to discuss their findings regarding the administration of and services provided under the Vocational Rehabilitation Act in several states. Those findings indicated that not only was there reason to question some of the individuals being provided services under the program, but that many of the individuals served did not receive all of the services which would have benefitted them. GAO findings also indicated that followup procedures were not consistent, and for that reason, many individuals who were, in fact, rehabilitated and placed in employment, lost that employment a short time after their cases were considered "closed." Tentative though these findings were, they do suggest that improvements are badly needed in the program.

In light of the hearings and the GAO tentative findings the Senate and House Committees have made substantial changes in the operation of the basic program. The Senate bill has included several procedural changes which will provide better information about the kinds of services handicapped individuals receive. The Senate also has earmarkd 15% of the appropriations for the basic program to be used by the State agencies in order to provide intensive vocational and comprehensive rehabilitation services for severely handicapped individuals, and has placed a 10% limitation on the amount of funds expended under Part B and Part C which may be used to provide services to individuals with a non-vocational goal. The bill specifically directs the Secretary to develop appropriate reporting and evaluation procedures which will enable the Committee to evaluate how these funds are used. The Committee would like to know what services individuals receive, the duration of these services, and the time individuals spent with counselors.

The Committee wishes to stress, furthermore, that it believes that more detailed information is necessary on the closure system used by State agencies. Specifically, the Committee believes it is necessary to know more about the reasons for exclusion from the State program, and the reasons why individual cases are closed and not rehabilitated. Both the Senate and the House bills require the Secretary to submit an annual report to the Congress on the operation of the program, to be submitted not more than 120 days after the close of each fiscal year, and direct the Secretary in that report

to distinguish among rehabilitation closures attributable to physical restoration, placement in competitive employment, extended or terminal employment in a sheltered workshop or rehabilitation facility, employment as a homemaker or unpaid family worker, and to provide information on provision of comprehensive rehabilitation services to handicapped individuals. During the hearings, the Administration witnesses reported that to set up a weighted closure system which would build in incentives for provision of services to severely handicapped individuals would take approximately 18 months to develop. The Committee expects the Secretary to undertake the development of this system with the maximum possible speed, and to report to the Congress on the status of that system in each of his annual reports.

Given the fact that Federal and State resources for rehabilitation will be limited for the foreseeable future. Thereby compelling choices to be made in terms of whom to serve, the Committee expects the Secretary and the RSA Commissioner to explore in depth and to develop appropriate measures to reach those who have the most severe physical and mental handicaps.

In line with this, the Committee would like to know more about the quality and quantity of services under the program to individuals with permanent handicapping conditions, particularly those with severe handicaps, such as paraplegia, hemiplegia, guadriplegia, cerebral palsy, psychosis, bilateral orthopedic conditions, deafness, blindness, and mental retardation. The Committee recognizes the perplexing and longstanding concern of both State vocational rehabilitation agencies and the Rehabilitation Services Administration to develop reasonable measures for equating the degree of difficulty faced by the agency staff in serving and rehabilitating various kinds of disabled individuals, but feels that a new system of measuring and reporting should be developed and implemented as soon as possible.

The Committee, therefore, directs the Commissioner, in the development of regulations to implement the priorities expressed in this legislation, to place special emphasis on measurement systems which will aid in defining the characteristics of those handicapped individuals to be served. In developing such measures, the Commissioner should take into account: (1) those conditions of existence which the specific disability imposes on the handicapped individual and (2) the social and individual cost benefits which can reasonably be expected as a direct result of rehabilitation services. The latter condition shall not be construed as an attempt by this committee to turn the rehabilitation program into a welfare program. Indeed, the Committee generally believes that the rehabilitation of welfare recipients should be funded with Social Security Act appropriations. However, the Committee recognizes that, other conditions being similar, the child of a welfare recipient will derive greater benefit from services under this act than the child of a millionaire, and that it is therefore appropriate to consider income as one of the many determinants of priority.

The Committee emphasizes that it has mandated a client advocacy system, and has authorized the Secretary to undertake a number of experimental appeals projects. The Committee expects these programs to be implemented immediately and directs the Secretary to report on these projects and the client advocacy program as soon as possible.

Sheltered workshop study

Finally, the Committee substitute bill directs the Secretary to undertake a comprehensive study of the role of sheltered workshops in the rehabilitation and employment of handicapped individuals, including a study of wage payments in such workshops. Witnesses reported that workshops provide training programs for handicapped individuals as it suits them, that training programs for handicapped individuals were often interrupted whenever the workshop got a new contract, that the workshop often acted as a holding ground for severely handicapped individuals who were "dumped" at the end of 18 months when their funding expired, and that the best workers were retained, without attempts being made to place them.

The Committee did not believe it could act on allegations, denied by other witnesses, because of a lack of good information on the functioning of workshops. It has therefore directed the Secretary to undertake a comprehensive study of workshops, and will subsequently act on resolutions which will detail criteria for this study.

The Committee stresses that this study must be comprehensive, and has formulated a series of questions relating to the role of workshops, the number of individuals employed in workshops, the amount of funding provided to workshops under this Act and the Vocational Rehabilitation Act, and the relationship between workshops and other programs for handicapped individuals, and programs for vocational training. The Committee includes the following questions which it believes should be covered in the study.

1. What should the role of sheltered workshops or rehabilitation facilities be?

2. How many sheltered employment settings (workshops, rehabilitation facilities, work activity centers, etc.) are now in existence? How many handicapped individuals do they employ?

3. What standards are used by vocational rehabilitation agencies to determine that a sheltered workshop is the most suitable in the community or state for training or employing a handicapped individual?

4. How many handicapped individuals are placed in workshops by state vocational rehabilitation agencies for training and evaluation? How many handicapped individuals are placed in sheltered workshops for extended evaluation.

5. How many handicapped individuals are in extended or terminal employment in sheltered workshops? What is the nature and degree of their disability?

6. What methods are utilized to determine wages for handicapped individuals in workshops?

7. How often do officials of the Wage and Hour and Public Contracts Division inspect sheltered workshops and work activity centers to determine violations of minimum wage? How often do officials of the Department of Health, Education, and Welfare and officials of state agencies inspect sheltered workshops?

8. What fringe benefits are provided to handicapped individuals in extended or terminal employment in the sheltered workshops, such as unemployment compensation, health care, and retirement plans which other non-handicapped workshop employees are entitled?

The Committee believes it important that this study be as comprehensive and as objective as possible, and has therefore provided that no individual or interest group with a financial or other direct interest in workshops may be awarded a contract to undertake this study. The Committee wishes to make clear that this proviso includes groups which have waged considerable criticism against the role of workshops, as well as individuals and groups which are involved in the running and operation of workshops.

Finally, the Committee expects that a substantial proportion of title IV appropriations will be used for this study.

TITLE V—OFFICE FOR THE HANDICAPPED

Title V of the Committee bill establishes an Office for the Handicapped in the Office of the Secretary of the Department of Health, Education and Welfare. This Office is charged with the preparation of a five-year planning document for the provision of services to handicapped individuals, the analysis and review of program operation and budgeting to assure progress toward implementation of such a plan, providing assistance to advisory committees and programs which serve the Secretary, the coordination and encouragement of cooperative planning among programs for handicapped individuals, taking steps to assure the prompt utilization of engineering and other research to assist in solving problems of handicapped individuals and the evaluation of existing information systems in order to develop a coordinated system of information retrieval and dissemination.

The Committee has not provided this Office with authority for operation of programs, except as this authority relates to evaluation and development of an information system, and the dissemination of scientific, medical and technological information. The Committee wishes to make clear that it is its intent that this Office is a coordinating office, which shall act as an advisor to the Secretary on the needs of handicapped individuals, and the many programs within the Department which provide services to such individuals. The Committee has therefore, placed this Office in the Office of the Secretary so that it may perform this advisory function, and so that the Office will have visibility and access to information about all programs run within the Department which affect handicapped individuals.

The Committee has identified a number of functions that it believes are essential to the coordination of services and priorities. The first is the preparation of a five-year plan for provision of services, research, training and evaluation. Recognizing that the needs of different disability groups are vast, and the functions of the many programs in the Department diverse, the Committee believes that the identification of priorities and the relating of individual programs to these priorities are essential to avoid a scattershot of emphases which may result in far less than the services needed. The Committee believes that by concentrating on a number of goals and focussing an all out effort toward meeting these goals the Department will be better able to meet the needs of handicapped individuals.

The Committee is aware that the President, the Secretary of Health, Education and Welfare, the Commissioner of Education and the RSA Commissioner have proposed a series of goals for handicapped individuals in recent months. The Committee is encouraged by these actions, and believes that these ends will be met much sooner with the assistance of the new Office. The Committee does not expect this five-year planning document to take the place of program innovation and new legislation. Rather, this plan is intended to be a working document, and a guideline by which programs can measure their effectiveness. The Committee further believes that focusing on the broad needs of handicapped individuals will make very clear where new program initiative is needed, and will, in fact, stimulate new legislative proposals.

The bill further directs this new Office to analyze and review program operation and budgeting to evaluate progress toward meeting the goals of the five-year plan. The Committee believes that this analysis is necessary to the Secretary and to the Congress, for it expects that many individual programs within the Department are not always aware of similar programs and projects being undertaken by other agencies. The Committee wishes to make very clear, however, that it expects no program consolidation to take place as a result of this analysis and review. One fear that was raised during hearings on this legislation was that the creation of the Office would result in program consolidation across disability group and functional responsibilities, thus resulting in lack of

sensitivity and consideration given to the different problems of disability groups. The Committee emphasizes that this is not the intent of the Office.

The Committee expects that the Office's most powerful tool will be that of information: it will be in a central location within the Department for developing and providing information and assistance to programs for handicapped individuals. The Committee believes that the Office will perform an important function if it is aware of all programs for the handicapped in the Department, and is able to lead individuals in one agency working on a particular problem to other individuals in other agencies who are similarly interested. The Committee also is aware that many programs deliver services to the same individual although it may be at different times, for different services. The Committee believes that there are too many junctures and too many problems which confront an individual with a handicap which may result in that individual falling through the cracks of different service systems. The Committee emphasizes that it is important, especially early in life, that these services be available as a continuum, and be delivered in such a way that is sensitive to all of the disparate problems which may afflict that handicapped individual. Therefore, the Committee has mandated the Office to attempt to coordinate and encourage cooperative planning of services and service delivery.

The Committee has also directed the Office to evaluate all existing information and data systems which provide information to, for and about handicapped individuals, and to develop a comprehensive system of information and data retrieval and dissemination. The Committee has been distressed to discover how little information is available. Even the simplest knowledge relating to Federal Government programs for handicapped individuals is non-existent, or very poor. However, the Committee is most concerned that no definitive information exists about the number of Americans with handicaps, the extent of their handicaps, and the services they are receiving. Estimates of this population vary widely, and have to be compiled from separate agencies and programs if they are to be obtained at all. The Committee found during the hearings on the Vocational Rehabilitation Act, that although needs could be expressed for various disability groups, no one knew with any degree of certainty what the size of the population was that they were representing for. The Committee believes that this information is essential to program and service needs, and therefore, the Committee expects the Office to undertake this study as soon as possible in coordination with RSA activities under the new State plan requirements in title I of the bill.

The Committee is aware of over one hundred programs within the Federal Government which provide services to handicapped individuals, and more than 50 programs in the Department of Health, Education, and Welfare itself. The Committee expects that the Office will become an advocate for the handicapped with respect to the programs within the Department, and will attempt to relate these programs also to other programs which are administered by the Department of Housing and Urban Development, the Veterans' Administration and other Federal agencies. Because the Committee believes that handicapped individuals themselves are their own best advocates, the Committee has directed the Secretary in selecting all personnel for the Office to give special emphasis to the hiring of qualified handicapped individuals to perform these tasks. The Committee strongly believes that coordination across programs has become essential and therefore expects the Secretary to establish this Office, and hire personnel to fill the positions within this Office as soon as possible.

The Committee has been concerned over the growth in numbers of programs for handicapped individuals. While this growth has been necessary to ensure that handicapped individuals receive their fair share of resources from Federal programs and to ensure consideration of the particular problems of handicapped individuals, it has resulted in duplication of efforts, confusing priorities and a dilution of services for these individuals. The Committee points out that it has been faced with one of two strategies in trying to ensure that handicapped individuals are served by Federal programs: it has had either to earmark money within a program for the handicapped, or provide separate authority for a program for handicapped individuals. The Committee need only point out the difficulty it has had in trying to ensure that programs run under the Office of Child Development, specifically Head Start, serve handicapped children. After much effort was expended in trying to get this compliance without legislation, the Committee this year had to include legislative language directing the Secretary to ensure that at least 10% of all enrollment opportunities in the Head Start program are available for handicapped children. The Committee emphasizes that this is only one example.

In addition, there are programs administered by different agencies which could benefit from coordination because they deliver the same or similar services to individuals. Rather than providing the focus on comprehensive needs of handicapped individuals, lack of coordination has led to a diversity of purpose and a failure to provide services to as many individuals as possible.

The Committee believes that it is time for all programs to examine their priorities and to develop coordinated programs so that individuals to whom services are delivered receive the full benefit of all programs, and do not have to extend the effort themselves to coordinate all of the services that are available to them. There are obvious areas in program planning where needs could be met jointly, and where coordination and joint funding could help effect a comprehensive services system which would reduce uncertainty in the field, and create new models for service systems to solve severe gaps in service.

The Committee has been concerned that too little utilization is made of the results of scientific, medical and technological research which could alleviate the effects of handicapping conditions. It has therefore charged the Office with developing methods to ensure more prompt use of such research and technology. The Committee expects that the Office will explore alternate methods of provision of this technology to handicapped individuals, and will look into all related problems. The Committee believes that many new devices and techniques have been developed which could ease the lives of handicapped individuals, and that the Federal Government must find a way to ensure that handicapped individuals have access at minimal cost to these devices.

TITLE VI—MISCELLANEOUS

Under this title, the existing Vocational Rehabilitation Act (29 U.S.C. 31—42) is repealed upon the date of enactment of this act and any unexpended sums under that statute may be used under this act as directed by the President. Activities which are ongoing at the present time shall be insured continuity by continuing their funding. There is continuing authority in the new Act.

Federal Interagency Committee on Handicapped Employment

The Committee recognized the need for this type of committee on employment after the hearings which divulged what it considered at best, a divergent hit-and-miss type of Federal employment policy for handicapped individuals. The President's Committee on the Employment of the Handicapped stated in testimony that it was their function to create a climate for employment in the public and private sector. There appears to be no relevant statistics available on the handicapped individuals who are employed by the Federal Government. Thus, the need was felt for better coordination of effort on the part of all agencies within all branches of Federal service. The bill requires that there be established a committee which will initiate an affirmative action plan, and seek to insure that there is no discrimination in employment of handicapped individuals by and within the agencies of the Federal Government in hiring, placement, or advancement. The Committee is also directed to insure that the special needs of the handicapped are being met on the job. The bill directs each department and agency within the executive branch to submit a report to the Interagency Committee within 180 days of enactment of this bill. The Committee shall submit at the end of each fiscal year to the appropriate Committees of Congress a report on its activities and recommendations so that they may be further evaluated for possible legislative or administrative action. The report will include any legislative action that the committee feels would enhance employment and advancement of handicapped and severely handicapped individuals in government service.

The Committee is also directed to recommend policies to state and local governments and other public and private employers with respect to employment of handicapped individuals. The President's Committee on Employment of the Handicapped will provide staff support for the Interagency Committee, which shall be chaired by the Secretary of HEW. The bill also requires an annual report from the Committee and also specifies that handicapped individuals employed in Federal unpaid work experience programs shall not be deemed Federal employees for purposes of Federal personnel laws and regulations generally.

COOPERATION AMONG FEDERAL AGENCIES

As requested by the President's Committee on the Handicapped, the bill directs the Secretaries of HEW and Labor to cooperate with the President's Committee as it carries out its functions. The bill also increases the present continuing annual appropriation authorization of $1 million for the President's Committee to $1,250,000 in FY 1974. It is not the Committee's intention by this action to alter in any way the effectiveness of the continuing authorization of appropriations for the Committee after FY 1974.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

The Committee is aware through testimony on this legislation, not only of strong attitudinal barriers, but also enormous physical barriers to the mobility of the handicapped individual. The Committee strongly believes that a new Federal board is necessary to insure compliance with the present Federal statutes regarding architectural barriers, since compliance has been very spotty and there is no such comparable compliance unit in existence at this time. Such a unit will enhance the effectiveness of the other provisions of the bill since the employment opportunties for the handicapped, even if fully created, could not be filled without the ability of the handicaped individuals to get to their jobs. Barrier free design in Federal buildings and in Federally assisted projects is mandated in present law, but has never been adequately enforced. The Committee feels that to justify the expenditures authorized under this bill it is imperative that handicapped individuals be given the opportunity to move freely in the society into which they must integrate themselves. The

Committee feels this Board can serve to accomplish this.

EMPLOYMENT UNDER FEDERAL CONTRACTS AND NONDISCRIMINATION UNDER FEDERAL GRANTS

Further provided in this title is that handicapped individuals shall be given full and fair consideration for employment by any contractor who seeks to contract with the Federal Government. The President is required to issue regulations ninety days after enactment of this bill to insure that there is an affirmative action plan implemented to this effect. The bill further provides that a handicapped individual who has a discrimination complaint against a Federal contractor may file complaint with the Department of Labor.

The bill further proclaims a policy of nondiscrimination against otherwise qualified handicapped individuals with respect to participation in or access to any program which is in receipt of Federal financial assistance.

TITLE VII—AMENDMENTS TO THE RANDOLPH-SHEPPARD ACT

Summary

The principal objective of title VII is to enlarge the employment opportunities of qualified blind persons through the operation of vending facilities on federally controlled property. It provides that, in authorizing the operation of vending facilities on Federal property, blind persons licensed by a State agency as provided by the Act shall be given preference. The title requires Government agencies in control of such properties to prescribe regulations designed to assure such preference. The amendments would include vending machines in the definition of "vending facility." After January 1, 1973, provisions for vending facilities are to be included in all buildings owned, rented, leased or occupied by a Federal department, agency, or instrumentality, as well as in the design, construction, or substantial alteration or renovation of each building used by a Federal department, agency, or instrumentality. The measure would also improve procedural safeguards for aggrieved blind licenses, including provisions for binding arbitration and judicial review. Title VII of the bill reported by the Committee would make several other modernizing and clarifying changes in the basic law.

Background

The Randolph-Sheppard Act originally was enacted by the Congress on June 20, 1936, for the purpose of establishing a program for the operation of vending stands in Federal buildings by blind persons licensed by State agencies. Since 1936, the vending stand program has grown to the point that there are now approximately 3,400 blind persons concerned with the operation of vending stands throughout the country. Thousands of severely handicapped persons have thus been given the opportunity to become self-supporting entrepreneurs, and their performance has served as an inspiration to countless others who are handicapped by blindness.

At the end of fiscal year 1971, there were 881 stands on Federal properties employing 986 blind persons. In addition, the State agencies for the blind and the State vocational rehabilitation agencies which license blind operators have opened employment opportunities for concessionaries in State and municipal buildings, as well as nongovernmental buildings. There were 2,261 stands employing 2,466 blind persons on non-Federal installations last fiscal year. During the fiscal year 1971, these concessions operated by blind persons recorded a gross business of $101.3 million. The average income of the blind operators was $6,516.

BREAKDOWN OF FIGURES ON A NATIONWIDE BASIS FROM ANNUAL VENDING STAND REPORTS SUBMITTED BY STATE LICENSING AGENCIES FOR FISCAL YEAR 1971

	Fiscal year 1970	Fiscal year 1971	Percentage increase over previous year
Total number all stands	3,059	3,142	2.7
Federal locations	852	881	3.4
Non-Federal locations	2,207	2,261	2.4
A. Public	1,338	1,391	4.0
B. Private	869	870	.1
Total gross sales	$93,925,464	$101,304,773	7.9
Federal locations	$28,045,467	$30,436,007	8.5
Non-Federal locations	$65,879,997	$70,868,766	7.6

	Fiscal year 1970	Fiscal year 1971	Percentage increase over previous year
Total number of operators	3,352	3,452	3.0
Federal locations	967	986	2.0
Non-Federal locations	2,385	2,466	3.4
Net proceeds to operators	$19,731,203	$20,611,157	4.5
Federal locations	$5,919,414	$6,206,206	4.8
Non-Federal locations	$13,811,789	$14,404,951	4.3
Annual average: Earnings of operators	$6,300	$6,516	3.4

Since its enactment 36 years ago, the Randolph-Sheppard Vending Stand Act has been amended only once—in 1954—when improvements to the Act were included in the Vocational Rehabilitation Amendments of 1954.

Further improvements to meet changing conditions over the years, such as the rapid proliferation of automatic vending machines, have been suggested by representatives of national organizations for the blind and handicapped, as well as State agencies designated to administer the program. During the 91st Congress these changes, together with modifications suggested by Federal authorities, were incorporated in a bill introduced by Senator Jennings Randolph, S. 2461, for the purpose of expanding the opportunities for vending facility operations. Following hearings in July 1970, S. 2461 was reported by the Committee on Labor and Public Welfare and was subsequently passed by the Senate without a dissenting vote on September 28, 1970. The House of Representatives was unable to complete action on the bill before the adjournment of the 91st Congress.

This same bill with technical corrections was introduced on September 14, 1971 as S. 2506 by Senator Randolph and referred to the Committee on Labor and Public Welfare. The Subcommittee on Handicapped Workers held hearings on September 22, October 1, and December 9, 1971, during which testimony was submitted on the bill by witnesses on behalf of 16 agencies and organizations, including the Administration, blind organizations, postal unions, and other national associations.

The Subcommittee on the Handicapped, a reconstituted and enlarged subcommittee of the Committee on Labor and Public Welfare, was created early in 1972. On April 25, 1972 the subcommittee ordered favorably reported to the full committee S. 2506 with amendments. The subcommittee also, by resolution, directed the Comptroller General of the United States to conduct a study of the financial status of vending operations on Federal property, to include a determination of sources and uses of the proceeds from vending machine operations. Because of a heavy schedule further consideration of S. 2506 was postponed by the full committee.

The subcommittee added the provisions of S. 2506 as title VII of S. 3987, and the full committee accepted this title with the provisions of the Rehabilitation Act of 1972.

Summary of current law

The Randolph-Sheppard Act authorizes blind persons licensed by State agencies to operate vending stands on Federal property. It requires that, where feasible, preference shall be given to such blind persons by Federal agencies which control the operation, maintenance and protection of such property, so long as agencies are not unduly inconvenienced and where the interests of the United States are not adversely affected.

The Act requires the Secretary of Health, Education, and Welfare to make surveys of vending opportunities, provide information thereon to the public and the blind, and designate in each State an agency to issue licenses to blind persons who meet certain qualifications. In 1954 the Randolph-Sheppard Act was amended to specify that the sole State agency for licensing purposes is the State vocational rehabilitation agency, where a State has an approved plan under the Vocational Rehabilitation Act.

The State licensing agency is to give preference to blind persons in need of employment who have resided in the State for at least one year. The blind vendor must be at least twenty-one years of age. The State agency is authorized to select the location and type of stand, with approval of the Federal agency involved.

The State agency is required, under the Act and after approval of the governor, to provide vending stand equipment and initial stock of articles to be sold. If funds are set aside from vending stand proceeds, such funds are to be used for purchase and maintenance of equipment, management services, and assuring a fair return to blind operators. The Secretary is to determine the reasonableness of funds to be set aside.

The agency is further required to provide to the Secretary necessary reports, issue appropriate regulations, and provide a fair hearing to any blind licensee who is dissatisfied with any action concerning the program.

The Act authorizes the Secretary to cooperate with State vocational rehabilitation agencies, and to expend funds for various purposes, and it requires him, in employing personnel to administer the Act, to hire persons at least half of whom are blind.

The Act defines various terms, including "blind person", and its final section, pursuant to the 1954 amendments, coordinates the Act with the Vocational Rehabilitation Act.

Need for Legislation

The income of blind vendors is being jeopardized by a growing tendency toward the use in Federal buildings of automatic vending machines, to the exclusion of blind vending facilities. Also, although the intent of the Randolph-Sheppard Act is to provide, to the maximum extent possible, new job opportunities for the blind Federal employee groups have been permitted by agencies controlling Federal property to install vending machines and receive the income from these machines for their use in various recreational and welfare activities, despite the absence of statutory authority for this practice. The effect of this has been to curtail the installation of new vending facilities operated by blind persons on Federal property and to diminish the income of blind operators of existing vending facilities. The Comptroller General of the United States has, on

two occasions, ruled that the income from vending machines on Federal property should be deposited in the Treasury as miscellaneous receipts under the provisions of 31 U.S.C. 484 unless a blind person operating a vending facility under the Randolph-Sheppard Act also operates vending machines in the building in which case the income should accrue to him. Vending machine income of Federal employee groups is not audited by the General Accounting Office.

Witnesses also pointed out that the Randolph-Sheppard program has become virtually static on Federal property owing to the fact that officials controlling such property can presently prevent the installation of vending facilities despite a determination by State licensing agencies that the property may be suitable for vending facility locations. In addition, attempts by various interested groups to obtain judicial resolution of questions arising in connection with the program have failed at the threshold due to lack of standing to sue.

Summary of major provisions

The Committee regards the Randolph-Sheppard Act program for the blind as one of the most practical and effective employment opportunity programs ever created by the Congress. The blind vending facility operators return in taxes to all levels of government amounts far in excess of the initial small investment to get them started in their businesses. The ramifications for the blind individual, his family, his community, and the nation of self-support and a normal life through one's own work effort and entrepreneurial skill go far beyond payment of taxes. They are the essence of the American way of life and a healthy society. The alternative for many of these blind individuals over the years would have been a marginal existence on welfare and burdensome, stultifying dependence.

The negligible growth of the program on Federal property has brought deep concern to the Committee, particularly in view of the rapid expansion of Federal facilities over the past decade. The Committee believes it is vitally important to expand the Randolph-Sheppard program and to accelerate its growth.

Title VII would facilitate the establishment of additional Randolph-Sheppard vending facilities operated by blind persons on Federal property in several ways. First, it would add a new subsection (d) to Section 2 of the Act to require planning for such locations in the design, construction, or substantial alteration or renovation of Federal buildings, including leased space, as long as business potential justifies the installation. Provision is made for consultation with the State licensing agency and the Secretary of Health, Education, and Welfare in determining the type and location of vending facilities on Federal property. Second, the bill establishes an arbitration procedure in Section 8 of the Act for resolution of disputes which may arise between a State licensing agency and an agency controlling Federal property. Third, the bill specifically asserts the applicability of the Administrative Procedure Act to the Randolph-Sheppard Act and authorizes judicial review. In the past, judicial resolution of problems has not been possible because the courts have ruled that plaintiffs do not have standing to sue and have not considered the merits of cases which have been brought before them. These new provisions of the Act will resolve this problem.

The Committee expects every official controlling Federal property to work cooperatively with State licensing agencies to foster expansion of the Randolph-Sheppard program to its fullest potential as rapidly as possible. Further, the Committee expects the Department of Health, Education, and Welfare and State licensing agencies to initiate an intensive effort to make this program realize its potential.

During the hearings several witnesses expressed concern about possible adverse effects the recently inaugurated minority business enterprise program on Federal property might have on the Randolph-Sheppard vending facility program for the blind. They pointed out that installation of a minority business enterprise program facility on Federal property can rule out installation of a Randolph-Sheppard vending facility altogether and that arbitrary control of items vended by blind persons in existing facilities allows Federal officials to establish minority businesses selling other items. The Committee regards a concerted effort to assist members of ethnic minority groups to establish themselves in their own businesses as highly desirable and, in fact, long overdue. However, the Committee does not consider it desirable for the Federal Government to promote business opportunities on Federal property for ethnic minorities at the expense of an even smaller minority group—the blind—among whom are seriously handicapped members of these same ethnic minorities.

It must be emphasized that the blind have been granted statutory preference in the establishment of vending facilities on Federal property since 1936, and the Committee considers it unconscionable for Federal officials to circumvent this preference by arbitrary control of items vended or refusal to permit installation of a Randolph-Sheppard facility while permitting installation of vending facilities operated by other than blind persons. The Committee intends that the statutory preference granted the blind by the Randolph-Sheppard Act be strictly enforced and that other vending enterprises on Federal property be installed only after the State licensing agency certifies to appropriate Federal officials that the type of business enterprise contemplated will not preclude establishment of a Randolph-Sheppard vending facility or curtail the income or present expansion of an existing one.

The only genuine controversy which became apparent during the hearings stemmed from insertion in S. 2506 as introduced of the word "exclusive" in front of "assignment of vending machine income to achieve and protect such preference" in Section 1 of the Act. As indicated above, officials controlling Federal property have permitted Federal employee groups to install vending machines and use the profits for their own recreational and welfare activities unrelated to their employment. In 1954, the Congress added the parenthetical phrase "(including assignment of vending machine income to achieve and protect such preference)" to Section 1 of the Act as a means of dealing with the problem. However, this provision has proved to be a minor palliative from the standpoint of blind vending facility operators, and they have been increasingly adversely affected over the years.

There may also be a question as to whether there is adequate accounting for vending machine income by Federal agencies or the employees controlling the funds. The Committee has been unable to obtain satisfactory information from agencies controlling Federal property of the amount of vending machine income their employee groups are receiving. As a result, the Subcommittee on the Handicapped by resolution directed the Comptroller General of the United States to undertake a study of vending operations on Federal property, including a detailed audit of gross receipts, and net income from such operations by blind vendors and by employees of the United States. A determination is also required to be made as to the amount of funds derived from vending operations that has been deposited in the U.S. Treasury as miscellaneous receipts, as well as the sources and uses of funds from any other vending operation on Federal property. The Comptroller General is to report to Congress within six months his findings and recommendations. The reported amendments do not contemplate the destruction of employee welfare and recreation funds. On the contrary, there is nothing in these provisions which would be likely to alter the status quo with respect to such funds. Further Committee action, if any, must await study and review of the Comptroller General's report.

In conclusion, the Committee strongly reaffirms its support for the excellent program under the Randolph-Sheppard Act for creating employment opportunities for blind persons as vending facility operators on Federal property. It believes that the changes it has made in the Act will greatly increase its effectiveness in creating many more employment opportunities. The Committee expects all Federal and State officials involved in carrying out the program to work closely and well together to make the program more effective, and reaffirms the intent of the 1936 Act to create employment opportunities for blind persons while providing a necessary service to government employees and the public. Enactment of title VII would entail no additional cost to the Federal Government.

COST ESTIMATE PURSUANT TO SECTION 252 OF THE LEGISLATIVE ACT OF 1970

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91–510), the Committee estimates that if all funds authorized were appropriated during fiscal year 1973 and the two succeeding fiscal years, the five-year costs occasioned by S. 3987, as reported, would be as follows:

REHABILITATION ACT OF 1972

	Fiscal year—				
	1973	1974	1975	1976	1977
Title I—Vocational rehabilitation services:					
Basic and comprehensive rehabilitation:					
Services (pts. B and C) (sec. 100)	$900,000,000	$1,150,000,000	$1,350,000,000	----------	----------
Innovation and expansion grants (sec. 111)	50,000,000	60,000,000	75,000,000	----------	----------
Title II—Special Federal responsibilities:					
Construction, staffing and planning grants (sec. 200)	35,000,000	40,000,000	45,000,000	----------	----------
Vocational training services for handicapped (sec. 201)	30,000,000	35,000,000	40,000,000	----------	----------
Annual interest grants (sec. 203)	1,000,000	2,000,000	4,000,000	$4,000,000	$4,000,000

	Fiscal year—				
	1973	1974	1975	1976	1977
Special projects and demonstrations (sec. 204)	[1] $50,000,000	[1] $100,000,000	[1] $150,000,000		
National Center for Deaf-Blind (sec. 205):					
Construction	5,000,000				
Operation	800,000	1,200,000	2,000,000		
Special grants for deaf rehabilitation services (sec. 206)	5,000,000	7,500,000	10,000,000		
Spinal cord injury centers (sec. 207)	15,000,000	25,000,000	30,000,000		
End stage renal disease (sec. 208)	20,000,000	25,000,000	30,000,000		
Rehabilitation services for older blind (sec. 209)	10,000,000	20,000,000	30,000,000		
National Advisory Council (sec. 210)	100,000	150,000	150,000		
Title III—Research and training:					
Research (sec. 302)	75,000,000	100,000,000	150,000,000		
Training (sec. 303)	50,000,000	75,000,000	100,000,000		
Title IV—Administration and program and project evaluation:					
Administration (sec. 400)	[2]	[2]	[2]		
Program and project evaluation (sec. 401)	[3] 2,000,000	[3] 2,000,000	[3] 2,000,000		
Title V—Office for the handicapped: Office for the handicapped (sec. 502)	1,000,000	2,000,000	2,000,000		
Title VI—miscellaneous:					
President's Committee on Employment of the Handicapped (sec. 601)	1,000,000	1,250,000			
Architectural and transportation barriers compliance board (sec. 602)	1,000,000	1,250,000	1,500,000		
Total	1,251,900,000	1,647,350,000	2,021,650,000	$4,000,000	$4,000,000
Grand total			4,918,570,000		

[1] Plus amounts for migrants.
[2] Such sums.
[3] Or ½ percent of appropriations titles I–III, whichever is greater.

VOCATIONAL REHABILITATION ACT

Authorizations in current law (fiscal year 1972)

	Amount
Vocational rehabilitation services	$700,000,000
Innovation project grants	10,000,000
Research, demonstrations, training, expansion	140,000,000
Construction and staffing	30,000,000
Rehabilitation facility improvement	30,000,000
Vocational evaluation and work adjustment	100,000,000
National Center for Deaf-Blind	[1]
Migratory agricultural worker grants	[1]
Total	1,010,000,000

[1] No authorization provided in law.

TABULATION OF VOTES CAST IN COMMITTEE PURSUANT TO SECTION 133(b) OF THE LEGISLATIVE REORGANIZATION ACT

Pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, there were no tabulated votes to report. S. 3987 was unanimously ordered favorably reported by the Labor and Public Welfare Committee on September 15, 1972.

SECTION-BY-SECTION ANALYSIS

SECTION 1

The first section designates sections 1 through 9 and titles I through VI and the table of contents of the bill as the "Rehabilitation Act of 1972".

SECTION 2

This provision describes the purposes of the Rehabilitation Act of 1972 by delineating in general terms the goals of most of its provisions, including the provision of vocational and comprehensive rehabilitation services to handicapped and severely handicapped individuals, evaluation of rehabilitation potential, construction of facilities, research and training, innovation and expansion of services, and studies of various areas of need.

SECTION 3

This section provides a statutory basis for the Rehabilitation Services Administration in its own right. The sole authority to administer titles I, II, and III of this Act is vested in the Commissioner of the Rehabilitation Services Administration, to whom the Secretary shall delegate his functions under these titles. In order to prepare RSA for its expanded role, the number of full time personnel authorized for the Administration is increased by sixty over current levels, and the number of so-called supergrade positions (GS 16, 17, and 18) assigned to RSA is increased by ten.

Established within RSA is a Division of Research, Training, and Evaluation, which will contain a Center for Technology Assessment and Application to develop and support new methods to solve rehabilitation problems and to administer research activities under section 302(b)(3).

SECTION 4

Authority for forward funding is provided in this section so that funds may be appropriated one year prior to the fiscal year to which they apply and for which they are to be obligated. The section permits, for the purpose of transition to the forward funding concept, appropriations in the first year for both that year and the next succeeding fiscal year. Thus, for example, appropriations may be enacted during this fiscal year for both fiscal year 1973 and 1974.

SECTION 5

This section provides that where two or more Federal agencies provide funds for a single project to an agency or organization assisted under this Act, the President may, pursuant to regulations consistent with all the provisions and requirements this Act, designate as the single agency to administer such funds the agency which is providing the principal share of the funds.

SECTION 6

This section provides the definitions applicable to all the operative provisions of the Act.

(1) The term "Act" means sections 1 through 9 and titles I through VI of this Act, unless the context otherwise requires.

(2) "Comprehensive rehabilitation services" means those services provided to a handicapped or severely handicapped individual, which will help improve his ability to live normally or function independently.

(3) "Construction" means construction of new buildings, acquisition, expansion, remodeling or alteration of existing buildings, and provision of initial equipment. The cost of such construction includes architects' fees and land acquisition.

(4) "Establishment of a rehabilitation facility" means acquisition, equipment, or improvement of existing buildings to adapt them to rehabilitation purposes. The term may, if appropriate, also include initial staffing.

(5) "Evaluation of rehabilitation potential" is a term which includes the various diagnostic studies and services utilized to ascertain the services and goals needed for appropriate and complete rehabilitation of handicapped and severely handicapped individuals, and includes extended evaluation for periods up to 18 months with reassessment at least once in every ninety-day period.

(6) "Federal share", except for purposes of part B of title I (which is 80 per centum) and except as otherwise specifically provided in the Act, is 85 per centum.

(7) "Handicapped individual" means one whose physical or mental disability constitutes a substantial handicap to employment, and who can be expected to benefit from vocational or comprehensive rehabilitation services.

(8) "Local agency" means a local government or Indian tribal agency which, under agreement with and supervision by a State agency, conducts a vocational rehabilitation program.

(9) "Nonprofit" means, as related to a rehabilitation facility, a facility which is exempt from payment of Federal income taxes.

(10) "Rehabilitation facility" means one whose primary purpose is to provide vocational and comprehensive rehabilitation services, or a workshop, and which provides one or more such services. The definition includes a list of services which are provided by such facilities and is largely unchanged from present law except for the inclusion of orientation and mobility services for the blind.

(11) "Secretary", except when the context otherwise requires, means the Secretary of Health, Education, and Welfare.

(12) "Severely handicapped individual" means a handicapped individual requiring rehabilitation services appreciably more (twice as) costly and of appreciably greater (twice as great) duration than services normally required for employment or ability to function normally and independently.

(13) "State" includes all U.S. possessions and territories and the Trust Territory of the Pacific Islands.

(14) "Vocational rehabilitation services" means the services provided under title I, as identified in section 103.

SECTION 7

This section specifies the "allotment percentage" used in the formula for allocation of funds to States under the Act, requires the Secretary to update such percentages every two years, and specifies how the population of States and of the United States shall be determined.

SECTION 8

This provision requires grant recipients to keep such records as the Secretary may prescribe, including amounts and disposition of funds received, and other records to facilitate an effective audit. The section authorizes access by the Secretary and Comptroller General to any books or records pertaining to such grants.

SECTION 9

This section instructs the Secretary and the Commissioner to give special consideration to the needs of State which would have received a greater part B, title I allotment for FY 1974 and subsequent fiscal years if the formula currently used in the Vocational Rehabilitation Act had been applied to all appropriations in such subsequent years and to report to the Congress annually on the exercise of this special consideration.

TITLE I—VOCATIONAL AND COMPREHENSIVE REHABILITATION SERVICES

PART A—GENERAL PROVISIONS

SECTION 100

(a) This subsection authorizes appropriations for grants under title I (except section 111) in the amounts of $900,000,000 for FY 1973, $1,150,000,000 for FY 1974, and $1,350,000,000 for FY 1975. Of the amounts appropriated each year, 15 per centum are set aside for grants under part C of title I for vocational or comprehensive rehabilitation services to severely handicapped individuals.

(b) Appropriations for innovative and expansion grants under section 111 are authorized under this subsection in the amounts of $50,000,000 for FY 1973, $60,000,000 for FY 1974, and $75,000,000 for FY 1975.

SECTION 101

(a) This subsection details the requirements to be met by the States in developing State plans for vocational rehabilitation services. Approval of such annual plan by the Secretary is required prior to the release of funds under the Act to a State.

(1)(A) A single State agency must be designated to administer the plan, except that if there is a State agency for the blind, that part of the plan relating to the blind may be administered by such agency for the blind. The Secretary may waive the sole agency requirement where a State wishes to carry out a joint program with another State or local agency.

(1)(B) The single State agency must be primarily concerned with vocational rehabilitation of handicapped individuals, or with education or vocational education, or be an agency which includes at least two other major units which administer education, health, welfare, or labor programs in the State.

(2) The State agency must conform to certain organizational and staffing requirements under this provision.

(3) The plan must provide for the required financial participation by the State, and if it elects, political subdivisions.

(4) The plan must be in effect in all political subdivisions, which requirement the Secretary may waive under certain conditions.

(5) The plan must detail the plans, policies, and methods to be followed by the State in providing vocational and comprehensive rehabilitation services, including an order of priority (not inconsistent with a national order prescribed by the Commissioner) for selection of recipients and specification of outcomes and services goals, with special emphasis on severely handicapped individuals. The provision also requires that no funds for comprehensive rehabilitation services (nonvocational goal) shall be expended unless maximum efforts have been made to secure assistance from other sources.

(6) The plan must contain plans, policies, and methods for providing vocational and comprehensive rehabilitation services under part C of title I, and provide for a detailed study by the State of various means of providing such services to severely handicapped individuals.

(7) The plan must detail its administration policies and provide for establishment of a client advocacy system.

(8) The plan must set forth personnel standards, consistent with State licensure laws, including minimum standards governing rehabilitation facilities and personnel.

(9) The plan must require that the State provide the vocational rehabilitation services identified in section 103(a) (1) through (3), and the remainder of such services after full consideration of eligibility for such services under other programs, except for services under clauses (4) and (5) where such consideration would delay (in any way causing hardship to or otherwise prejudicing the client) provision of such services.

(10) The State plan must provide that an individualized written rehabilitation plan will be developed for each individual served, and that services will be provided pursuant thereto.

(11) The State agency is required to make such reports on a timely basis as the Secretary may reasonably require, including estimates of the handicapped population within the State, members to be served, outcomes and goals for each priority category, and service costs.

(12) The State plan must provide for entering into cooperative arrangements, involving services and facilities, with State agencies administering public assistance, veterans, manpower, employment, and with other programs, with comparable Federal agencies, and other Federal, State, and local public agencies.

(13) The plan must require maximum utilization of public or other vocational or technical training facilities and resources in the community for the provision of services under this title.

(14) The plan must assure that any civil employee of the United States may have access to services on the same basis as any other handicapped individual.

(15) The plan must prohibit the imposition of any residency requirement excluding services to any individual present in the State.

(16) The plan must provide for continuing statewide studies of the needs of handicapped individuals and the means of meeting such needs, including the needs of all significant segments of the handicapped population.

(17) The plan must provide for periodic review and reevaluation of the status of handicapped individuals in extended employment in workshops and other rehabilitation facilities so that such individuals may, where appropriate, be employed or trained for employment in the competitive labor market.

(18) the plan must provide that the Federal share of the cost of construction of rehabilitation facilities shall not exceed an amount equal to 10 per centum of the total allotment for vocational and comprehensive rehabilitation services to the State in any year, and that the State will maintain its efforts to provide such services and not reduce them because of construction.

(19) The plan must assure that the views of recipients of, workers in, and providers of, vocational and comprehensive rehabilitation services are taken into account in administering the plan.

(20)(a) The plan must assure that the studies required by clause (16) and annual evaluation of the program will form the basis for amendments to the State plan.

(b) This subsection requires the Secretary to approve any plan which meets the requirements of subsection (a), and to disapprove plans which do not meet such requirements.

(c) This subsection permits the Secretary, after notice and hearings, to discontinue, reduce, or partially suspend payments to a State under this title in the event that any of the requirements of subsection (a) are not being met.

(d) This subsection provides that States may obtain judicial review of any action taken by the Secretary under subsections (b) or (c).

SECTION 102

(a) This subsection requires the Secretary to insure that the individualized written rehabilitation program required under section 101 is jointly developed by the vocational rehabilitation counselor or coordinator and the handicapped individual.

(b) Such program shall be reviewed annually, and shall include a statement of goals and other requirements. The individual shall be afforded an opportunity to review his program annually and renegotiate its terms.

(c) Subsection (c) requires the written program to emphasize a vocational goal or objective for the individual, and where it is determined that no such goal can be met, safeguards are required to insure that such a determination is absolutely necessary. Such a determination must be reviewed at least once each year.

SECTION 103

This section lists the vocational rehabilitation services which are provided under title I. Such services include the following: evaluation of rehabilitation potential; individualized rehabilitation written programs; counseling, guidance, referral, placement, and client advocacy; training services including personal and vocational adjustment and family services; physical and mental restoration services; maintenance during rehabilitation; interpreter services and reader services; recruitment and training services in public service fields; teaching, orientation, and mobility services for the blind; trade necessities; transportation; technological aids and devices and any other goods and services necessary to render a handicapped individual employable. When provided to groups of individuals, such services also may include management services, equipment, and initial supplies; and construction or establishment of rehabilitation facilities.

SECTION 104

This section excludes from a State's Federal share allotment for planning, administration, and services under this Act any portion of Federal funds provided under Federal law other than title I of this Act, and non-Federal funds required to be spent in order for a State to receive such Federal funds.

PART B—BASIC VOCATIONAL AND COMPREHENSIVE REHABILITATION SERVICES

SECTION 110

(a) This subsection provides the allotment formula for allocation of funds to the States for title I services. The formula is determined by multiplying the population of a State by the square of its allotment percentage and placing the result in ratio to all other States and for fiscal years after FY 1973 for portions of title I appropriations up to $700,000,000 which are available for allotment under part B (85% of 700=$595,000,000), the sums in excess of that amount ($595 million) shall be apportioned as follows: ⅔ of it on the basis of population and ⅓ of it by allotment percentage.

(b) Subsection (b) requires the Secretary to pay to each State the Federal share 80 per cent under part B of the cost of services up to the State's allotment. Amounts shall be reduced if non-Federal expenditures by the State under title I of this Act are less than those in FY 1972 under the Vocational Rehabilitation Act.

(c) This provision specifies that the non-Federal share for the purpose of determining Federal payment, includes contributions from any source used to construct or establish a rehabilitation facility, the use of which contributions is limited to such construction or establishment.

(d) The Secretary may transfer funds not used by one State to one or more other States. Such additional sums reallotted to a State are deemed to be an increase in such State's allotment for that year.

(e) This subsection describes the method of computing and paying State allotments. The Secretary, before each calendar quarter, estimates the amount to be paid to each State for that quarter and then pays the amount, subject to adjustment for errors in previous payments.

(f) This subsection requires each State to set aside 1 per centum of its allotment under part B to establish its State advisory council required by section 211(b), between ranges of $50,000 and $150,000.

(g) This subsection limits payments under part B to costs incurred in providing part B goods and services with respect to which no other payment is made under this Act.

SECTION 111

This section authorizes formula grants to States for innovation and expansion of services to handicapped individuals.

(a) Subsection (a) establishes State allotments on the basis of population, with a minimum allotment to any State of $50,000. The Secretary shall pay a portion of the cost of planning, preparing for, and initiating programs for services to severely handicapped individuals, and to classes of handicapped individuals with unusual and difficult problems of rehabilitation, particularly those who are poor. Grants to be used for direct services or for establishing facilities must be approved by the State agency administering the plan. The Secretary may require that no more than 50 per centum of a State's allotment under this section shall be expended for projects approved by him, the remainder to be expended in accordance with priorities established by the State consistent with the provisions of this section.

(b) This subsection provides that payments of such grants may be made for up to three years for any project, and the Federal share may not exceed 90 per centum.

(c) This subsection provides that payments may be made in advance or through reimbursement.

(d) This subsection provides that the Secretary may transfer unused funds from one State to another State or other States, the additional funds so transferred shall increase such State's allotment for that year.

SECTION 112

(a) This subsection requires the Secretary to set aside not less than 1 per centum for the purpose of establishing a system of of funds appropriated under section 100(a) for the purpose of establishing a system of client advocacy in each geographical area. Such systems are to be funded through the State agency administering the State plan. Client advocates shall serve as ombudsmen to help resolve client complaints.

(b) This subsection limits client advocates to those who are not employees, present clients, or under supervision of rehabilitation facilities or programs. The subsection specifies that advocates shall be afforded access to key personnel in the State agency and in the Rehabilitation Services Administration for the purpose of quick and effective resolution of client complaints.

(c) This subsection requires each client advocacy system to submit an annual report of its operations to the State agency and to the Secretary, including a description of case not resolved satisfactorily and recommendations for changes in the law and administration. The Secretary shall submit copies of such reports to Congress, along with his evaluation and recommendations.

(d) The recommended sources of client advocacy personnel are delineated in this subsection, to include graduate students undergoing clinical training in law, social services, rehabilitation counseling, psychology, health, and other related fields.

(e) This subsection prohibits the denial, threat, or discouragement of clients and client applicants in their relationship with the client advocacy system. Willful violation of the prohibition may result in suspension, reduction, or limitation of title I payments to a State in connection with the facility in which such violation occurred.

SECTION 113

(a) This subsection authorizes the Secretary to conduct experimental appeal projects in ten geographical areas, including examination of a small State appeals system; appeals from actions of one rehabilitation facility to a panel of counselor peers from other facilities; appeals to regional officials in the Department of Health, Education and Welfare; and appeals from actions of one rehabilitation facility to another.

(b) This subsection directs the Secretary to report to Congress within two years on the results of each experimental project under this section, and submit an evaluation of existing appeals systems in the United States.

PART C—SUPPLEMENTARY FUNDS FOR VOCATIONAL AND COMPREHENSIVE REHABILITATION SERVICES TO SEVERELY HANDICAPPED INDIVIDUALS

SECTION 120

(a) This subseciton specifies the State allotment formula under part C to be an amount bearing the same ratio to the total appropriated available for allotment under part C as the product of population times allotment percentage unsquared bears to such products in all States. The minimum State allotment under part C is $150,000.

(b) This subsection directs the Secretary, as under part B of this title, to transfer unused funds from one State to another State or States, which transfer shall increase the allotment of the receiving State in that fiscal year.

(c) This subsection limits allotments to expenditures for vocational and comprehensive rehabilitation services to severely handicapped individuals, to the extent that the cost of such services exceeds 200 per centum of the average cost of services to all handicapped individuals.

(d) This subsection provides that not more than 10 per centum of the total funds allotted to a State under title I, that is, the combined total of parts B and C allotments shall be expended for comprehensive rehabilitation services non-vocational goal.

(e) This subsection requires a reallocation of funds under this section pursuant to subsection (b), and the remainder to carry out the purposes of subsection (d) of section 110.

SECTION 121

This section requires a State, as a condition for receiving grant funds under the Act, to submit within 180 days after enactment an amendment to its State plan which includes a program for provision of vocational and comprehensive rehabilitation services to severely handicapped individuals. A State must include such a program in State plans submitted in subsequent fiscal years. The State agency which administers the plan must also administer the part C program. Other requirements relating to severely handicapped individuals described in the State plan requirements of section 101 are reiterated in this section.

SECTION 122

This subsection authorizes the payment of the Federal share for expenditures by the States for the part C program, according to each State's allotment. Payments may be made in advance, or by reimbursement.

TITLE II—SPECIAL FEDERAL RESPONSIBILITIES

SECTION 200

(a) This subsection authorizes appropriations for construction, planning, and initial amounts of $35,000,000 for FY 1973; $40,000,000 for FY 1974; and $45,000,000 for FY 1975. Amounts so appropriated shall remain available for expenditure until July 1, 1977.

(b) Subsection (b) authorizes the Secretary to make construction grants to States and public and private nonprofit organizations. Approval is conditioned on conformity with the general provisions in section 212. The Federal share of the cost of construction is specified as the same as that for rehabilitation facilities under section 645 of the Public Health Service Act. That Act provides, with respect to rehabilitation facilities, that the Federal share is an amount determined by the State agency, but not more than 66⅔ per centum, or the State's allotment percentage, whichever is lower, with a minimum of 50 per centum. An exception, under which the Federal share may be up to 90 per centum (which includes the Federal share described above plus an incentive per centum) is provided for projects which are determined by the Secretary to provide services primarily for persons in a rural or urban poverty area.

(c) This subsection authorizes the Secretary to make grants for the initial staffing of rehabilitation facilities constructed after enactment of this Act, in amounts not exceeding 75 per centum of professional or technical staffing costs in the first 15 months of operation, 60 per centum of such costs for the following year, 45 per centum of such costs for the second following year, and 30 per centum for the third following year.

(d) This subsection authorizes grants for planning rehabilitation facilities.

SECTION 201

(a) This subsection authorizes appropriations for grants to provide vocational training services to handicapped individuals in the amounts of $30,000,000 for FY 1973; $35,000,000 for FY 1974; and $40,000,000 for FY 1975.

(b) This subsection authorizes the Secretary to pay the Federal share of the cost of training services in rehabilitation facilities, to include occupational skill training, work evaluation and testing, provision of tools and equipment, job tryouts, and payment of weekly allowances. Allowances may not be paid to an individual for more than two years, and shall not exceed $30 per week plus $10 for each dependent, or $70, whichever is the lesser. Grants may be made only if the project's purpose is to prepare the handicapped individual for gainful employment; if those to be trained are deemed suitable for such purpose by the State agency; if the full range of training services is available to all; and if the project meets other requirements the Secretary may prescribe.

(c) This subsection authorizes the Secretary to make grants to rehabilitation facilities to improve management effectiveness and other assistance to improve the operation of such facilities, but prohibits grants under this subsection being used for construction.

SECTION 202

This section requires the Secretary, with respect to the carrying out of loan guarantee activities under the Public Health Service Act for rehabilitation facilities, to assure compliance with section 212.

SECTION 203

(a) This subsection authorizes the Secretary, subject to the general provisions of section 212, to pay annual interest grants to States and agencies to reduce borrowing costs related to mortgages for construction of rehabilitation facilities.

(b) This subsection authorizes such grants for up to forty years in an amount equal to the first 3% of the annual interest rate.

(c) This subsection authorizes the appropriation of such sums as are necessary, and limits contracts for payment of annual interest grants to the amount appropriated for such purpose. The total of grants may not exceed $1,000,000 for grants entered into during FY 1973; $2,000,000 for grants entered into prior to June 30, 1974; and $4,000,000 for grants entered into prior to June 30, 1975. The effect of this limitation is to limit the U.S. liability to $160 million over the next 43 fiscal years.

(d) This subsection limits expenditures under this section in any one State to not more than 15 per centum of the funds expended under this section in any one State in any year.

SECTION 204

(a) This subsection authorizes appropriations for special projects and demonstrations (and research and evaluations related thereto) in the amounts of $50,000,000 for FY 1973; $100,000,000 for FY 1974; and $150,000,000 for FY 1975. Ten per centum of amounts appropriated shall be available for making grants for migratory and seasonal agricultural workers under subsection (d), and additional appropriations are authorized for this purpose up to a total of $10,000,000 for both the earmarked and separate appropriation amounts.

(b) This subsection specifies the special projects demonstrations for which grants are authorized, subject to the general provisions in section 212, as including establishment of facilities and services to expand or improve rehabilitation services to handicapped, and especially severely handicapped, individuals, and application of new types or patterns of services or devices.

(c) This subsection authorizes the Secretary to make grants to a State or local agency to pay the full cost of providing services to handicapped migratory agricultural workers or seasonal farmworkers and their families, including maintenance and transportation. The grantee must cooperate with other agencies skilled in providing services to such workers, and administration of this provision shall be coordinated with other Federal laws dealing with such workers.

(d) This subsection authorizes the Secretary to make contracts with employers and organizations, for employment programs for handicapped individuals.

(e) This subsection authorizes the Secretary to provide by contract or directly, technical assistance to rehabilitation facilities, and, with respect to removal of architectural barriers to any agency. Experts or consultants are authorized compensation up to GS–18.

SECTION 205

(a) This subsection authorizes appropriations for the purpose of establishing and operating a National Center for Deaf-Blind Youths and Adults, in the amounts of $5,000,000 for construction and $800,000 for operations for FY 1973; $1,200,000 for operations for FY 1974; and $2,000,000 for operations for FY 1975.

(b) This subsection authorizes the Secretary, subject to the general provisions of section 212, to enter into an agreement to pay the costs of construction, equipment, and operation of a vocational rehabilitation center to demonstrate methods of providing services to, and training personnel to provide such services for, deaf-blind individuals; to conduct research in rehabilitation problems of deaf-blind individuals; and to improve public understanding of problems of deaf-blind individuals.

(c) This subsection provides that an agency desiring to participate shall submit a proposal to the Secretary. The Secretary shall give preference to proposals which promise maximum effectiveness in operating the center, and promise of the most skill and capability in providing a broad service program for deaf-blind individuals.

SECTION 206

(a) This subsection provides authorization of appropriations for grants for Rehabilitation Centers for Deaf Individuals, and expansion and improvement of vocational and comprehensive rehabilitation services for deaf individuals, in the amounts of $5,000,000 for FY 1973; $7,500,000 for FY 1974; and $10,000,000 for FY 1975.

(b) This subsection authorizes the Secretary subject to the general provisions of section 212, to make grants for payment of the cost of construction of centers to rehabilitate and maximize the vocational potential of deaf individuals, training professional and allied personnel to provide such services, and conducting research in the nature and prevention of problems of deaf individuals whose maximum vocational potential has not been achieved, and also to improve the public's understanding of the assets and problems of deaf individuals.

(c) This subsection requires an agency or organization desiring to receive a grant under this section to submit a proposal as required by the Secretary. The Secretary shall give preference to those proposals offering maximum effectiveness in the organization of a Center and the most substantial ability in providing a broad program of service, research, training, and related rehabilitation activities for deaf individuals whose maximum vocational potential has not been achieved.

(d) This subsection requires the Secretary to prescribe regulations to determine the population of deaf persons whose maximum vocational potential has not been achieved, require coordination between the agency receiving funds and the State and local agencies, and provide for establishment of an advisory board.

(e) This subsection specifies that to receive services under this section, a deaf individual must be 16 years of age, be beyond compulsory school attendance age, and not have achieved his maximum vocational potential.

(f) This subsection requires that programs under this section are to be coordinated with similar programs carried out by the Bureau of Education for the Handicapped to achieve a consistent educational philosophy, a continuity of services, and to avoid unnecessary duplication or overlap.

SECTION 207

(a) This subsection authorizes appropriations for establishing National Centers for Spinal Cord Injuries, in the amounts of $15,000,000 for FY 1973, $25,000,000 for FY 1974, and $30,000,000 for FY 1975.

(b) Subsection (b) authorizes the Secretary, subject to the general provisions of section 212, to enter into an agreement to pay costs of establishing centers to provide vocational and comprehensive rehabilitation services and acute medical care to spinal cord injured individuals, to assist in meeting the costs of such services, to study methods used to provide such services, and to develop new means of cooperation among organizations concerned with the problem of spinal cord injury.

(c) This subsection requires an organization desiring to enter into such agreement to submit a proposal as prescribed by the Secretary, who shall give preference to organizations which will provide multidisciplinary systems of rehabilitation services including acute medical care and inpatient and out-patient care, and will demonstrate the benefits of such services and the degree of cost effectiveness of the regional system, demonstrate and evaluate methods to improve rehabilitation of individuals with spinal cord injuries, and demonstrate methods of outreach and advocacy for such purposes.

SECTION 208

(a) This subsection authorizes to be appropriated funds for the purpose of providing services for treatment of individuals suffering from end-stage renal disease in the amounts of $20,000,000 for FY 1973; $25,000,000 for FY 1974; and $30,000,000 for FY 1975.

(b) This subsection directs the Secretary shall make grants from sums available to State and other agencies for paying all or part of the cost of projects for providing special services (including transplantation and dialysis), artificial kidneys, and supplies for rehabilitation of persons with end-stage renal disease.

(c) This provision provides that payments may be made in advance or by reimbursement and on such conditions as the Commissioner shall prescribe.

SECTION 209

(a) This subsection authorizes appropriations for the provision of rehabilitation services to older blind individuals in the amounts of $10,000,000 for FY 1973, $20,000,000 for FY 1974, and $30,000,000 for FY 1975. Of amounts appropriated 1 per centum shall be available for projects authorized under subsection (h).

(b) Allotment of funds to States is provided under this subsection, is under a formula based on population multiplied by the allotment percentage unsquared. The minimum for any State is $50,000. The Secretary shall pay the Federal share of the cost of services provided to older blind individuals under the State plan excluding any amount paid for by any other public or private agency.

(c) The subsection defines "older blind individuals" as individuals age 55 and older whose visual impairment makes gainful employment difficult to attain.

(d) This subsection prohibits the payment of funds under this section with respect to which any payment is made under any other provision of the Act.

(e) This subsection imposes additional requirements for the State plan with respect to services to older blind individuals. The plan must include provisions for policies and methods to be used in administering and supervising rehabilitation of older blind individuals and the order to be followed in providing such services, establishment of personnel standards to govern facilities used for such rehabilitation, and for cooperation by the State agency with other agencies concerned with blind individuals and joint undertakings to further the effectiveness of rehabilitation services for such individuals.

(f) This subsection requires the discontinuance of payments to States in the same manner and on the same basis as provided under section 101(c)(2) and permits judicial review of actions taken by the Secretary pursuant to the provisions in subsection (d) of such section.

(g) This subsection specifies that the provisions of section 212 shall apply to assistance under this section, unless the context otherwise requires.

(h) This subsection authorizes the Secretary to make grants to pay all or part of the costs of projects to demonstrate methods of providing special intensive services and training professional and allied personnel to rehabilitate older blind individuals, to conduct research in the problems of such persons, to aid in activities to expand or improve services and to help improve public understanding of the problems of older blind individuals.

SECTION 210

(a) This subsection establishes a National Advisory Council on Rehabilitation of the Handicapped, consisting of 20 members, appointed by the Secretary. Members shall be leaders in rehabilitation, and 10 shall be selected from leading medical education or scientific authorities, and; 8 of the 20 shall be handicapped persons or those who have received vocational rehabilitation services. This subsection provides other statutory requirements regarding members of the Council.

(b) This subsection requires the Council to provide policy advice and consultation to the Secretary on the planning, conduct and review of programs authorized under the Act, to review the administration and operation of rehabilitation programs under the Act, including their effectiveness, and to make recommendations with respect thereto including recommendations for statutory changes and annual reports to the Secretary for transmittal to Congress. This subsection also requires the Council to advise the Secretary

on the conduct of independent evaluations of programs and to provide such other advisory services as the Secretary may request.

(c) This subsection provides that technical and staff assistance for the Council shall be provided from the Office for the Handicapped, the Rehabilitation Services Administration, or other Federal agencies. This subsection also authorizes appropriations in the amounts of $100,000 for FY 1973, and $150,000 for each of the two succeeding fiscal years for the Council.

(d) This subsection imposes additional duties on the Council, including a review of duplication among vocational rehabilitation programs and other programs serving handicapped individuals, submitting annual reports of such duplication, and requires that in making such review, the Council seek opinions of persons familiar with the programs, rehabilitation, and employment.

(e) This provision permits compensation at per diem rates for members of the Council.

SECTION 211

(a) This subsection requires each State to establish a State Advisory Council, with aid of amounts set aside for expenditure in carrying out its functions under Section 110. The subsection requires any State receiving assistance under this Act to establish a State Advisory Council. This subsection sets forth requirements for membership on the Council, including those who are familiar with vocational rehabilitation, experienced in training for education of handicapped individuals, representatives of labor and management, and, as a majority of members, persons who are themselves handicapped and have received vocational rehabilitation services. This subsection also requires the State Advisory Council to advise the Governor or State agency on policy matters in administration of the State plan, to advise on long range planning and studies to evaluate programs, and to submit to the Governor and the National Advisory Council on Rehabilitation of the Handicapped an annual report of its recommendations and comments.

(b) Subsection (b) requires the State to establish within 120 days prior to the beginning of any fiscal year ending after FY 1973 a State Advisory Council and inform the Secretary of its establishment. The Secretary shall then certify that such Council is in compliance with membership requirements set forth in subsection (a).

(c) This subsection requires each State Advisory Council to meet within 30 days after certification, setting forth rules of the State Advisory Council including provisions that each Council must meet at least four times a year, and that it have one public meeting each year at which the public may express views concerning vocational rehabilitation.

(d) This subsection authorizes each State Advisory Council to obtain such services as are necessary to carry out their functions under this Act.

SECTION 212

(a) This section applies to all projects assisted under title II and the general provisions contained in this section, and directs the Secretary to assure compliance with the section, except with respect to sections 201, 208, 210, and 211.

(b) This subsection requires that a construction project must be used as a public or nonprofit facility for not less than 20 years. Sufficient funds must be available to meet the non-Federal share. Federal funds are to be used only for the purpose provided. Annual reports must be submitted to the Secretary. Plans and specifications must give due consideration to excellence of architecture and design, and inclusion of works of art, comply with regulations on safety and health, and emphasize compliance with the Architectural Barriers Act of 1968. The application must provide that laborers and mechanics employed by contract shall be paid prevailing wage rates, and contain other conditions as the Secretary deems necessary.

(c) This subsection provides that the Secretary shall reserve the amount of grants approved, and in the event of an upward revision of cost estimates permits for payment from the original appropriation.

(d) This subsection provides that the Federal Government shall be entitled to reimbursement from a facility for uses made other than as a public or nonprofit facility where such use occurs within 20 years after completion of construction.

(e) This subsection provides that payment of grants or reservation of funds may be made in advance or by reimbursement.

(f) This subsection provides that workshops may, where necessary to effective operation, be awarded grants for construction of residential accommodations.

(g) This subsection prohibits the use of funds provided under this title for construction of such portion of a facility as will be used for religious worship or sectarian activity.

(h) This subsection provides that where funds are used to provide direct services under this title, services must be consistent with the State plan under section 101.

(i) This subsection requires the Secretary to afford State agencies reasonable opportunity to comment on grants or contracts under this title prior to their being made.

TITLE III—RESEARCH AND TRAINING

SECTION 300

This section authorizes Federal assistance to States to plan and conduct research, demonstrations, and related activities in the rehabilitation of handicapped individuals, and plan and conduct courses of training to increase the number of skilled rehabilitation personnel and there improve the existing skills of such personnel.

SECTION 301

(a)(1) This paragraph authorizes appropriations for section 302 of this title in amounts of $75,000,000 for FY 1973, $100,000,000 for FY 1974, and $150,000,000 for FY 1975, of which 15 per centum, 25 per centum, and 25 per centum, of the amounts appropriated in each respective fiscal year shall be available for carrying out activities under section 302(b)(2).

(a)(2) This paragraph authorizes appropriations for section 303 of this title in amounts of $50,000,000 for FY 1973, $75,000,000 for FY 1974, and $100,000,000 for FY 1975.

(b) This provision provides that funds appropriated under this title shall remain available until expended.

SECTION 302

(a) This subsection authorizes the Secretary to make grants to and contracts with States and other organizations to pay part of the cost of projects to plan and conduct research, demonstrations, and related activities to develop methods, procedures, and devices to provide vocational and comprehensive rehabilitation services to handicapped and severely handicapped individuals. Such projects may include medical, scientific and other investigations into the nature of disability, methods of analyzing it, and restorative techniques, studies and analyses of factors affecting the rehabilitation of handicapped individuals, and special problems of homebound and institutionalized individuals, and related activities which hold promise of increasing knowledge and improving methods in rehabilitating handicapped individuals.

(b) This subsection establishes priority research categories as follows:

(1) Authorization is made in this paragraph for grants to pay part or all of the costs of activities to establish and support Rehabilitation Research and Training Centers operated with institutions of higher education to coordinate and advance programs of research and training in rehabilitation.

(2) This paragraph authorizes grants for the establishment and support of Rehabilitation Engineering Research Centers to apply advanced technology and other knowledge in solving rehabilitation problems through research, including cooperative research with other organizations designed to produce new knowledge, equipment and devices. The paragraph also provides for cooperation with the Office for the Handicapped in developing information exchange systems and coordination to promote utilization of engineering and other research.

(3) This paragraph authorizes a program for spinal injury research in support of the National Centers for Spinal Cord Injuries. The purpose of such research is to insure dissemination of research findings among all spinal cord injury centers, provide encouragement and support for new approaches, and establish close working relationships with other organizations to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigators.

(4) This paragraph authorizes a program for international rehabilitation research, demonstration, and training to develop new knowledge in rehabilitating handicapped individuals. The purpose of such program also would be to cooperate with other nations in sharing and developing information in rehabilitation, and initiating a program to exchange experts and technical assistance with other nations.

(c) This subsection applies the general provisions of section 212, unless the context indicates to the contrary; particularly applicable is the provision that funds used for direct services to handicapped individuals shall not be inconsistent with the State plan approved under section 101.

SECTION 303

(a) This subsection authorizes the Secretary to pay part of the cost of training and related activities to increase the number and skills of trained rehabilitation personnel.

(b) This subsection provides that funds under this section will be utilized for projects in rehabilitation medicine, rehabilitation counseling, rehabilitation social work, physical therapy, occupational therapy, speech pathology and audiology, rehabilitation nursing, workshop and facility administration, prosthetics and orthotics, psycology, specialized personnel for deaf and blind persons, recreation for ill and handicapped individuals and other fields contributing to rehabilitation, including for homebound and institutionalized individuals. The subsection limits education grants to not more than 4 years.

SECTION 304

This section requires the inclusion in his annual report a report with respect to research and training activities undertaken pursuant to this title, with emphasis on the contribution of such activities to the improvement of vocational and comprehensive rehabilitation services.

TITLE IV—ADMINISTRATION AND PROGRAM AND PROJECT EVALUATION

SECTION 400

(a) This subsection requires the Secretary in administering that portion of the Act under his jurisdiction to cooperate with and render technical assistance to States in the rehabilitation of handicapped individuals, provide short term training and instruction in technical matters for not more than 2 years in fields which are similar to those listed under section 303, and disseminate information on vocational rehabilitation services and promote such services.

(b) This subsection authorizes the Secre-

tary to make rules and regulations in the administration of titles IV, V, and VI of the Act, and requires such rules and regulations and those prescribed by the Commissioner of RSA under titles I, II, and III, to be published in the Federal Register on an interim basis within 90 days after enactment of the Act.

(c) This subsection authorizes the Secretary to conduct various studies, investigations, and evaluations of programs authorized under the Act and to make reports thereon. Special mention is made of reports concerning abilities and aptitudes of handicapped individuals, development of their potentialities and use in gainful employment, and problems involved in architectural, transportation, and other environmental and attitudinal barriers, including problems of homebound, institutionalized and elderly blind persons.

(d) This provision authorizes for purposes of administration appropriation of such sums as are necessary.

(g) This subsection requires the Secretary to insure the maximum coordination and consultation with the Administrator of Veterans' Affairs concerning programs for rehabilitation of disabled veterans.

SECTION 401

(a) This provision requires the Secretary to evaluate all programs authorized under the Act to determine their effectiveness, including their cost, structure, and mechanism for delivery of services. Evaluations shall be conducted by persons who are not immediately involved in the administration of the program or project evaluated. The provision requires that in the case of research, demonstration, and related activities, the Secretary is to reassess priorities for such activities, and review existing research, demonstrations, and related activities to determine the basis for their continuance, revision or termination. The Secretary is required, within 12 months after the date of enactment and each subsequent April 1st to submit a report to the appropriate Committees of Congress on the determination and review carried out under this subsection including recommendations for additional legislation.

(b) This subsection requires the Secretary to publish standards for evaluation of programs and project effectiveness, and to consider the extent to which such standards have been met in deciding whether to renew or supplement financial assistance under this Act. Actions taken shall be described in the Secretary's annual report to the Congress.

(c) This subsection requires the Secretary, to the extent possible, to obtain the views of persons participating in the program and projects assisted under the Act.

(d) This subsection directs the Secretary to publish the results of research and summaries of evaluations of the programs within 90 days after completion of such projects or programs, and submit copies to the appropriate Committees of Congress.

(e) This subsection, requires the Secretary to take whatever action is necessary to insure that studies, evaluations, proposals, and data produced under this Act shall become the property of the United States.

SECTION 402

This section requires that agencies of the executive branch provide to the Secretary upon request such information as the Secretary deems necessary for his evaluations under this title.

SECTION 403

This section authorizes appropriations for the purpose of conducting program and project evaluations under this title in amounts the Secretary may require, not to exceed ½ of 1 per centum of the funds appropriated under titles I, II, and III of the Act or $2,000,000 whichever is greater.

SECTION 404

This section requires the Secretary, within 120 days after the close of each fiscal year, to submit to the President for transmittal to Congress a full and complete report on activities carried out under the Act. Such reports shall include statistical data in the maximum feasible detail, relating to services provided to handicapped individuals during the preceding fiscal year, and shall specifically distinguish between rehabilitation closures attributed to physical restoration, placement in competitive employment, extended or terminal employment in a sheltered workshop, and provision of supplementary services. Such report shall also evaluate the use of funds provided under part C of title I and include descriptions of actions taken under sections 9, 401(b), 601(d) and 602(f).

SECTION 405

(a) This subsection requires the Secretary to conduct a study of the role of sheltered workshops in rehabilitation and employment of handicapped individuals, including a study of wage payments. Such study is to incorporate guidelines in accordance with a resolution adopted by the Committee on Labor and Public Welfare of the United States Senate or the Committee on Education and Labor of the United States House of Representatives, or both.

(b) This subsection requires the conduct of site visits and interviews of handicapped trainees or clients in the course of such study.

(c) This subsection prohibits the awarding of contracts under this section to individuals or groups with finanical or other direct interest in sheltered workshops (either pro or con).

(d) This subsection requires the Secretary to report to the Congress his findings and recommendations on such study within 18 months after enactment of the Act.

TITLE V—OFFICE FOR THE HANDICAPPED

SECTION 500

This section establishes an Office for the Handicapped within the Office of the Secretary in the Department of Health, Education, and Welfare, to be headed by a Director. The Director will be a special assistant to the Secretary. In filling all positions in the Office, special emphasis is to be given to handicapped individuals.

SECTION 501

This section enumerates the functions of the Office for the Handicapped. With the assistance of other Federal agencies, the Office shall prepare a five-year plan for provision of services to handicapped individuals and for programs of research, evaluation, and training; analyze and review program operation and budgeting to assure progress in meeting goals and priorities set forth under the five-year plan; integration of all rehabilitation programs, and elimination of unnecessary duplication and overlap. The Office shall also coordinate planning for the provision of comprehensive services for handicapped individuals with programs under the jurisdiction of the Secretary. The Office shall provide staff assistance and other assistance to the National Advisory Council on Rehabilitation of the Handicapped and other committees advising the Secretary on programs regarding handicapped individuals. The Office shall develop means of promoting prompt utilization of research to assist in solving problems of education health, employment, rehabilitation and other areas for handicapped individuals, and provide a central clearinghouse for information and resource availability for handicapped individuals, including evaluation of information and data systems and utilization of evaluations and existing information systems. The Office shall carry out such additional functions as may be assigned to it by the Secretary or the President.

SECTION 502

This section authorizes appropriations for the Office in amounts of $1,000,000 for FY 1973, $2,000,000 for FY 1974, and $2,000,000 for FY 1975.

TITLE VI—MISCELLANEOUS

SECTION 600

This section repeals the existing Vocational Rehabilitation Act (and deems references to such Act as to this Act) effective 90 days after the date of enactment of this Act, and provides for transition from that Act to this Act, by preventing disruption of ongoing actiivties for which there is continuing authority in this Act.

SECTION 601

(a) This subsection establishes in the Federal Government as Interagency Committee on Handicapped Employees, comprised of the heads of the Civil Service Commission, the Veterans Administration, and the Departments of Labor and Health, Education, and Welfare. The Chairmen of the President's Committee on Employment of the Handicapped and of the President's Committee on Mental Retardation are ex officio members, the Commissioner of the Rehabilitation Services Administration serves as the Executive Director, and the Secretary of HEW as chairman of the Committee. The subsection specifies the purpose of the Committee to insure, through establishment of affirmative action programs, the adequacy of hiring, placement and advancement of handicapped individuals in the Federal government.

(b) This subsection requires each department, agency, and instrumentality in the executive branch of government to submit to the Committee within 180 days after enactment an affirmative action program plan concerning the hiring, placement, and advancement of handicapped individuals in such entity.

(c) This subsection requires the Committee to develop and recommend to the Secretary procedures and policies to facilities the hiring, placement and advancement of handicapped individuals who have received rehabilitation services. The Secretary shall encourage the State agencies to adopt and implement such policies and procedures.

(d) This provision requires the Committee on June 30, 1973, and in each subsequent fiscal year to make a complete report to the appropriate Committees of Congress on the hiring, placement, and advancement of handicapped individuals in the Federal government, and its recommendations as to legislation or other action to insure the adequacy of such practices.

(e) This subsection provides that unpaid work experience of an individual within a Federal agency shall not be considered Federal employment for purposes of Federal personnel laws and regulations.

(f) This subsection requires the cooperation of the Departments of Labor and HEW with the President's Committee on Employment of the Handicapped and authorizes appropriations for such Committee of $1,000,000 for FY 1973 and $1,250,000 for FY 1974.

SECTION 602

(a) This subsection establishes an Architectural and Transportation Barriers Compliance Board composed of the heads of the Department of Health, Education and Welfare, the Department of Transportation, the Department of Housing and Urban Development, the General Services Administration, the Department of Interior, the United States Postal Service, the Veterans' Administration, and the Department of Labor.

(b) This subsection specifies the function of the Board to insure compliance with standards prescribed by the General Services

Administration pursuant to the Architectural Barriers Act of 1968, investigate and examine alternative approaches to architectural transportation and attitudinal barriers confronting handicapped individuals, especially in Federally controlled or regulated areas, determine what measures are being taken by Federal, State and local governments to eliminate such barriers, make reports to the President and Congress detailing its investigations, and provide such recommendations as it deems necessary to eliminate such barriers.

(c) This provision requires the Board to conduct investigations, hold public hearings, and issue necessary orders to insure compliance with the cited acts. The provision requires the application of the Administrative Procedure Act in any action taken by the Board, including provision for judicial review.

(d) This subsection authorizes the Board to appoint as many hearing examiners as are necessary, and specifies that provisions of law with respect to hearing examiners generally shall be applicable.

(e) This subsection requires the agencies involved in membership on the Board to make available to the Board such administrative or other assistance as is necessary to carry out the Board's functions, and permits the Board to appoint such other advisors and experts as are necessary.

(f) This provision requires the Board to submit a report to the Congress on its activities during the preceding fiscal year, including an assessment of the extent of compliance with the Architectural Barriers Act and a description and analysis of investigations made by the Board.

(g) This provision authorizes appropriations for carrying out the duties and functions of the Board in the amounts of $1,000,000 for FY 1973; $1,250,000 for FY 1974; and $1,500,000 for FY 1975.

SECTION 603

(a) This subsection requires that any contract entered into by any Federal department or agency for personal property or services shall contain a provision requiring contractors to take affirmative action to employ qualified handicapped individuals. The President shall implement the provisions of this section through regulations promulgated by him within 90 days after enactment of this Act.

(b) This subsection permits any handicapped individual affected by a refusal or failure to comply with the provisions of this section to file a complaint with the Department of Labor, which shall investigate such complaints and take such actions as are necessary.

SECTION 604

This section prohibits discrimination, exclusion or denial of benefits to otherwise qualified handicapped or severely handicapped individuals by any program or activity receiving Federal financial assistance.

TITLE VII—AMENDMENTS TO RANDOLPH-SHEPPARD ACT

SECTION 700

This section provides that the short title of title VII shall be cited as the "Randolph-Sheppard Act for the Blind Amendments of 1972."

SECTION 701

This section rewrites the first section of the Randolph-Sheppard Act (hereinafter referred to as "the Act") which authorizes the licensing of blind persons to operate vending facilities on Federal property, and provides preference to blind persons in operating such facilities. The provision includes within such preference assignment of vending machine income to achieve and protect such preference.

SECTION 702

(a) This subsection amends section 2(a) of the Act in several respects most of which are technical. It would change references to "stands" to "facilities" in order to reflect the greater variety of concessions in the program, would eliminate the requirement that a blind operator be at least 21 years of age, and broaden the types of articles and services available in vending facilities.

(b) Section 2(b) of the Act is amended to change "stand" to "facility", to eliminate the one-year residence requirement for blind operators, and to eliminate archaic wording referring to blindness as an infirmity.

(c) This subsection amends section 2(c) of the Act to change the word "stand" to "facility."

(d) This subsection adds a new subsection (d) to section 2 of the Act to require buildings used, in whole or in part, by the Federal government, which are designed, constructed, or substantially altered after January 1, 1973, to include a site or sites for blind vending facalities. This requirement would not apply where the Secretary and the State licensing agency determine that such building will not support a vending facility, or where a privately-owned building had a restaurant or food facility in operation prior to the Federal lease, and operation of a blind vending facility would be in direct competition with such pre-existing facility.

SECTION 703

This section amends section 3 of the Act to change "stand" and "stands" to "facility" and "facilities", and inserts an additional requirement of the State licensing agency that such agency agree to submit blind licensee grievances to binding arbitration where a hearing by such agency does not result in a satisfactory resolution of such grievances.

SECTION 704

This section would add two new sections to the Act, sections 6 and 7, the purpose of which is to provide additional grievance and appeal procedures for blind licensees and State licensing agencies. Section 6 provides that a blind licensee dissatisfied with operation or administration of the vending facility program may file a complaint with the Secretary, who shall convene a panel for binding arbitration. A State licensing agency which determines that a Federal agency in control of Federal property is failing to comply with the Act may also file a complaint with the Secretary. Section 7 outlines the procedures the Secretary must follow in convening arbitration panels, including application of the Administrative Procedure Act to actions of such panels, and the selection of arbiters.

SECTION 705

This section alters the definitions section of the Act to precisely define the term "blind person", to add Puerto Rico as a State for purposes of the Act, and to define "vending facility" to include a broad range of concession activities within the purview of the Act.

SECTION 706

The final section makes these amendments to the Act effective on the date of enactment, except for section 72(d).

Mr. RANDOLPH. Mr. President, on September 14, 1972, I introduced S. 3987, the legislation that is pending before the Senate, with the cosponsorship of 11 of my colleagues who are members of the Committee on Labor and Public Welfare. On September 15, the committee unanimously approved the bill with amendments.

It may superficially appear to some that the measure has received little consideration. Nothing could be further from the truth.

The Rehabilitation Act of 1972 is a carefully considered, extremely thoughtful measure that will, if enacted, become a benchmark and a new beginning in the field of vocational rehabilitation in America. This is ambitious, forward-looking legislation, and I am gratified to have played a role in its development.

As chairman of the Subcommittee on the Handicapped, it was my responsibility to guide this legislation to enactment. Senator ALAN CRANSTON, the floor manager of S. 3987, its principal cosponsor, and acting chairman during the 5 days of hearings held by the subcommittee on the revision of the Vocational Rehabilitation Act, has performed superbly in the development of this legislation. He has devoted many, many hours to its creation.

I say without reservation that much of the recognition for this complex and comprehensive measure must go to the able and diligent Senator from California and his staff.

S. 3987 will, if enacted, bring new hope, dignity, and fulfillment to thousands of handicapped individuals throughout our land. Although the new rehabilitation program envisioned by this legislation cannot at the outset do more than make a beginning for a small percentage of the 7 to 12 million handicapped individuals in the United States, it will be a bright beginning. And I hope its success will be translated into ever-increasing emphasis on the needs of this too often forgotten segment of our population.

The measure now being considered breaks new ground by emphasizing services to severely handicapped individuals, by permitting comprehensive services to persons for whom no vocational goal can be established, and through several target programs, including those for older blind, spinal cord injured, deaf individuals, and those with end-stage renal disease.

As I stated at the time I introduced S. 3987, many persons who are handicapped are on the welfare rolls solely because they have not been rehabilitated so that they may engage in gainful employment. In many cases, they and their families have had their financial resources drained away by the heavy cost of medical and other care.

An expanded Federal program of vocational rehabilitation will have the effect of taking thousands of handicapped welfare recipients out of poverty and providing them with a livelihood—a life of self-sufficiency, and the dignity of paying their own way in society. This program will benefit all of society and not merely those handicapped individuals and their families who receive the services.

A number of administrative and procedural improvements are also incorporated into S. 3987, including the statutory establishment of the Rehabilitation Services Administration and assignment of program functions to its Commissioner, establishment of an Office for the Handicapped within the Department of Health, Education, and Welfare, creation of a Federal Interagency Committee on Handicapped Employees, and an Architectural and Transportation Barriers Compliance Board.

Research and training are also given new emphasis in S. 3987, so that handicapped individuals and the Nation may benefit from the latest scientific, medical

and technical knowledge, devices, and aids.

I cannot hope to do justice to this measure in the short time available. The Senator from California has given a thorough explanation of the details of the bill. I do, however, want to emphasize to the Senate my wholehearted support for this very important measure. I urge my colleagues to give it the attention it deserves, together with their favorable vote.

Mr. President, in closing, I stress that this measure represents the work—the very close cooperative effort—of many Senators and their staffs.

I have noted earlier the significant contributions of the Senator from California (Mr. CRANSTON). Our distinguished chairman of the Committee on Labor and Public Welfare, Senator WILLIAMS, and the Senator from Vermont (Mr. STAFFORD) who is ranking minority member of the subcommittee, participated actively and constructively in the development of this measure.

Additionally, the very able Senator from New York (Mr. JAVITS), whose endeavors have been directed toward so very many progressive measures to help people, and the Senator from Ohio (Mr. TAFT) have worked diligently to produce this important legislation.

This has been—as I stated—a truly cooperative effort.

Mr. CRANSTON. Mr. President, before I yield to other Senators who may wish to make any opening remarks, I send to the desk on behalf of the committee a series of noncontroversial technical amendments that I ask unanimous consent to be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The amendments will be stated.

The legislative clerk proceeded to read the amendments.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendments will be printed in the RECORD.

The amendments are as follows:

On page 12, line 25, strike out "rehabilitational" and insert in lieu thereof "rehabilitation".

On page 13, line 5, strike out "the" after "for", and, on line 6, insert "individuals" after "handicapped".

On page 22, line 4, strike out the semicolon and insert in lieu thereof a comma and "and".

On page 23, line 5, strike out "of this Act".

On page 25, line 7, strike out "paragraph" and insert in lieu thereof "subsection".

On page 27, line 15, strike out "of" and insert in lieu thereof "shall prescribe" after "Secretary".

On page 29, line 12, strike out "prescribed" and insert in lieu thereof "prescribe,".

On page 30, line 4, strike out "(9)" and insert in lieu thereof "(10)" and strike out "of this Act".

On page 31, line 3, strike out "paragraph" and insert in lieu thereof "clause".

On page 31, line 9, strike out "ad" and insert in lieu thereof "and".

On page 33, line 15, insert a comma after "optometrist".

On page 33, line 20, strike out "disorder" and insert in lieu thereof "disorders".

On page 35, line 1, strike out "stands" and insert in lieu thereof "facilities".

On page 37, line 2, strike out "1974" and insert in lieu thereof "1973".

On page 37, strike out all on lines 8 through 11 and lines 17 through 20 and insert in lieu thereof in each place the following: "available for allotment under this section based upon an appropriation in excess of $700,000,000 for such year under subsection (a) of section 101 over the total amount available for such allotment based upon an amount of such appropriation equal to $700,000,000, by".

On page 42, line 20, insert a comma after "allotment".

On page 44, line 7, strike out "100" and insert in lieu thereof "100(a)".

On page 49, line 4, strike out "provisions" and insert in lieu thereof "provision".

On page 49, line 11, insert "this section and" after "under", and on line 12, strike out "and section 120".

On page 49, line 14, strike out "allocated" and insert in lieu thereof "allotted".

On page 51, line 10, strike out "102" and insert in lieu thereof "101".

On page 53, line 7, strike out "of" where it first appears, and insert "shall prescribe" after "Secretary".

On page 55, line 18, strike out "102" and insert in lieu thereof "101".

On page 58, line 22, insert a comma and "subject to the provisions of section 212," after "Secretary".

On page 61, line 7, strike out "H.R." and insert in lieu thereof "title".

On page 67, line 15, strike out "private".

On page 70, line 17, strike out "of this Act".

On page 74, line 15, strike out "services" and insert in lieu thereof "services".

On page 77, line 2, strike out "$100 per day" and insert in lieu thereof "the pro rata pay rate for a person employed as a GS–18 under section 5332 of title 5, United States Code".

On page 78, line 8, insert a comma after "of" and after "in".

On page 78, line 9, strike out "this," and, on line 10, strike out "Act" and insert in lieu thereof "section 101".

On page 78, line 18, strike out "of this Act".

On page 83, line 22, strike out "other".

On page 84, line 20, strike out "of this Act".

On page 99, line 25, strike out "vocational" and insert in lieu thereof "Vocational".

On page 100, line 3, strike out "Unexpected" and insert in lieu thereof "Unexpended".

On page 101, line 2, strike out "mittee" and insert in lieu thereof "mittees".

On page 102, line 17, insert "written" after "individualized", and, on line 18, strike out "written".

On page 104, line 17, strike out "private".

On page 105, line 5, strike out "Sections 1001 to 1011" and insert in lieu thereof "The provisions of subchapter II of chapter 5 and chapter 7".

On page 107, line 13, strike out "of this Act".

On page 107, line 16, strike out "actively" an insert in lieu thereof "activity".

On page 109, line 10, insert "and" within the quotation before "at".

On page 110, line 14, strike out "both" and insert in lieu thereof "the".

On page 113, line 13, insert "7" after "section".

On page 114, line 12, insert a comma after "(C)".

Mr. CRANSTON. Mr. President, these are strictly technical amendments. I ask unanimous consent that these amendments and the committee amendments in the bill as reported be agreed to en bloc and that the bill as thus amended be considered as original text for purpose of further amendment.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the statement by the distinguished Senator from New Jersey (Mr. WILLIAMS) be printed in the RECORD at this point.

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

STATEMENT BY SENATOR WILLIAMS

As Chairman of the Labor and Public Welfare Committee, I am pleased to bring to the attention of the Senate today, S. 3987, the Rehabilitation Act of 1972. This bill is the culmination of many weeks of work on the part of Senators and staff, and I am especially happy to say that this is the first bill which has been worked on and reported from the newly-created Subcommittee on the Handicapped, chaired by Senator Randolph. S. 3987 is the first of many bipartisan efforts which will be worked on by that Subcommittee, and truly represents a major re-direction and emphasis on the problems confronting handicapped individuals which will be made by that Subcommittee and this Nation in the years to come. Hearings on this legislation were chaired by Senator Cranston, and it is his able leadership and that of Senator Randolph's which are responsible for the bill that is before us today.

S. 3987 is the most comprehensive vocational rehabilitation legislation ever to be reported from the Committee. It deals sensitively and directly with many issues which were brought up in the hearings, and which I and my colleagues on the Committee believed needed correcting. And I believe that it will make a substantial impact on the lives of thousands of handicapped individuals who will come to State vocational rehabilitation agencies for services.

Vocational rehabilitation is the primary program run by the States for counseling, vocational training and job placement, and many other services to handicapped individuals, and has enabled these individuals to overcome or blunt the effects of their handicaps. Yet in testimony before the Subcommittee this year it became clear that basic changes were needed in the operation of this program to enable it to better serve handicapped individuals and to better meet its stated goals. Testimony was presented which indicated that insufficient emphasis or effort has been made by the States to serve handicapped individuals with severe disabilities. In effect, the Subcommittee found that in its desire to serve larger numbers of individuals, the Vocational Rehabilitation program was putting more emphasis on case closures with the result that those with severe disabilities were not being taken because of the extra effort and time needed to close "difficult" cases.

The Subcommittee also found in its program review that not enough emphasis was being placed on important applied technological research and on the training so necessary for making advances to ameliorate handicapping conditions. In addition, testimony indicated that there were significant areas where targeted and specialized programs were needed to help fill the gaps in service delivery to individuals with end-stage renal disease, spinal cord injuries, and services to the deaf and older blind.

It is the intent and the direction of this bill, however, which I believe is most important. The Committee has worked hard and long to ensure that handicapped individuals that come to rehabilitation agencies for services will be offered all services that they need, and not be excluded because of the severity

of their disabilities. The Committee has changed the definition of handicapped individual so that individuals with substantial handicaps to employment will be able to enter for services as long as he may reasonably be expected to benefit from vocational or comprehensive rehabilitation services. By altering this definition, the Committee has made clear that it believes that those who will benefit from services, but for whom a vocational goal is not immediately indicated, must be able to receive services. It has done this for two reasons: because those with severe handicaps can benefit from services and become more self-sufficient and independent in their family and community, and because the Committee believes that every effort must be made to try to find a vocational outcome for every individual.

Most important, however, is the stress which has been placed in the State plan, and in operation of the basic vocational rehabilitation program, on vocational services to individuals with more severe disabilities. The intent is very clear that the Committee expects the state agencies to make a more substantial effort for these people. The Senate bill includes a 15% earmarking of the total appropriations or the vocational rehabilitation basic program for Part C of Title I for supplementary funds to provide more intensive and individualized services to individuals with more severe handicaps.

The bill also has directed the state to submit within their state plan a detailed specification of plans, policies and methods which will be followed in expending money under Part C. Recognizing that the State will not be able to serve all individuals who could benefit from services, the bill also directs the State to specify the order of priority in which they will select individuals for services, and directs them to provide special emphasis within this order for services to severely handicapped individuals. And most important, the bill directs the State to draw up for each individual who will receive services an individualized written program which will specify in detail the intermediate and long-run goals for the individual, the services to be provided, and the time in which the counselor expects those goals to be reached. This program will be drawn up in consultation with the client, or with his parents or guardian in appropriate cases, and will be reviewed annually. Finally, if the counselor finds, after thorough evaluation of the individual's rehabilitation potential, that a vocational goal is not indicated, he must specify in the written program the reasons for this conclusion. The Committee has also established a system of client advocacy which will operate independently of the state agency. This advocacy system has been established to function as a liaison between individuals responsible for the State program and the client. The client advocate will act as a translator of individual needs to the State agency, and will be able to work out problems which individual clients are having in receiving services from the agency. The Committee has also defined comprehensive rehabilitation services to mean vocational rehabilitation services and any other services which will enable a severely handicapped individual to be more self-sufficient, and has directed the state agencies to provide these services to handicapped individuals. However, it is necessary to emphasize very strongly that the Committee believes that most effort must be placed on services oriented toward a vocational goal. For this reason, the Committee has placed an overall limitation of 10% on the amount of money which may be spent for services for an independent living goal, and has included many important procedural protections which will ensure that every opportunity is given to a handicapped individual to reach a vocational goal.

It is also important to note the emphasis placed on research and training within the Senate bill. The Committee was disturbed to find during the hearings that training and research funds have been cut back in recent years, and that what little research has been carried out has seldom been translated into real benefits to individual clients. The Committee was particularly disappointed at what little was being done in the area of application of technology and engineering to rehabilitation problems. The vast benefits which could accrue from a coordinated and well-planned research program in applied techniques technology and engineering would spell the difference between a lifestyle of full productivity for many individuals, and the marginality of the lives many now live. I cannot emphasize too strongly the importance which I place on this program. The waste of manpower which results from the lack of this research is an affront to a technologically advanced nation such as our own, and I wish to make very clear that I intend to follow up in detail on the implementation of the programs which have been established by this bill. The Committee has identified four major areas of priority in which it expects progress to be made in the next few years. It has mandated the establishment of Rehabilitation Research and Training Centers which will be able to provide manpower for a broad based program of rehabilitation research; the establishment of Rehabilitation Engineering Research Centers which will enable the Rehabilitation Services Administration and the State agencies to make use of the newest developments in technology, medical and bio-engineering devices; it has established a major program of spinal cord injury research; and it has directed the Rehabilitation Services Administration to undertake a major effort in international rehabilitation research in order that we may share knowledge and developments across national borders. The Committee is aware that many countries of Europe and Asia make better use of their technological and engineering knowledge toward the end of rehabilitating handicapped individuals, and it believes that this Nation must begin to make use of those developments and to cooperate with other nations in order to break new ground in this area.

The Committee found during hearings that it was very difficult to get organized and specific information on the effectiveness of the State programs from the Rehabilitation Services Administration. Not only was it difficult to extract specific information regarding services to clients, but the Committee found that detailed information was not available on research and training projects and on program and project evaluation. The Committee bill, therefore, directs the Secretary to undertake a comprehensive review of program and project evaluation, and to find measurement systems which will be able to demonstrate to the Congress the quality and quantity of services being provided, detailed analysis of the closure system utilized by State agencies, and the effectiveness of individual programs and projects in meeting their stated goals.

Finally, I am particularly pleased to draw to the attention of the Senate that my proposal to create an Office for the Handicapped in the Office of the Secretary of Health, Education and Welfare has been included in this bill as Title V. I cannot stress strongly enough how important I believe this Office will be in coordinating the many services for handicapped individuals in the Department. This Office will be an advisor to the Secretary on the many programs which provide services to handicapped individuals, and will provide a single focus on the myriad needs and priorities for federal programming for the handicapped individuals. There are now more than 50 programs in the Department alone which concern the handicapped. It is very obvious to me that without coordination these programs cannot meet all the needs of handicapped individuals, and are not able to provide the priority that is necessary to enable handicapped individuals to live normal lives in our society.

The Committee has identified a number of functions which it believes that this Office must carry out. The first is the preparation of a five-year plan for provision of services to the handicapped individuals. This plan will identify priorities, in consultation with the many programs which deliver services to the handicapped, and will help individual programs to relate to these priorities. The Committee has further directed the Office to analyze and review program operation and budgeting in order to evaluate progress toward meeting the goals of the five-year plan.

The Office incorporates the National Information and Resource Center introduced by Senator Dole. The Committee has thus directed the Office to evaluate all existing information and data systems on needs, problems and services for the handicapped, and to create within the Department a comprehensive information and data retrieval and dissemination system to offer technical, statistical and related information to all those interested in the numbers and needs of the handicapped and the services which are available for them. I cannot emphasize strongly enough how important this function is. If the Congress and the States are to provide comprehensive and coordinated services to handicapped individuals, good data must be available. Yet in recent months, it has been very clear that consistent information does not exist. Planning in a vacuum such as this is impossible, and efforts must get underway at once to develop this information system.

In conclusion, Mr. President, I would like to point out that this Office does not have authority for operation of programs except as it relates to evaluation and development of an information system, and the dissemination of scientific, medical and technological information. It does not have this authority because the Office is intended to be an advisor to the Secretary, a source of information and technical assistance to federal programs, and a coordinating voice within the Department so that all programs will be able to meet the comprehensive and varied needs of the handicapped. One fear that was raised during hearings on this legislation was that creation of the Office would result in program consolidation resulting in a lack of sensitivity and consideration being given to the very different problems of disability groups. This is not the intent of the Office. I believe that the Office's most powerful tool will be one of information, and that it will provide a most important and necessary function if it is aware of all programs for the handicapped in the Department, is able to coordinate activities which are directed at the same problem, or at different parts of the same problem, and to advise the Secretary on these programs.

This is most necessary if we are provide effective and comprehensive services to handicapped individuals.

Mr. President, S. 3987 is one of the most important pieces of social legislation which has come before the Congress in some time, and I strongly urge its passage and early implementation.

Mr. JAVITS. I yield myself 3 minutes.

Mr. President, I rise to express my support of S. 3987, the Rehabilitation Act of 1972, of which I am a cosponsor.

This bill to bring improved and new rehabilitation services to disabled people was reported unanimously by the Senate Labor and Public Works Committee. It is

designed to replace the Vocational Rehabilitation Act, which we have amended and improved many times during past decades. As the Subcommittee on the Handicapped studied testimony presented by more than 40 witnesses, including national experts in rehabilitation work and from concerned agencies and organizations, the committee concluded that the legislation and the vocational rehabilitation program should bring the benefits of the program to greater numbers of severely disabled people. The committee also sought to introduce improvements in the administration of the program.

Before referring to specific provisions of the bill which merit mention, I should like to recall some of the main attributes of the vocational rehabilitation program which serves more than a million disabled citizens each year. The outstanding characteristics of this effort throughout its 52-year history has been its emphasis on achieving a vocational outcome for each client by providing a wide range of rehabilitation services for handicapped people through the State-Federal program of vocation rehabilitation.

Last year more than 250,000 people were rehabilitated into employment through the combined efforts of the State programs working through the general agencies and special agencies for the blind.

While this record is a good one, it is also true that thousands of equally or more disabled persons are not being taken into the program because of limited resources. Testimony from many individuals and organizations stress the view that the Federal legislation should be modified to enable and encourage the States to take into the program more of the severely disabled. Under our bill, this has been accomplished by providing through part C of title I funds to pay for the more costly cases who are the severely disabled.

In his recommendations to Congress which were included in the bill introduced by Senator TAFT, S. 3368, President Nixon recognizes the importance of legislative authorization for services for people with injuries to the spinal cord, disabled migrants, and deaf youth and adults with learning problems. The President recommended, also, that the benefits of the program be extended to people in outlying areas such as American Samoa and the Trust Territories of the Pacific. These and other important recommendations of the administration, including advance funding, joint funding of activities with other agencies, and greater citizen and client involvement in the administration of services at the local level have been incorporated in some form in the committee's bill.

I am particularly pleased with the clear emphasis in the bill on beginning to do more for the severely disabled. For some time I have been particularly concerned about the situation of the handicapped, including the mentally retarded. We must find ways to remove as many as possible from the institutions and to help them qualify for suitable work and living within our communities. I hope—and expect—that the rehabilitation programs will be stimulated to take an even more active role in this endeavor along with other community agencies and institutions.

Mr. President, this bill, with its strong emphasis tieing research to provision of services to people and on client advocacy, will enable disabled people to obtain more promptly the services they need. The provisions for annual interest grants should help in the development of new facilities and workshops. The grants for services for people with end-stage renal disease will keep alive and rehabilitate many people who otherwise would be lost to us because of malfunction of the kidneys which can be helped only with transplants or dialysis. Our proposals with respect to rehabilitation services for older blind people respond to the President's strong support for improving the lives of our older citizens.

I am particularly pleased with the fact that the bill recognizes the special problems of the estimated 2 million homebound handicapped, a neglected group to whom particular attention was directed during the hearings.

The bill provides for new and expanded efforts in research and training which will be administered by the same agency, the Rehabilitation Services Administration. Other special Federal responsibilities are identified. I refer, for example, to encouragement of employment of disabled individuals in Federal agencies and efforts to assure compliance with legislation to eliminate architectural and other barriers in public buildings and transportation systems, and provisions for encouraging hiring of the handicapped under Federal contracts and under Federal grants.

A final point, Mr. President. I would be remiss if I did not add a word of approbation for the ranking minority member of the Subcommittee on the Handicapped, the Senator from Vermont (Mr. STAFFORD) whose active interest in this legislation, through an extensive set of hearings, resulted in strengthening the bill in many areas. Unfortunately, Senator STAFFORD is out of the country on official business and cannot be here at this time. However, he will return in time to participate actively in the conference deliberations with the House.

I close in reiterating my support for the bill before us. It is a sound bill which improves upon a good program. We must move along to see that increasing numbers of disabled individuals are served under this established and proven program.

Mr. President, the distinguished Senator from Vermont (Mr. STAFFORD) is the ranking minority member of the Subcommittee on the Handicapped which had jurisdiction over this bill.

I am very grateful to Senator CRANSTON for the very fine things he has said about Senator STAFFORD and about the staffs of the majority and the minority, who richly deserve it.

As I indicated previously, I am strongly for the bill. It is a most constructive and magnificent reform in respect of rehabilitation of those who are handicapped. Senator CRANSTON has done a magnificent job, both of leadership and craftsmanship, in developing the bill.

Mr. President, I ask unanimous consent that a statement by Senator STAFFORD in support of the bill be printed in the RECORD.

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

STATEMENT BY MR. STAFFORD

The Rehabilitation Act of 1972, S. 3987, is designed to help handicapped individuals to achieve their full potential of participation in our society.

The tentative findings of the most recent study by the General Accounting Office have led us to the conclusion that the present legislation in this field has failed to achieve that goal.

The Vocational Rehabilitation Act, which would be replaced by S. 3987, was a first step down the path of seeking ways to help the handicapped assume meaningful roles in our society. S. 3987 is a logical second step. It will provide no final solutions, but I am convinced it will be effective primarily because it will give handicapped citizens the power to help decide their future in the program.

The Vocational Rehabilitation Program has tried to provide services to those individuals whose handicaps have been substantial enough to limit their participation in the employment process or the society around them. When the program was originated in 1920 (Smith Fenn Act), it was designed to help the handicapped individual cope with his environment and to obtain gainful employment. In the 52 years of the program, its basic frame work has remained intact although the program has been substantially enlarged over the years.

Tentative findings of the yet unpublished GAO study, which was made available to the Subcommittee, portray a program which seems to have lost some of initial direction and has gotten snarled in the bureaucratic numbers game. The GAO found that (1) the programs once so heralded were not serving individuals with substantial handicaps, nor (2) was the program beginning to serve the increment of increase in the handicapped population. The hearings held by the Subcommittee on the Handicapped bore out this tentative finding to the satisfaction of its members. Thus, we have chosen to replace the existing "Vocational Rehabilitation Act" with the "Rehabilitation Act of 1972."

This bill is the result of extensive hearings and drafting sessions. Hopefully, we have brought forth a new program that will redirect needed services to some of those individuals whose handicaps are most severe. I think that certain provisions, such as the individualized written rehabilitation program, client advocacy, experimental appeal projects and new initiatives in mid-range research, will redirect the program toward those handicapped individuals most in need of services. I shall not dwell on those areas of the bill which have been covered except for one or two which I feel do the most to humanize the rehabilitation "system."

I would like to review for my colleagues testimony the Subcommittee heard on May 26 from Mr. James Stearns, a senior at Dartmouth College, who came to the Subcommittee as a consumer of services under the Vocational Rehabilitation Program. Mr. Stearns, who suffers from cerebral palsy, had this to say to us:

"Granted, I have had some personal, physical obstacles to overcome during my lifetime and I do have certain physical limitations which I must live with.

"However, I do not consider myself to be handicapped either in the traditional sense or the literal sense. I am not handicapped because of the understanding and the attitude that has prevailed in my own home throughout my lifetime.

"My parents instilled in me a value system and an outlook on life in which handi-

cap was never a factor that I had to contend with. I am one of the more fortunate people in this world, because, Mr. Chairman, there are individuals in this country who have cerebral palsy who will never achieve anything that I have achieved. In fact, many may never be able to walk by themselves, feed themselves, or even talk and communicate as I am doing here today."

Mr. President, I would like to take time to acquaint my fellow Senators with what I consider some very important aspects of Mr. Stearns' testimony and the dialogue that we had afterwards.

"Mr. Chairman, if I leave any message with you today it is my belief that the disabled have to get up and fight for the things they believe in because only they are in a position to know what this Government should do for them.

"We are in a new age in rehabilitation. We have opportunities opened up that, when I was growing up, never existed. Yet new opportunities always bring new responsibilities. If the disabled of this country assume their responsibilities in shaping the policy that affects them, the rehabilitation program will be one of this Nation's lasting success.

"I hope, therefore, that whether you write it into the law or write strong report language, you specifically recognize the need to involve the handicapped themselves in this program at all levels; that the handicapped themselves be given a strong voice so that they may become contributors to this program and not merely recipients of it.

"Senator STAFFORD. I would like to join in what you have just said and tell you, Mr. Stearns, that we certainly as a committee appreciate the effort you have made to come down here as an individual, not representing any group.

"I think on the basis of your presentation here that Dartmouth College would be pleased to claim you as their representative in front of this committee.

"I do have one or two questions for you.

"Taking into consideration your experience, what would you consider should be a major element in the vocational rehabilitation program that we provide?

"Mr. STEARNS. Senator Stafford, perhaps the most important thing is that idea of consumer participation which you have already talked about. Consumer participation is important because the critical factor in the minds of most handicapped people is whether they are able to develop a sense of independence.

"If I may illustrate my point with some experiences of my own, if there was one reason why I was able to be at Dartmouth College this year instead of out of school, it was that my family and community pushed me to develop a sense of independence. In every program I had, doctors, therapists, and my family consulted me on everything that was going on, and demanded that I make the final decisions in those programs, although some of those decisions were pretty hard to make.

"That prescription did instill in me a sense of independence and has enabled me to make my own judgments and to get on in the outside world.

"That is why every rehabilitation program must have a mechanism for consumer participation. If you do not develop that sense of independence, there comes a day when you are so used to having other people make your decisions that you are not able to get out in that outside world and participate and become rehabilitated.

"Senator STAFFORD. In your prepared statement, you say: 'If I leave any message with you today, it is my belief that the disabled have to get up and fight for the things they believe in because only they are in a position to know what this Government should do for them.'

"Could you elaborate for the committee on this statement?

"Mr. STEARNS. Certainly, Senator Stafford.

"I think it is quite obvious that the best person to tell you about disability is the handicapped persons himself. He is the only person who has lived through it. He is the only person who really knows what is going on in his head.

"My study has been directed toward the goal of developing those tools necessary to make the disabled active participants in the political process. I have tried to do three things; one, outline what the Federal Government has done, up to the present time, for the disabled; what rights do they have; what benefits do come their way; do that first of all.

"Second, outline what the Federal Government is contemplating doing—so that the disabled will understand what may come in the future, and can come down here and give you some input on proposed legislation.

"Third, and probably most important, Senator Stafford, is to analyze simply how policy for the disabled is made and what specific types of input the Members of Congress, of the executive branch, and of State agencies would like to have.

"I think this is most critical.

"Mr. Chairman and Senator Stafford, when I was growing up, I was not aware of many of the benefits that could have come my way. I was even less aware of what I should do to get those benefits. I suggest in this new age of rehabilitation we must have a consumer group of disabled who are knowledgeable, they know what to do, to come down here and effectively influence legislation. I think if we could develop a disabled consumer group, we are going to have better legislation coming.

"Senator STAFFORD. One more question.

"I am considering strengthening the existing legislation by requiring that under basic rehabilitation programs that priority be given to those whose handicaps are most severe.

"What would your reaction be to such a proposal?

"Mr. STEARNS. Senator Stafford and Mr. Chairman, everything I can say is that this—has got to be what comes. I had a lot of experience in debating in high school. But I wish I could be more eloquent here and try to tell you why.

"Let me tell you a short story of my growing up.

"When I was 5 or 6, we had 10 cerebral palsy cases in the room. We had a special nursery. When I was 6, I got out of the room. I did not have much of a disability. Once I got into the Laconia Schools, I went on to prep school and Dartmouth.

"But one person made it out of that room. Senator Stafford—one out of 10. The others had very severe handicaps, just as good minds, but more severely physically handicapped.

"I go back there every once in a while, and see those people on the streets. I say, Well, what are you doing now? How are you?" They say, I am not doing anything, just nothing at all."

You know, they still cannot get those services they need.

"Mr. Chairman, people like myself, we can make it. I do not think we need the services that much. We can make it. But we want those disabled who are more severely impaired to make it with us; because if they do not make it with us, then our making it just does not have any meaning at all.

"I just hope, I just hope we can get that emphasis on this severely disabled.

"Senator STAFFORD. I think your appearance here is a great credit to you and will be helpful and an inspiration to this committee.

"I thank you very much."

After listening to and later rereading, the statement and questions and answers, I felt that Mr. Stearns' point about client participation in his own program and the system was probably the most important one that could be introduced into the rehabilitation system. It is to this end that the Individualized Written Rehabilitation Program was placed in the bill. It is apparent from what Mr. Stearns said and from the testimony of other witnesses that the handicapped client was not being consulted or contributing to the rehabilitation plan that was being constructed to help him. The concept of the written program is basic to the individual's rights under the program. It offers both the system and the client an opportunity to work together in developing a program that is designed for the rehabilitation of the client.

The written program should serve as a road map for the rehabilitation process and it should provide for intermediate goals through which the counselor and the client can measure progress. The written program must be formulated with a vocational goal as its objective. While it is realized that every client may not be able to achieve a vocational goal, the opportunity for that achievement must be available to him, at least until such time that the counselor can beyond a reasonable doubt support such a change in goal. The client must also be an equal participant in that decision.

There also could develop a situation where outside influences could modify the plan, such as lack of available funds or insufficient services. These factors might alter timetables but they should not affect the long range goal of the individual. To quote the report:

"The individualized written rehabilitation program represents an understanding between the vocational rehabilitation agency and the handicapped individual. It is expected that its terms will be carried out, unless these are special mitigating circumstances. In such cases it is expected that alternative service approaches or timetables will be sought and that rehabilitation objectives previously agreed upon will not be altered unless renegotiated by both parties."

Besides providing the individual and humane influence on the system, this written program can also serve as a yardstick for the evaluation of the system at all stages of operation. The individualized written rehabilitation program is important to help make this new system work for the handicapped individual be his disability severe or the most severe.

It should also be noted that this bill, for the first time in legislative language, places special emphasis on the severely handicapped and has the state establish a priority order of services to be given to the individual client. I feel very strongly that the system should immediately redirect its priorities, and that in three years when the legislation comes up for renewal, it will be convincingly demonstrated that the program is performing the function for which it was established. I am quite aware, as is the Committee, that in order to achieve the goal of redirection of the priorities of services that RSA must quickly establish a new system of reporting which does away with numbers and concentrates on the quality of the services provided. I hope I do not hear about sheer numbers rehabilitated at the next set of hearings, all the while knowing that a new GAO study is saying that those being served have questionable handicaps and other individuals are being denied services, as was the case on this bill.

Providing services to the severely handicapped individual is costly and time consuming and presents many new problems for the rehabilitation system. It was brought to the Committee's attention that quotas were imposed on counselors by the numbers reporting system and that this quota system is most effective in excluding those individuals whose handicaps are most severe. Thus,

it is incumbent upon the Administrator of RSA to develop as soon as possible a new system of reporting which emphasizes quality and not merely quantity.

The system of client advocacy and the appeals programs are again attempts on the Committee's part to install in the system a responsiveness to the human needs of the handicapped individual while he is participating in the system. I think that the client advocacy system is needed and will serve as a perfect complement to the individualized written rehabilitation program. The rights of the client to participate in the shaping of his own future and to receive speedy service from the system are undeniable.

Mr. President, there are many more aspects of the bill that deserve to be dealt with before I close but time is of utmost importance so I will only take a few more minutes to comment on the redirection of research, the sheltered workshops study and my two amendments on employment of handicapped individuals within the system.

First, the Committee, after hearing much testimony, decided that the primary function of research under this Act should be directed to alleviating the problems of the handicapped individuals. The mid-range research goal and engineering center are designed to provide needed devices and practical solutions to problems encountered daily by handicapped individuals. It was strongly felt that all research programs and projects should be coordinated within HEW so as to obtain the maximum use of the limited dollars available. Yet it is RSA's primary function to respond to the needs of the handicapped. An important addition to the evaluation system is a provision I introduced for continued observation of research to make sure it is directed toward the goals which will benefit the handicapped individual.

The sheltered workshop study of Section 405 of the bill was written in response to what was felt to be a general lack of objective knowledge about workshops and their functions in the system. The objectivity of the study is its prime merit and the functions supplied by resolutions of the Committee supply some of the basic questions that remain unanswered. The misinformation that seems to permeate the subject area of workshops is reenforced by both sides of the argument. I should like to add that the report language specifies this study is to be comprehensive, and the Committee feels that a significant portion of the funds under Title IV will be used in this study. It is also expected that the study should be an original and not a compilation of past studies.

The study is important if the Committee is to act wisely when the program comes up for review in three years.

Last, I would like to comment on the two amendments; one which was offered in Committee to Title V of the bill to the Office of the Handicapped; and the second to the President's Committee on the Employment of the Handicapped. The rationale for these amendments is simply stated: a handicapped individual has more insight into the problems of the handicapped than does a nonhandicapped individual.

For many years the Federal Government, through the Congress, has voiced its feeling that, given the opportunity and training, most of America's handicapped individuals are capable of supporting themselves and of contributing fully to society. My amendments simply take the Federal Government at its word and say that a qualified, handicapped person should be employed in the federal program. This is a small start in what I think is an important direction for the handicapped and for the Government programs which try to deal with the problems of the handicapped, both in rehabilitation and in everyday life.

Mr. President, the Rehabilitation Act of 1972 represents a good step in the right direction and I wholeheartedly support this bill.

Mr. JAVITS. Mr. President, I send to the desk an amendment on behalf of Senators STAFFORD, CRANSTON, and WILLIAMS, the chairman of our committee.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment, as follows:

On page 103, line 9, insert the following new sentence: "In selecting personnel to fill all positions on the President's Committee on Employment of the Handicapped, special consideration shall be given to qualified handicapped individuals."

Mr. JAVITS. Mr. President, the effort is clearly to do our utmost to recognize the contribution of handicapped individuals in making the rehabilitation system themselves. The amendment was much more strict in its terms when first presented to the committee, but the Senator from Vermont (Mr. STAFFORD) revised it to allow a great deal more flexibility and discretion in the way it was handled.

I hope very much that it may be acceptable to the manager of the bill.

Mr. CRANSTON. Mr. President, I am delighted to join as a cosponsor of this amendment and believe that it is an important amendment to make clear that lipservice to employment of handicapped individuals is not enough. What is needed is providing qualified handicapped individuals with meaningful jobs. We were all most distressed to learn in our hearings that the President's Committee on the Employment of the Handicapped had on its staff only five handicapped individuals out of a total staff of 32.

It is our hope in proposing this amendment that this disparity will be corrected and that far more qualified handicapped individuals will themselves be working on the task of increasing employment opportunities for other handicapped individuals.

Mr. President, I believe this amendment is acceptable to the leadership on the other side and I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I send another amendment to the desk on behalf of the Senator from Vermont (Mr. STAFFORD) and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 96, line 7, strike out "eighteen" and insert in lieu thereof "twenty-four".

Mr. JAVITS. Mr. President, the Senator from Vermont (Mr. STAFFORD) explains the amendment as giving 2 years for the filing of a comprehensive study of sheltered workshops, which is requested in the amendment, instead of 18 months as provided in the bill. He feels—and I hope very much that the Senator from California will agree—considering the complexities involved, and the desire for a totally thorough study of the situation, that it would be best to give the Secretary the full 2 years time rather than a year a half.

Mr. CRANSTON. Mr. President, in view of the detail which the committee expects to be included in the sheltered workshop study, I believe it is appropriate to extend the time limit for presentation of the report on that study from 18 to 24 months. I plan later to insert into the RECORD the resolution of the Labor and Public Welfare Committee regarding the scope of the study required by section 405 of the committee bill. I accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CRANSTON. Mr. President, on behalf of the distinguished Senator from Illinois (Mr. PERCY) I send to the desk a series of amendments and ask that they be stated.

The PRESIDING OFFICER. The amendments will be stated.

The legislative clerk proceeded to read the amendments.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendments will be printed in the RECORD.

The texts of the amendments are as follows:

On page 5, line 5, strike out "and".

On page 5, line 8, strike out the period and insert in lieu thereof a semicolon and "and".

On page 5, between lines 8 and 9, insert the following new paragraph:

(11) evaluate existing approaches to architectural and transportation barriers confronting handicapped individuals, develop new such approaches, and enforce statutory and regulatory standards and requirements regarding barrier-free construction of public facilities.

On page 61, line 1, insert "and transportation" after "architectural".

On page 61, line 2, strike out "or institution" and insert in lieu thereof a comma and "institution or facility".

On page 85, line 19, insert "studies and analyses of architectural and engineering design adapted to meet the special needs of handicapped individuals;" after "individuals;".

On page 98, line, 8, insert (including promotion of the development of curricula stressing barrier-free design and the adoption of such curricula by schools of architecture, design and engineering)" after "education".

On page 98, line 9, insert "architectural and transportation barriers," after "rehabilitation,".

On page 104, line 19, after "subsection;" insert the following new clause: "(4) promote the use of the International Accessibility Symbol in all public facilities that are in compliance with the standards prescribed by the Administrator of the General Services Administration, the Secretary of Defense, and the Secretary of Housing and Urban Development pursuant to the Architectural Barriers Act of 1968;".

On page 104, line 19, strike out "(4)" and insert in lieu thereof "(5)" and, on line 22, strike out "(5)" and insert in lieu thereof "(6)".

On page 106, line 2, insert "an the reports and recommendations described in clauses (4) and (5) of subsection (b) of this section" after "the".

Mr. CRANSTON. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Mr. CRANSTON. Mr. President, Senator PERCY is, unfortunately, unable to be with us this afternoon. Pursuant to discussions with him, I am offering for him the following antienvironmental barriers amendments to the Rehabilitation Act of 1972. He is offering these amendments in order to stress the removal of architectural and transportation barriers—what he calls "environmental" barriers—in the Rehabilitation Act of 1972.

Mr. President, I ask unanimous consent that a summary of his amendment, and a copy of a statement he wished to make on these amendments, be inserted in the RECORD at this point.

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

SUMMARY OF ANTIENVIRONMENTAL BARRIERS AMENDMENTS OF SENATOR CHARLES H. PERCY

AMENDMENTS TO REHABILITATION ACT OF 1972

An amendment to make the evaluation of existing approaches to architectural and transportational barriers confronting handicapped individuals, the development of new such approaches, and the enforcement of statutory and regulatory standards and requirements regarding barrier-free construction of public facilities part of the declarations of purpose of the Rehabilitation Act of 1972.

An amendment to extend technical assistance to rehabilitation facilities for the removal of not only architectural barriers but also transportational barriers.

An amendment to provide for studies and analyses of architectural and engineering design adapted to meet the special needs of handicapped individuals.

An amendment to authorize the Office for the Handicapped to promote the development of curricula stressing barrier-free design and the adoption of such curricula by schools of architecture, design and engineering.

An amendment to include the solution of architectural and transportational problems as a means to bring about the full integration of handicapped individuals into all aspects of society.

An amendment to authorize the Architectural and Transportation Barriers Compliance Board to promote the use of the International Accessibility Symbol in all public facilities that are in compliance with the standards pursuant to the Architectural Barriers Act of 1968.

An amendment to require the Architectural and Transportation Barriers Compliance Board to make annual reports and legislative and administrative recommendations to the President and Congress for the elimination of architectural and transportational barriers.

STATEMENT OF SENATOR PERCY

Mr. President, I take great pleasure in commending the Subcommittee on the Handicapped for its outstanding work on the Rehabilitation Act of 1972. Members who deserve special commendation for their fine work include: Senator Randolph, chairman of the subcommittee; Senator Cranston, ranking majority member who acted as chairman during hearings on the bill; Senator Williams, chairman of the full Labor and Public Welfare Committee; Senator Javits, ranking minority member of the full committee; and Senator Taft, who introduced the administration bill, S. 3368.

Although the Rehabilitation Act of 1972 has many fine provisions, I would especially like to commend the subcommittee for including an Architectural and Transportation Barriers Compliance Board in the bill. The amendments that I am introducing today would take the bill's compliance board idea a step further and make the removal of architectural and transportation barriers—what I call environmental barriers—an integral part of the Rehabilitation Act of 1972.

Legislation on environmental barriers has a direct supportive role to play in the achievement of the objectives of the Rehabilitation Act of 1972. The purpose of rehabilitation is to prepare handicapped individuals to live independently and normally. Environmental barriers stand in the way of total rehabilitation.

Let me give you an example. Recently, a clerical position opened up on the Select Committee on Nutrition and Human Needs, of which I am the ranking minority member. I very much wanted to hire a handicapped person to fill that position. However, I found it impossible to hire a nonambulatory person for the job because the committee, unfortunately, is located in the Senate annex.

A person in a wheel chair would have no way to get up to the third floor where the committee's office is located, for he would not be able to get up the stairs or into the elevator. Even if the elevator were accessible, he would not be able to maneuver himself, once on the third floor, into the committee's office. My staff has so little room in that office that even if he could maneuver himself through the door, he would not be able to get to his desk because of the narrow aisles. And even if he could be comfortably situated in the office, he would not be able to use the bathroom, for the door is too narrow.

Now, I call that a disgraceful situation. This is the United States Senate, a Federal and a public institution that is supposed to serve all Americans. Yet, it is "off limits" to the nonambulatory handicapped.

As long as there are environmental barriers, we will not get the full benefits from our investment in rehabilitation. Although a handicapped individual may be rehabilitated, unnecessary environmental barriers will often make it impossible for him to support himself or live productively in his community.

Mr. President, these amendments are not controversial. They are very fine and I am delighted to accept them.

Mr. President, I congratulate the Senator from Illinois on an effective presentation of an altogether commendable amendment. He and I have discussed this matter prior to coming to the floor today and he has been most cooperative in working with us to perfect certain portions of the amendment based upon certain suggestions that we offered. I thank him for his cooperation.

I believe that the amendment provides clarification and some additional thrust in the areas of architectural and transportation barriers and would be a definite improvement to the pending measure. I know that the Senator from Illinois, as the ranking minority member of the Committee on Government Operations, has long been interested and active in this area and welcome his contribution to our work today.

Mr. President, I believe that this amendment should be acceptable to both sides of the aisle and am delighted to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc of the Senator from Illinois (Mr. PERCY).

The amendments were agreed to en bloc.

Mr. CRANSTON. Mr. President, I now send to the desk an amendment on behalf of the distinguished Senator from Minnesota (Mr. HUMPHREY) and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 14, between lines 11 and 12, insert the following new paragraphs:

(15) The term "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.

(16) The term "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 activity 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, 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, fire prevention, or emergency rescue missions.

On page 26, line 4, insert "(A)" before "provide", and on line 9, strike out "persons" and insert in lieu thereof "persons, and", and between lines 9 and 10 insert the following new subclause:

(B) provide that special consideration will be given to the rehabilitation under this Act of a handicapped individual whose handicapping condition arises from a disability sustained in the line of duty while such individual was performing as a public safety officer and the proximate cause of such disability was a criminal act, apparent criminal act, or a hazardous condition resulting directly from the officer's performance of duties in direct connection with the enforcement, execution, and administration of law or fire prevention, firefighting, or related public safety activities;

Mr. CRANSTON. Mr. President, the distinguished Senator from Minnesota (Mr. HUMPHREY) had earlier submitted for printing two amendments—Nos. 1555 and 1556—with the intention of proposing them today. Because he is unable to be present at this particular time, I have discussed these amendments with him and will now seek to dispose of them in accordance with the agreement that we have reached.

First, Mr. President, I send to the desk a revised version of amendment 1555, which I am offering on Senator HUMPHREY'S behalf and in which I also join.

Mr. President, under the terms of this amendment a State would be required to include in its State plan under section 101(a) of the bill as reported, a provision for giving special consideration in providing rehabilitative services to handicapped individuals who have become disabled while performing in the line of duty as public safety officers when the proximate cause of their disability is a criminal act, an apparent criminal act or a hazardous condition resulting direct-

ly from duties performed in direct connection with the enforcement, execution, and administration of law or with fire prevention, firefighting or related public safety activities.

This amendment has been redrafted in consultation with Senator HUMPHREY and is based in part on title III, regarding death and dismemberment benefits for public safety officers, of the Omnibus Crime Control and Safe Streets Act (H.R. 8389), as passed by the Senate on September 18. With some modification, the definition of "criminal act" in the amendment is taken directly from that title—specifically section 525, clause (2)—and the definition of "public safety officer" in the amendment is taken with some modification from clause (7) of that section. Modifications have been made in this latter provision to include fire prevention and emergency rescue missions as activities rendering a person serving Federal, State, or local governments as eligible under the State plan special consideration provision in the amendment.

In addition, the scope of the activities considered to qualify handicapped public safety officers under the amendment is somewhat wider than the eligibility for benefits for public safety officers under the benefit provision of title III of the Omnibus Crime Control and Safe Streets Act. Under the latter measure, injury occurring while fighting a fire or engaging in a rescue mission would not result in payment of death or dismemberment benefits unless there was a criminal act, such as arson, actually or apparently involved. Senator HUMPHREY and I felt that this was too narrow a scope for the purposes of this amendment, and thus we broadened the definition.

Mr. President, I think that this amendment as we have revised it provides a measure of appropriate recognition for the extra-hazardous work carried out by our policemen, firemen, highway patrolmen, National Guardsmen, correctional officers and judicial employees by providing them with special consideration when they become handicapped in the direct execution of their important public tasks. I am sure I need not expand upon the need to provide the most effective and comprehensive rehabilitation for individuals cut down in the line of duty in the service of protecting the peace and order of society.

Mr. President, I believe that this amendment has the approval of the leadership on both sides of the aisle and I urge that it be adopted.

Mr. President, I ask unanimous consent that there be set forth in the RECORD a statement which Senator HUMPHREY would have made had he been able to be present.

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

STATEMENT OF SENATOR HUMPHREY—PUBLIC SAFETY OFFICER REHABILITATION

Mr. HUMPHREY. Mr. President, I am pleased to have the Senator from California (Mr. CRANSTON) offer, for himself and on my behalf, an amendment to the Rehabilitation Act of 1972, S. 3987, to provide, as a requirement under regular State plans for vocational and comprehensive rehabilitation services receiving Federal assistance, that special consideration will be given to the rehabilitation of a handicapped individual who sustained his or her disability in the line of duty as a public safety officer in dealing with a criminal act or working under a hazardous condition.

Under this amendment, the term "public safety officer" would include police officers, highway patrol officers, correctional institution and parole officials, officers of a court, and firemen and emergency rescue personnel. In a long-overdue recognition of the national importance of the vital role of our public safety officers in the protection of society, the Senate has recently passed legislation to provide death and dismemberment benefits to these public servants or their survivors. Such assistance is of crucial importance in meeting the immediate financial needs of a public safety officer disabled in the performance of duty, and of his or her family.

In 1970, 100 police officers were killed and over one-third of the 43,171 assaults on policemen resulted in injuries. That same year, 38,583 firefighters were injured in the line of duty, and last year 210 firemen lost their lives. It was in response to the continuing rise in these alarming statistics that I introduced legislation, later adopted by the Senate, to make the murder or assault of a public safety officer a federal offense, and further legislation to provide for a group life insurance program for State and local government law enforcement and firefighting officers. And it has been out of a deep concern over the continuing high incidence of crimes of violence that I introduced legislation to establish a National Institute of Justice to promote the reform of our criminal justice system, and jointly sponsored major bills adopted by the Senate in this Congress to strengthen our law enforcement resources, to improve correctional rehabilitation programs, and to provide essential assistance to the innocent victims of criminal acts.

The present amendment, a revision of a bill, S. 3690, which I originally introduced on June 8, 1972, addresses a critical problem confronted by disabled public safety officers. We depend upon the protective services of our public safety officers, for which they must develop highly specialized and demanding skills. Yet all too often, when the utilization of these skills is abruptly terminated by disabling injury, the serious need of these public servants for a continued useful and productive life is ignored by society. The amendment offered by Senator Cranston and myself would end this wrong, by establishing a requirement that public safety officers have an opportunity to obtain vocational rehabilitation services. The time has come to guarantee their right to continue to live with dignity in the performance of useful, needed, and adequately compensated work.

Mr. CRANSTON. Mr. President, I am delighted to accept the amendment as I have indicated.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota (Mr. HUMPHREY).

The amendment was agreed to.

Mr. CRANSTON. With respect to amendment No. 1556, which Senator HUMPHREY had submitted for printing with the intention of proposing it, I have discussed this matter in detail with him in the context of a resolution adopted by the Labor and Public Welfare Committee on September 22. That resolution was adopted pursuant to section 405(a) in the bill, as reported, which directs the Secretary to conduct a study of the role of sheltered workshops, including a study of wage payments in such workshops and to incorporate in such study guidelines consistent with criteria provided in resolutions of the Labor and Public Welfare Committee. Item 11 in the resolution relates specifically to the question involved in Senator HUMPHREY's amendment, wage subsidies for individuals working in sheltered workshops.

Mr. President, I ask unanimous consent to have printed in the RECORD the full text of the resolution adopted by the Committee on Labor and Public Welfare on September 22, 1972.

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

RESOLUTION OF THE U.S. SENATE, COMMITTEE ON LABOR AND PUBLIC WELFARE, ADOPTED SEPTEMBER 22, 1972

Whereas Section 405(a) of the Rehabilitation Act of 1972 directs the Secretary of Health, Education and Welfare to carry out a study of sheltered workshops under criteria set forth in resolutions by the Committee on Labor and Public Welfare;

Whereas the Committee finds that such study must be comprehensive in nature and has formulated a series of questions relating to the role of workshops, the number of individuals employed in workshops, the amount of funding provided to workshops under this Act, and the relationship between workshops and other programs for handicapped individuals, and programs for vocational training;

Whereas the Committee presents the following questions to be answered and by listing these questions does not intend to limit the scope of the study;

Be it resolved that the Committee on Labor and Public Welfare believes the following questions must be covered along with other pertinent information by the study:

1. What should be the role of sheltered workshops or rehabilitation facilities? To what degree does the present system of workshops fulfill this role? How does this role relate to the broader continuum of employment and day care settings?

2. How many sheltered employment settings (workshops, rehabilitation facilities, work activity centers, etc.) are now in existence? How many handicapped individuals do they employ? What is the nature and degree of their responsibilities? How many staff are employed?

What are their job functions and qualifications? Describe the work opportunities provided including a measure of the range of complexity of the jobs available in each workshop. How much money is paid by the State Vocational Rehabilitation agency to "workshops" on an individual basis by state?

3. What are the standards used by vocational rehabilitation agencies to determine that a sheltered workshop or other rehabilitation facility is the most suitable in the community or state for training or employing a handicapped individual? What alternatives are considered and what rights does a handicapped individual have in selecting the site and type of training or employment to be provided?

4. How many handicapped individuals are placed for training in workshops by state vocational rehabilitation agencies? How much money is paid by the state agency for these training services? What is the length of training? What type of training is provided? How many individuals are placed in competitive employment following training? How many handicapped individuals are placed in sheltered workshops for extended evaluation? How much money is paid by the state agency for these services? How many are placed in employment outside of a work-

shop, or unplaced of those evaluated? To what extent are handicapped individuals, placed in workshops by rehabilitation agencies for training purposes, integrated with extended evaluation clients and terminal employees of the workshop? What is the nature and degree of the handicaps of the individuals placed in workshops for training or extended evaluation purposes?

5. How many handicapped individuals are in extended employment in sheltered workshops? What is the nature and degree of their handicaps? What type of employment activities are provided? How many individuals are ultimately placed in competitive employment?

6. How many individuals in workshops are in terminal employment? What is the nature and degree of their handicaps? What are the standards used by rehabilitation agencies or workshop personnel for determining that these individuals are incapable of competitive employment? How might careers ladder opportunities within workshops be developed to enable handicapped individuals to move into competitive employment?

7. What are methods for the determination of wages for handicapped individuals in workshops? What distinctions are there between piece work and hourly employees? How many persons are receiving wage subsidies? What are the amounts of such subsidies and the sources of funding for such subsidies? What effect do wage payments have on the amount of public assistance received by handicapped individuals in workshops, since assistance payments vary from state to state? What is the relationship of the industrial efficiency of the workshop to the amount of wages paid? What is the relationship of the types of contract work performed by workshops to the amount of wages paid to employees? What is the relationship of the specific abilities of the employees to the contract capability and wage payments? Do workshops for the any particular type of handicapped individuals generally pay higher wages than those paid in other workshops? If this is true, is it because of their contract work or because they receive their contracts through a single source? How are contracts procured? Is the type of contract pursued by a workshop related to he needs of present workers, or are workers selected by jobs available? Are there any state, regional or national procurement and coordination processes available for obtaining contracts for sheltered workshops? What should such a process entail? Compare wage payments to handicapped workers in sheltered workshops to payments made for similar employment to workers in competitive employment in comparable labor markets or otherwise.

8. Has the Wage Hour and Public Contracts Division of the Department of Labor issued certifications of exemption from the prevailing minimum wage for individual handicapped workers within workshops or have they been issued on a blanket basis per workshop? How many sheltered workshops have been issued exemptions from the minimum wage under section 6 of the Fair Labor Standards Act as work activity centers? What is the nature and degree of handicaps of handicapped individuals in such centers? To what degree has the number of such exemptions increased annually since 1967? How often do officials of the Wage Hour and Public Contracts Division inspect sheltered workshops and work activity centers to determine compliance with minimum wage requirements? How often do officials of the Department of Health, Education and Welfare inspect sheltered workshops? Officials of State agencies?

9. What fringe benefits are provided to handicapped individuals in extended or terminal employment in sheltered workshops (e.g. coverage under the Old Age, Survivors and Disability Insurance Program and Medicare of Title II and Title XVII of the Social Security Act; unemployment compensation; health care and retirement plans to which other non-handicapped workshop employees are entitled; and collective bargaining)?

10. What is being done to coordinate the wide variety of vocational training programs administered by the Rehabilitation Services Administration, the Office of Education and the Department of Labor for severely handicapped individuals who appear to have a high chance of requiring sheltered employment for some period of time?

11. Discuss and analyze the possible forms of wage supplements, their advantages and disadvantages, and their effects where applied.

Mr. CRANSTON. Mr. President, item 11 of the committee resolution states:

Discuss and analyze the possible forms of wage supplements, their advantages and disadvantages, and their effects where applied.

In view of the imminence of this detailed study, including a close scrutiny of the role of wage subsidies in the sheltered workshop setting in relation to all the other issues posed in the Senate committee resolution, Senator HUMPHREY has decided not to proceed with his wage subsidy amendment at this time.

I think that is a wise decision and that action on a wage subsidy program would be premature, particularly in view of the strong opposition which has been registered to such an amendment from a number of groups and individuals. In that connection, I ask unanimous consent that there be printed in the RECORD at this point materials which Senator HUMPHREY has requested be included.

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

REHABILITATION ACT OF 1972

(Statement of Senator HUMPHREY)

Mr. President, I strongly support S. 3987, the Rehabilitation Act of 1972, as reported by the Senate Committee on Labor and Public Welfare, and urge its adoption by the Senate. It is essential that this progressive legislation be enacted, to promote innovative and comprehensive approaches in rehabilitation services for mentally and physically handicapped and severely handicapped individuals, and to focus upon applied research and the development of technology and devices to help solve rehabilitation problems of handicapped persons, and to coordinate numerous Federal agency responsibilities and programs in this increasingly important field.

Providing for a major expansion of funding authorizations—totalling more than $4.9 billion in a three-year period—and statutory authorities for rehabilitation services, this bill correctly emphasizes the need to serve more severely handicapped individuals, to make services responsive to individual needs, and to make every effort to enable handicapped persons to lead a productive and financially independent life.

I applaud the committee actions to give the Commissioner of the Rehabilitation Services Administration statutory responsibility for all vocational rehabilitation services, research, and training in connection with services to handicapped individuals, and to establish an Office for the Handicapped in the Office of the Secretary of Health, Education, and Welfare. These steps will firmly establish the priority that must now be given to the planning, coordination, and effective delivery of Federal services and assistance on behalf of millions of handicapped Americans.

This priority is correctly reflected in the further provision to establish a Federal Interagency Committee on Handicapped Employees by which the Federal government itself can and should assume the leadership in hiring, placement, and advancement practices with respect to handicapped persons. I welcome the additional requirement for an affirmative action program under which Federal contractors shall undertake to employ and advance in employment qualified handicapped individuals. Moreover, section 604 of this bill specifically prohibits discrimination against an otherwise qualified handicapped or severely handicapped individual, solely by reason of his or her handicap, resulting in that person being excluded from participation in, or denied the benefits of, any program or activity receiving Federal financial assistance.

I am deeply gratified at the inclusion of these provisions, which carry through the intent of original bills which I introduced, jointly with the Senator from Illinois (Mr. Percy), earlier this year, S. 3044 and S. 3458, to amend, respectively, Titles VI and VII of the Civil Rights Act of 1964, to guarantee the right of persons with a mental or physical handicap to participate in programs receiving Federal assistance, and to make discrimination in employment because of these handicaps, and in the absence of a bona fide occupational qualification, an unlawful employment practice. The time has come to firmly establish the right of these Americans to dignity and self-respect as equal and contributing members of society, and to end the virtual isolation of millions of children and adults from society.

Finally, there are several committee provisions in this bill which deserve particular commendation:

Clarification in the definitions of "handicapped individual," "comprehensive rehabilitation services," and "severely handicapped individual;"

—The designation of special Federal responsibilities for financial assistance for rehabilitation facilities for severely handicapped deaf individuals, for the establishment and operation of Centers for Spinal Cord Injury, and for grants for services to persons suffering from end-stage renal disease and for services to older blind individuals;

—A demonstration grant program for rehabilitation services for handicapped migrant or seasonal farmworkers and their families;

—The extension of rehabilitation facility grant authorizations which include the National Center for Deaf-Blind Youths and Adults;

—And the establishment of a Federal Architectural and Transportation Barriers Compliance Board, composed of the heads of principal Federal Departments and agencies, or their designees, and responsible for the implementation of standards, under existing law, to eliminate such barriers in housing and travel confronted every day by handicapped persons, and to develop alternative measures to solve these problems.

AMENDMENTS BY SENATOR HUMPHREY

I am gratified that the Senate floor managers on the Rehabilitation Act of 1972 have accepted my amendment, in revised form, to provide for vocational and comprehensive rehabilitation services for public safety officers disabled in the line of duty in dealing with a criminal act or working under a hazardous condition. Such assistance is of crucial importance if these public servants, handicapped in the course of protecting society, are to continue to live with dignity and self-respect in pursuing new occupational careers.

I also appreciate the notification made in the course of Senate debate on this bill, of

my further amendment to establish a demonstration program to determine the feasibility of wage supplement payments to mentally and physically handicapped and severely handicapped individuals who are employed on a long-term basis in rehabilitation facilities which are sheltered workshops or work activities centers. I believe it is profoundly wrong that these persons should be institutionalized when with a modest income they could be enabled to live independently and function normally in their families and communities.

My amendment represents the first legislative formulation of a feasibility study on wage supplements, based upon recommendations made over the last several years by, among others, a previous Secretary of Labor and the President's Committees on the Employment of the Handicapped and on Mental Retardation. The program I have proposed is designed to promote maximum incentives to enable handicapped and severely handicapped individuals in sheltered work situations to achieve the highest level of occupational skills and self-sufficiency, and to address effectively certain basic problems in the operations of sheltered work facilities.

It is my intention to propose further action to meet the serious needs of thousands of handicapped and severely handicapped individuals employed in such rehabilitation facilities. However, I am deeply concerned that immediate action be taken by Congress to enact the Rehabilitation Act of 1972. For this reason, and in recognition of certain basic issues requiring a through study of sheltered workshops and work activities centers, I have not called up my amendment for Senate action at this time. I have noted the very recent action by the Senate Labor and Public Welfare Committee to request that such a study be undertaken. This will include an evaluation of wage supplements and alternative means of providing the additional income that handicapped persons employed in sheltered work situations require to become reasonably self sufficient and contributing members of society, rather than to experience an isolation from society and at additional public expense. I welcome this committee initative and urge that the recommendations based upon this study be made available to the Congress at the earliest possible time to facilitate legislative action.

Mr. CRANSTON. Mr. President, I now send to the desk an amendment of my own and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 92, between lines 2 and 3, insert the following new subsection:

(f) With respect to the administration of the program authorized by section 208, the Secretary shall insure that the provision of services under such section is coordinated with similar services provided or paid for under health programs pursuant to other Federal laws.

Mr. CRANSTON. Mr. President, under the present Vocational Rehabilitation program, some States are providing for treatment of kidney diseases, including dialysis or transplantation. Section 208 of the bill is intended to strengthen and expand the authority for these valuable programs.

Other authorities vested in the Secretary of Health, Education, and Welfare, including those under medicare and medicaid, are also being used for kidney treatment programs. It is important that the provision of services under these various authorities be coordinated. The amendment seeks to assure that the Secretary will provide for the needed coordination.

Mr. President, this amendment, as I understand it, is acceptable on both sides of the aisle, and I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment was agreed to.

Mr. RANDOLPH. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER (Mr. BENTSEN). The amendment will be stated.

The legislative clerk read as follows:

On page 2, strike out "Loans and loan guarantees for modernization and construction of rehabilitation facilities" where it appears in the Table of Contents and insert in lieu thereof "Mortgage insurance for rehabilitation facilities."

On page 56, strike out lines 12 through 22 and insert the following new section 202:

MORTGAGE INSURANCE FOR REHABILITATION FACILITIES

SEC. 202. (a) For the purpose of this section the terms "mortgage", "mortgagor", "mortgagee", "maturity date", and "State" shall have the meanings respectively set forth in section 207 of the National Housing Act.

(b) The Secretary, in consultation with the Secretary of Housing and Urban Development, and subject to the provisions of section 212, is authorized to insure 90 per centum of any mortgage (including advances on such mortgage during construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and make commitments for insurance of such mortgage prior to the date of its execution or disbursement thereon, except that no mortgage of any public agency shall be insured under this section if the interest from such mortgage is exempt from Federal taxation.

(c) In order to carry out the purpose of this section, the Secretary is authorized to insure any mortgage which covers construction of a public or nonprofit rehabilitation facility, including equipment to be used in its operation, subject to the following conditions:

(1) The mortgage shall be executed by a mortgagor, approved by the Secretary, who demonstrates ability successfully to operate one or more programs for the handicapped. The Secretary may in his discretion require any such mortgagor to be regulated or restricted as to minimum charges and methods of financing, and, in addition thereto, if the mortgagor is a corporate entity, as to capital structure and rate of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Secretary may make such contracts with and acquire for not to exceed $100 such stock of interest in such mortgagor as he may deem necessary. Any stock or interest so purchased shall be paid for out of the Rehabilitation Facilities Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

(2) The mortgage shall involve a principal obligation in an amount not to exceed the estimated replacement cost of the property or project not including any cost covered by grants in aid under this Act or any other Federal Act, including equipment to be used in the operation of the rehabilitation facility, when the proposed improvements are completed and the equipment is installed.

(3) The mortgage shall—

(A) provide for complete amortization by periodic payments within such term as the Secretary shall prescribe, and

(B) bear interest (exclusive of premium charges for insurance and service charges, if any) at not to exceed such per centum per annum on the principal obligation outstanding at any time as the Secretary finds necessary to meet the mortgage market.

(d) The Secretary shall fix and collect premium charges for the insurance of mortgages under this section which shall be payable annually in advance by the mortgagee, either in cash or in debentures of the Rehabilitation Facilities Insurance Fund (established by subsection (g) of this section) issued at par plus accrued interest. In the case of any mortgage such charge shall be not less than an amount equivalent to one-fourth of 1 per centum per annum nor more than an amount equivalent to 1 per centum per annum of the amount of the principal obligation of the mortgage outstanding at any one time, without taking into account delinquent payments or prepayments. In addition to the premium charge herein provided for, the Secretary is authorized to charge and collect such amounts as he may deem reasonable for the appraisal of a property or project during construction; but such charges for appraisal and inspection shall not aggregate more than 1 per centum of the original principal face amount of the mortgage.

(e) The Secretary may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he shall prescribe.

(f) (1) The Secretary shall have the same functions, powers, and duties (insofar as applicable) with respect to the insurance of mortgages under this section as the Secretary of Housing and Urban Development has with respect to the insurance of mortgages under title II of the National Housing Act. The Secretary may, pursuant to a formal delegation agreement containing regulations prescribed by him, delegate to the Secretary of Housing and Urban Development authority to administer this section and section 203 of this Act.

(2) The provisions of subsections (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 of the National Housing Act shall apply to mortgages insured under this section; except that, for the purposes of their application with respect to such mortgages, all references in such provisions to the General Insurance Fund shall be deemed to refer to the Rehabilitation Facilities Insurance Fund, and all references in such provisions to "Secretary" shall be deemed to refer to the Secretary of Health, Education, and Welfare.

(g) (1) There is hereby created a Rehabilitation Facilities Insurance Fund which shall be used by the Secretary as a revolving fund for carrying out all the insurance provisions of this section. All mortgages insured under this section shall be insured under and be the obligation of the Rehabilitation Facilities Insurance Fund.

(2) The general expenses of the operations of the Department of Health, Education, and Welfare relating to mortgages insured under this section may be charged to the Rehabilitation Facilities Insurance Fund.

(3) Moneys in the Rehabilitation Facilities Insurance Fund not needed for the current operations of the Department of Health, Education, and Welfare with respect to mortgages insured under this section shall be deposited with the Treasurer of the United States to the credit of such fund, or invested in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States. The Secretary may, with the approval of the Secretary of the Treasury, purchase in the open market debentures issued as obligations of the Rehabilitation Facilities Insurance

Fund. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtainable from other investments authorized by this section. Debentures so purchased shall be canceled and not reissued.

(4) Premium charges, adjusted premium charges, and appraisal and other fees received on account of the insurance of any mortgage under this section, the receipts derived from property covered by such mortgages and from any claims, debts, contracts, property, and security assigned to the Secretary in connection therewith, and all earnings as the assets of the fund, shall be credited to the Rehabilitation Facilities Insurance Fund. The principal of, and interest paid and to be paid on, debentures which are the obligation of such fund, cash insurance payments and adjustments, and expenses incurred in the handling, management, renovation, and disposal of properties acquired, in connection with mortgages insured under this section, shall be charged to such fund.

(5) There are authorized to be appropriated to provide initial capital for the Rehabilitation Facilities Insurance Fund, and to assure the soundness of such fund thereafter, such sums as may be necessary, except that the total amount of outstanding mortgages insured shall not exceed $250,000,000.

Mr. RANDOLPH. Mr. President, at this time I wish to discuss very briefly the purpose of the amendment.

Mr. President, S. 3987, the Rehabilitation Act of 1972 as reported, contains a provision, section 202, relating to loan guarantees made pursuant to the Public Health Service Act for rehabilitation facilities.

The amendment to S. 3987 which I propose is in the nature of a correction to the committee bill. Section 202 as now included in the bill was interpreted, because of a portion of a letter to this effect by the Department of the Treasury, to be applicable to all rehabilitation facilities. Information brought to my attention by several sources indicates that this is not correct. As now written, section 202 would have narrow application.

It would only apply to rehabilitation facilities which are a part of an integrated program of medical and vocational evaluation and services in connection with a hospital or in a facility which is under the general direction of a physician. This limitation would obviously be too stringent with respect to facilities assisted under the rehabilitation Act of 1972.

The amendment I propose is quite similar to that provided in the House-passed bill, H.R. 8395. It would provide mortgage insurance for rehabilitation facilities under regulations of the Secretary of Health, Education, and Welfare, in consultation with the Secretary of Housing and Urban Development. Administration of this section and section 203—relating to annual interest grants—may by formal agreement be delegated to the Secretary of Housing and Urban Development.

I would propose a ceiling on the amount of mortgages insured of $250 million. No mortgage of a public agency could be insured if the interest from such mortgage is exempt from Federal taxation. The limitation of $250,000 on individual mortgages contained in the House bill is, in my opinion, too restrictive. Other provisions of this section are virtually identical to those in the House bill.

It is my understanding that this clarifying amendment will be acceptable to most, if not all, members of the committee.

Does the able Senator from California, who is very familiar with this matter, have a comment to make in reference to the amendment?

Mr. CRANSTON. Mr. President, I am delighted to join with the Senator from West Virginia in this amendment to the bill, as reported, and concur fully in his description of its contents and the reason for our initial decision not to include it and our reconsideration of that decision and our conclusion now that this provision should indeed be included in S. 3987. I believe that there is no controversy regarding this amendment and that it is acceptable to both sides of the aisle, and I urge that it be adopted.

The PRESIDING OFFICER. Do the Senators yield back the remainder of their time?

Mr. RANDOLPH. Mr. President, I yield back the remainder of my time.

Mr. CRANSTON. 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 West Virginia. [Putting the question.]

The amendment was agreed to.

Mr. SCHWEIKER. Mr. President, I yield myself 1 minute on the bill.

I ask unanimous consent that Richard Segal, a member of the committee staff, be given the privilege of the floor.

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

Mr. DOLE. Mr. President, I wish to point out one particular important provision of S. 3987, the vocational rehabilitation bill. In the early days of the 92d Congress, I introduced S. 41, a bill to create a National Information and Resource Center for the Handicapped. In my continuing concern for the problems of the handicapped, I had discovered a glaring deficiency in the centralization, coordination, and availability of knowledge concerning the resources, research findings, technical assistance, reports and, in general, information about the activities of various governmental agencies, private concerns, communities, businesses and colleges designed to accommodate handicapped persons. In meetings with organizations concerned with the handicapped and in mail from handicapped persons and their families and friends, I have found that few Americans are aware of the extent and availability of private and public services and programs for the handicapped. I also found a general lack of public awareness of the nature and extent of developmental disability in America, the human and economic loss it imposes, and the great potential for improving the lives of the disabled through modern, comprehensive services.

In response to these findings, I introduced the bill to create the National Information and Resource Center for the Handicapped hoping it would serve as a point of contact for individuals, families of the handicapped, as well as private and professional organizations, city, State, and Federal officials.

The proposal for the center has met with widespread support, and I was encouraged when the House, earlier this year, included a provision to establish the National Center within the Office of the Secretary of Health, Education, and Welfare in its bill extending the Vocational Rehabilitation Act. I am further encouraged by the action of the Labor and Public Welfare Subcommittee on the Handicapped included the national center within the new office of the handicapped established by the bill which it has reported.

These are extremely important steps toward fulfilling our responsibilities to the handicapped. We all know that they can be helped. Our Nation has the know-how and resources to restore many more of the disabled to productive lives, but we cannot do so unless the handicapped themselves have better access to the various types of assistance available to them. The National Information and Resource Center for the Handicapped can help provide that access and lead the way to more meaningful and productive lives for millions of handicapped citizens.

Mr. MONDALE. Mr. President, I am pleased to support S. 3987, the Vocational Rehabilitation Amendments of 1972. The bill, which I cosponsored, strengthens and expands the vocational rehabilitation program, paying tribute to its remarkable history of success. In the past, Congress has recognized the great achievements of the program—in 1943 extending the program to the mentally ill and mentally retarded, in 1954 and 1965 extending the scope of the authorized services to include comprehensive vocational evaluation and work adjustment training and to support the establishment of necessary facilities. In 1968, Congress went one step further by providing crucial evaluation and work adjustment services needed by severely disadvantaged unemployed individuals. It is a great disappointment to me that these services were never funded. It is my hope that these disadvantaged individuals, no less severely handicapped than the physically disabled, will begin to be served through the innovation and expansion grants provision of the Senate bill now before us.

In all the discussion of the "welfare ethic" versus the "work ethic" it may be well to consider the point that this "welfare" program is surely one of the most successful social programs administered by the Federal Government. It has been estimated that for every dollar invested in the rehabilitation of a disabled individual, there is a return of $5 in increased earnings. All individuals served under this program are poor. Over half of the clientele served have no incomes when they apply for services; 90 percent

have incomes which are below what is ordinarily referred to as the poverty level.

The bill recognizes that there is another goal of rehabilitation than the guarantee of a job—that is, to better the lives of the individuals served, to provide the greatest measure of independence within the community and the family. In recognition of that aim, the bill earmarks funds for the severely disabled, assuring that no individual will be denied rehabilitation services merely because his disability is too severe.

Mr. President, I am pleased to be associated with this bill, and I urge its passage by the Senate.

Mr. CRANSTON. Mr. President, if there are no further amendments—and I know of none—I am prepared to yield back the remainder of my time on the bill, and I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from California has yielded back the remainder of his time.

Mr. HATFIELD. Mr. President, I yield back the remainder of our time.

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

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The rollcall was continued.

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

The PRESIDING OFFICER. The Chair cannot hear the Senator.

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

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

Mr. ROBERT C. BYRD. Mr. President, will the Chair clear the aisles?

The PRESIDING OFFICER. Senators will take their seats. The Senate will be in order.

Who requests time?

Mr. RANDOLPH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 35, line 23, strike out "(1)".

On page 35, line 24, strike out "with respect to such" and strike out all on line 25 through "$700,000,000" on line 1 on page 36.

On page 37, strike out all beginning on line 1 through line 23.

Mr. RANDOLPH. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. RANDOLPH. Mr. President, in offering this amendment, I do not offer it because I feel that the formula presented in the pending bill is an inadequate or unfair formula. I say, with respect to the convictions of my colleagues from certain States, that in the subcommittee and in the full Committee on Labor and Public Welfare, the matter of the formula was a difficult subject. We spent a long time attempting to devise a formula that would take into consideration several factors, remembering that really the so-called rural and urban factors of long ago must be reevaluated, in view of the industrial developments and population shifts that have occurred in our country.

But we are interested in this vocational rehabilitation legislation moving forward. There are so many strengths written into the bill that we do not want to have it flounder here on the shoals of a fight over a formula that has been established through the years.

For that reason, after consultation with the able Senator from California and other members of our committee, including the Senator from Pennsylvania (Mr. SCHWEIKER) and especially the Senator from New York (Mr. JAVITS), I have offered the pending amendment. I do it, in a sense, on my own responsibility, but hoping that we can arrive at an agreement so that we go back to the basic formula which has been a part of this program.

Mr. ERVIN. Mr. President, will the Senator yield for a question?

Mr. RANDOLPH. I yield.

Mr. ERVIN. As I understand the amendment offered by the distinguished Senator from West Virginia, it would restore the formula previously used.

Mr. RANDOLPH. That is correct.

Mr. ERVIN. And it would abolish the formula under which, as I understand it, 40 States suffer a loss or a decrease.

Mr. RANDOLPH. That is not correct. We would have had additional benefits to 28 States under the formula that was presented, with 22 States losing funds. West Virginia, under the formula that was in the bill, suffered somewhat; but I felt that was necessary because I was trying to think of the problems of all States. We endeavored to develop a fair allocation system.

Mr. ERVIN. I commend the Senator on his amendment, because I think it gets us out of a sort of unhappy legislative difficulty.

Mr. RANDOLPH. Yes. I say to the Senator from North Carolina that this is very important legislation. Many strengths are built into it, so that I would not want it just to disintegrate into a contest here over the formula.

Frankly, we were attempting to modernize the formula, if one wants to use that word, to meet the needs of industrial society and population shifts. Nevertheless, I offer the amendment to go back to the basic formula.

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

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

Mr. RANDOLPH. I yield to the Senator from Vermont.

Mr. AIKEN. Is it a fact that under the proposal submitted by the Senator from West Virginia, all New England States would lose substantially from what they would receive if the formula now in the bill prevailed?

Mr. RANDOLPH. Under the formula in the bill as brought to the floor, we would have helped the New England States.

Mr. AIKEN. That is true. And under the proposal of the Senator from West Virginia, all 6 New England States would lose from the formula which is proposed in the bill.

Mr. RANDOLPH. That is correct. Regrettably, when we alter funding formulas, someone gains and someone loses, if one wishes to put it on that basis.

Mr. AIKEN. I do not feel qualified to argue the situation, because it has been a long time since I have been on that committee.

Mr. RANDOLPH. I am sure the Senator would serve on it ably if he were on it now, as he did in prior service.

Mr. JAVITS. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. RANDOLPH. I yield.

Mr. JAVITS. Mr. President, who controls the time in opposition?

The PRESIDING OFFICER. The Senator from California is in favor of the amendment.

Mr. CRANSTON. In the spirit of compromise, and to prevent this bill from being stalled, I am reluctantly willing to go along with the amendment. However, I wish to point out that we made only the most minor modification in the formula in committee so that no State could possibly receive less than its basic State allotment now, and indeed, every State would be guaranteed to receive more than its present dollar allotment before the modified formula would take effect with respect to the amount of funds available for allotment under part B of title I of the bill based upon an appropriation in excess of $700,000,000. Indeed, we made changes in committee to raise the "grandfathered" level from the fiscal year 1973 appropriation level to $700,000,000 appropriated under section 100(a).

I think all Senators should understand fully the gross inequity of the existing Hill-Burton formula which we have tried to ameliorate somewhat. Under the present formula, 17 States receive more than double California's per capita distribution of fiscal year 1973 budget formula grant funds for each estimated handicapped individual within the State.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point a chart showing distributions of vocational rehabilitation funds under the present Hill-Burton formula for fiscal year 1972 and fiscal year 1973.

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

ANALYSIS OF VOCATIONAL REHABILITATION FUND DISTRIBUTION TO THE STATES

State or territory	1970 population [1]	4 percent of 1970 population [2]	Fiscal year 1972 grant [3]	Per capita grant [4]	Fiscal year 1973 grant [3]	Per capita grant [4]
Alabama	3,444,165	137,767	$15,750,809	$114.33	$17,539,591	$127.31
Alaska	300,382	12,015	1,000,000	83.23	1,000,000	83.23
Arizona	1,770,900	70,836	5,866,176	82.81	6,009,130	84.83
Arkansas	1,923,295	76,932	9,023,266	117.29	10,041,459	130.52
California	19,953,134	798,125	37,117,620	46.51	38,431,603	48.15
Colorado	2,207,259	88,290	6,300,698	71.36	6,599,721	74.75
Connecticut	3,031,709	121,268	4,501,056	37.12	4,803,448	39.61
Delaware	548,104	21,924	1,148,032	52.36	1,273,699	58.10
District of Columbia	756,510	30,260	4,582,581	151.44	4,914,372	162.40
Florida	6,789,443	271,578	20,668,031	76.10	22,364,550	82.35
Georgia	4,589,575	183,581	17,046,821	92.86	18,836,265	102.60
Guam	84,996	3,400	534,430	157.19	563,727	165.80
Hawaii	768,561	30,742	1,864,125	60.64	2,120,062	68.96
Idaho	712,567	28,503	2,767,011	97.08	3,132,889	109.91
Illinois	11,113,976	444,559	20,704,483	46.57	20,788,652	46.76
Indiana	5,193,669	207,747	8,384,200	40.36	8,661,188	41.69
Iowa	2,824,376	112,975	8,156,454	72.20	9,001,714	79.68
Kansas	2,246,578	89,863	6,639,096	73.88	7,059,679	78.56
Kentucky	3,218,706	128,748	12,560,860	97.56	13,067,028	101.49
Louisiana	3,641,306	145,652	14,655,456	100.62	14,715,035	101.03
Maine	992,048	39,682	2,237,428	56.38	2,425,500	61.12
Maryland	3,922,399	156,896	8,598,927	54.81	9,583,210	61.08
Massachusetts	5,689,170	227,567	11,614,197	51.04	12,824,220	56.35
Michigan	8,875,083	355,003	20,313,061	57.22	20,922,038	58.93
Minnesota	3,804,971	152,199	10,711,096	70.38	11,910,915	78.26
Mississippi	2,216,912	88,676	11,520,065	129.91	11,771,661	132.75
Missouri	4,676,501	187,060	13,971,514	74.69	14,881,051	79.55
Montana	694,409	27,776	2,443,652	87.98	2,450,354	88.22
Nebraska	1,483,493	59,340	4,286,420	72.23	4,303,846	72.52
Nevada	488,738	19,550	$1,000,000	$51.15	$1,019,798	$52.16
New Hampshire	737,681	29,502	2,174,458	73.71	2,383,603	80.79
New Jersey	7,168,164	286,727	13,749,191	47.95	13,805,085	48.15
New Mexico	1,016,000	40,640	4,056,540	99.82	4,073,031	100.22
New York	18,236,967	729,479	30,953,392	42.43	34,108,404	46.76
North Carolina	5,082,059	203,282	20,285,508	99.79	22,685,720	111.60
North Dakota	617,761	24,710	2,410,718	97.56	2,420,518	97.96
Ohio	10,652,017	426,081	19,495,723	45.76	27,386,884	64.28
Oklahoma	2,559,229	102,369	9,337,877	91.22	10,533,549	102.90
Oregon	2,091,385	83,655	5,918,578	70.75	6,706,936	80.17
Pennsylvania	11,793,909	471,756	32,179,632	68.21	34,345,057	72.80
Puerto Rico	2,712,032	108,481	16,124,320	148.64	17,012,882	156.83
Rhode Island	946,725	37,869	2,265,491	59.82	2,377,707	62.79
South Carolina	2,590,516	103,621	11,654,844	112.48	13,101,703	126.44
South Dakota	665,507	26,620	2,489,380	93.52	2,745,882	103.51
Tennessee	3,923,687	156,947	12,276,000	78.22	15,688,018	99.96
Texas	11,196,730	447,869	37,677,065	84.13	42,386,393	94.64
Utah	1,059,273	42,371	4,011,796	94.68	4,524,799	106.79
Vermont	444,330	17,773	1,485,199	83.56	1,676,696	94.34
Virginia	4,648,494	185,940	15,171,519	81.59	16,996,300	91.41
Virgin Islands	62,468	2,499	302,092	120.89	313,268	125.36
Washington	3,409,169	136,367	8,008,131	58.72	8,602,831	63.09
West Virginia	1,744,237	69,769	7,667,121	109.89	8,520,898	122.13
Wisconsin	4,417,731	176,709	12,270,770	69.44	12,516,003	70.83
Wyoming	332,416	13,297	1,067,090	80.25	1,071,428	80.58
Total			559,000,000		609,000,000	

[1] 1970 Census of population, number of inhabitants, U.S. summary, U.S. Department of Commerce, Bureau of the Census "table 1 population of the United States, Puerto Rico, and outlying areas: 1950–70." "Table 14 rank of States by population: 1920–70".

[2] Assume a 4-percent incidence of vocational-rehabilitational need per State.

[3] Department of Health, Education, and Welfare: Based on amounts States are able to match using current formula.

[4] Per capital grant based on 4 percent of 1970 population figures.

Mr. CRANSTON. Finally, Mr. President, let me also stress that at no time did we who represent the more populous States suggest that the distribution should be made strictly on the basis of population. We accept the validity of taking into account as a major factor the State's per capita income inverted. To illustrate, at present California with 10 percent of the Nation's population receives about 6 percent of the formula grant allocation. If a formula of per capita income multiplied by population were adopted without squaring the per capita allotment percentage, as is presently done with the Hill-Burton formula, California would get 8 percent of the allotments—still far short—25 percent—of its population share. And we have not even proposed this degree of modification.

Instead we proposed much less of a change.

The PRESIDING OFFICER. The time is in the control of the minority leader or his designee.

Mr. JAVITS. Mr. President, in the absence of the minority leader, as I am the ranking minority member of the committee, I yield myself 5 minutes.

The PRESIDING OFFICER. Such will be the assumption, the Senator from New York is recognized.

Mr. JAVITS. Mr. President, we have had, I think, in all our experiences here this constant problem arising. Must we perpetuate injustice, because it is the "inertial thing to do?" The current formula now law would perpetuate a serious and basic injustice.

The reason it does is that it takes no account of the march of time or progress. It had its origin 18 years ago. The Senator who in a sense brought us to where we are at this particular moment is the Senator from South Carolina. South Carolina's income per capita is about one-half of that of Connecticut, which is the highest on the list. But under the formula which is now sought to be perpetuated, South Carolina for each handicapped person—mind you, this is not a matter of fattening up the State's role—would get roughly four times per capita what Connecticut gets.

Is that fair, even on any basis? The per capita income of South Carolina compared to Connecticut is twice as much. But by perpetuating an absolutely obsolescent formula, just because we want to get on with the bill, which is what this comes down to, the Senate is going to perpetuate an injustice for a long time, simply because of inertia, because one Senator got up and said, "I do not like it."

If that is the way we legislated around here, Mr. President, we would have some pretty bad bills and some unjust situations.

Mr. President, if we look down this list, what has happened? We now have appropriations of $560 million a year, and under this bill we are grandfathering everybody at $700 million, precisely because we were hoping that people would be reasonable. It is only when appropriations exceed $700 million, and my guess is that there is very little likelihood of it, in the near future, then a new formula is put into effect for the amount over $700 million only. But what is the new formula? The new formula still cranks into the extent of one-third of the appropriation over $700 million the reverse per capita income factor. Two-thirds of the excess is based on population.

So that, Mr. President, the important point that I am making here is this: We are not arguing now about what any State will get on the old formula up to a much higher ceiling than it is at today. We are talking about the increment; that is, what may happen in the future.

I think it is most demeaning to the Senate that the minute we get into one of these debates, everybody begins to tote up how many States profit and how many States lose.

I think the important thing to note is that always the States that pay the most taxes lose. They are ordained to lose; notwithstanding that my own State, which is supposed to be a very rich State, is almost busted, as everybody knows. It has a big income tax and a sales tax and had to crank in money from revenue sharing which it did not have in order to balance its budget as required by the State constitution.

Mr. President, I am just as anxious as anybody else to get on with the business of the Senate, but I do not think we ought to get on with the business at the cost of injustice. If the Senate wants to legislate injustice, let it at least face the issue and vote it up or down and legislate it that way.

The other thing that I think is only fair is this. We have a 2-year bill here after the present fiscal year; that is 2½ years. I see no reason whatever, if we are going to roll over and play dead—which is what we are doing because one Member got up and said he did not like it and tried to marshal other States similarly situated, to say they do not like it, without any regard as to whether it is fair or unfair—why this should be for 2½ years. As is everybody else, I am under great pressure, but if the Senate wants to go through with this, I will stay here tonight as long as it takes, including 3 o'clock in the morning to resolve it properly rather than dismiss it due to the hour. That will be fine. Injustice should not go unrecompensed.

Mr. LONG. Will the Senator yield?

Mr. JAVITS. I will yield in a moment. Just let me finish my point.

If, therefore, we are going to go this way and roll over and play dead, I am going to do my utmost, at least, to reduce this bill to the size it ought to be

just for this and the next fiscal year. At least do not penalize us and impose this artificiality, which is all that is being imposed, for a longer period ahead. Let us consider it on every basis, including how long it will last.

Mr. LONG. Mr. President, if I correctly understand the Senator from New York, he said that he will not let this matter come to a vote unless his argument prevails. I have sat here a considerable part of 24 hours when the Senator from South Carolina debated a matter with which he was displeased.

If that is the kind of ultimatum we will have served on us, if that is what I understand the case to be, I would like to know about it, so that I can go home, because there is no point in my sitting around here waiting for a vote that is not going to occur. I do not know whether the Senator from South Carolina still holds the record, but he held the record for the longest speech in the RECORD; and if he indicates that he is equally adamant, there is no point in my staying around the Senate Chamber this evening.

Mr. JAVITS. I am sorry to state to the Senator from Louisiana, my dear friend who has befriended me on many occasions, that he understood me incorrectly. There is a 20-minute limitation on every amendment. I have no desire to tie the Senate up in knots. I have none at all. I would be limited in any event by the unanimous-consent agreement. What I had in mind was that more than one amendment was necessary notwithstanding the fact that the Senator from Kansas (Mr. DOLE) and I and other Senators are deeply engaged on a time basis. Another amendment will be required at the tail end. If other amendments are required, I will, or others will, offer them.

I am not threatening or ultimatuming anyone. All I am saying is that if we are going this route, it is totally new, unexpected, and different from anything contemplated in the committee. So if that is what we are going to do, at least for myself, whose ox is being gored, with 9 percent of the population of the United States in the State of New York and, incidentally, with 10 percent of the population of the United States in the State of the Senator from California (Mr. CRANSTON), and his ox is being even more gored, at least let us stay here and do what we can to perfect the bill on the floor of the Senate the way the Senate wants it perfected.

My feeling is that probably not more than this amendment and whatever action we take on it, and one other amendment will be required; but I cannot stand here and say to the Senator, "Let's wrap it up" when it is a completely changed deal and completely loaded against the citizens of the urbanized States that pay the most in taxes.

Mr. LONG. I just want to make it clear to the Senator from New York that if he has some plans that require the Senate to go on and on and on into the night, he can arrange to keep a quorum present because I will not be here, this one Senator.

Mr. PASTORE. Mr. President, will the Senator from New York yield?

Mr. JAVITS. The Senator is really imposing on me a stricture which I do not deserve. I said no such thing and I meant no such thing.

Mr. LONG. Then, if I misunderstood the Senator, I am sorry. I thought he said he was going to keep the Senate in session until 3 this morning, or some such thing.

Mr. JAVITS. It depends on the number of amendments required. I do not believe very many will be required. All we have said is that, notwithstanding the time pressure, when we are faced with injustice, we have to try to do something about it.

Mr. President, I now yield to the Senator from Rhode Island (Mr. PASTORE).

Mr. PASTORE. Mr. President, I want to join my good friend from New York in the rational argument he is making here. I am surprised at the Senator from Louisiana. Only a short while ago we had under consideration the revenue-sharing bill and I noticed that that committee, in order to accommodate itself and its members, made a change of the formula that was instituted by the House, and the Senate went along with it. As a matter of fact, it backed up the Senator from Louisiana. Now the committee that is managing this particular bill, after due consideration, in order to achieve justice and equity with reference to the problem, came out with a formula that it thought was proper. This was resented by those who profited by the change that was made in the revenue-sharing bill. Here we are, in order to accommodate them again. The committee has seen fit to capitulate and to accommodate once again those who pay less, but always get the most.

I think it is absolutely unfair. I do not know what the result will be. But certainly I am not in favor of this condescension on the part of the committee. I think it is an unfair compromise.

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

The PRESIDING OFFICER (Mr. BENTSEN). One minute remains to the Senator from New York.

Mr. JAVITS. Mr. President, how much time do the opponents have?

The PRESIDING OFFICER. The Senator from West Virginia has 2 minutes remaining.

Mr. JAVITS. Mr. President, I yield myself the 1 minute I have remaining. We have just had a discussion about this matter and in the effort to come to an agreement, in view of all the problems which we face, I would suggest that the bill be limited to 1 year after the current fiscal year, instead of 2 additional years as contained in the bill, and I am prepared to offer an amendment, if that will be acceptable. We can come back and reargue the case a lot sooner than if we had a 2-year bill.

Mr. CRANSTON. I presume the Senator is referring to section 100(a), to take up the question of the formula so that we can come back later for part B of title I.

Mr. JAVITS. Yes. That is fine. Whatever is the formula.

Mr. CRANSTON. All right.

Mr. RANDOLPH. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from West Virginia has all the time that remains.

Mr. RANDOLPH. Two minutes. Mr. President, may I have the attention of the Senate, please?

The PRESIDING OFFICER. The Senate will be in order.

Mr. RANDOLPH. Mr. President, I repeat that members of the Committee on Labor and Public Welfare who are now in the Chamber know that the Senator from West Virginia attempted to work toward a formula that he believed to be fair—fairer than the old formula. West Virginia funding was reduced. All Members worked to secure equitable allocations of funding under the bill. I feel, however, that there are many important provisions in this measure that need to become law. That is the reason I offered the amendment at this point.

I must say not only the Senator from South Carolina (Mr. THURMOND) but also seven other Senators have come and indicated to me—such as the Senator from North Carolina (Mr. ERVIN) and others—that they feel their States are being discriminated against if we move from the existing formula. They come here in good conscience. I think that if we cut that part of the legislation to 1 year from 2 years, we can move forward and keep the many provisions of this legislation which are so forward-looking and necessary. I would hope that the Senate will agree to this.

Mr. THURMOND. Mr. President, will the Senator from West Virginia yield?

Mr. RANDOLPH. I yield——

The PRESIDING OFFICER (Mr. GRAVEL). All time has now expired.

Mr. JAVITS. Mr. President, I send to the desk an amendment——

The PRESIDING OFFICER. The question is on agreeing to the amendment, all time having expired——

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 17, line 1, delete the semicolon and substitute "and".

On line 2, strike out the semicolon and insert in lieu thereof a period.

On line 3, strike out from "and" to "1975," on line 4.

Mr. RANDOLPH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from West Virginia will state it.

Mr. RANDOLPH. Can I accept the language of the distinguished Senator from New York as a modification of my amendment?

The PRESIDING OFFICER. The Senator may modify it accordingly.

Mr. RANDOLPH. I thank the Chair. Mr. President, I ask unanimous consent that I may modify my amendment accordingly.

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

The text of the Randolph amendment as modified is as follows:

On page 35, line 23, strike out "(1)".

On page 35, line 24, strike out "with respect to such" and strike out all on line 25 through "$700,000,000" on line 1 on page 36.

On page 37, strike out all beginning on line 1 through line 23.

On page 17, line 1, strike out the semicolon and insert in lieu thereof "and".

On line 2, strike out the semicolon and insert in lieu thereof a period.

On line 3, strike out from "and" to "1975," on line 4.

The PRESIDING OFFICER. All time has now expired and the question is on agreeing to the amendment——

Mr. THURMOND. Mr. President, just a minute—just a minute——

Mr. PASTORE. Mr. President, regular order. Regular order, please

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment——

Mr. THURMOND. Mr. President——

Mr. MANSFIELD. Mr. President, how much time does the Senator from South Carolina want?

Mr. THURMOND. I have not yet had a chance to say one word on this question.

Mr. MANSFIELD. I asked the Senator how much time did he want?

Mr. THURMOND. Two minutes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from South Carolina may have 2 minutes.

Mr. PASTORE. I have no objection, Mr. President.

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

Mr. THURMOND. Mr. President, I want to propound an inquiry to the Senator from New York who has offered the amendment. I want to say that the point I raised here is not in derogation of any respect we have for the Senators from West Virginia or New York or any other Senator. It is simply this, that it appeared that the poorer States were losing money after we passed a certain figure here, and that is the reason we felt if we are going to try to accomplish the purpose of helping the poorer States, we felt this formula would be the best one for that purpose.

I should like to ask this question of the Senator from New York: The amendment that is being offered now, as I understand it, would limit the bill to 1 year?

Mr. JAVITS. After the present fiscal year.

Mr. THURMOND. That is the tenor of the amendment, then?

Mr. JAVITS. Yes, that is the tenor of the amendment as to the particular provision of the bill which relates to the formula the Senator has challenged.

Mr. THURMOND. As to page 37—lines 1 through 23, as I understand it, the bill would not refer to anything but just the present formula. However, the bill would terminate 1 year sooner.

Mr. JAVITS. The Senator is correct.

Mr. THURMOND. And in view of that fact, would it not be proper to strike out on page 37, lines 1 through 23.

Mr. JAVITS. I believe that is what the Senator from West Virginia (Mr. RANDOLPH) has done, amended his amendment in that way.

Mr. RANDOLPH. Mr. President, that is the modification of my amendment.

Mr. JAVITS. My amendment goes to this page of the bill.

Mr. THURMOND. Mr. President, I wanted to make the record clear so that there would be no question as to what the amendment does.

Mr. JAVITS. Mr. President, I wish to make it clear that we use the term bill when we should use the reference to section 100(a) of title I of the bill.

Mr. CRANSTON. Section 100(a).

Mr. JAVITS. That is the formula that the Senator has challenged.

Mr. THURMOND. The Senate is now amending pages 35, 36, 37, and 17 of the reported bill.

Mr. JAVITS. Page 17 is the one I am amending. Page 37 has to do with the amendment of the Senator from West Virginia. As to page 35——

Mr. CRANSTON. Mr. President, pages 17, 35, 36, and 37 are all being amended in the amendment as modified.

The PRESIDING OFFICER (Mr. GRAVEL). All time has expired on the amendment. The question is on agreeing to the amendment of the Senator from West Virginia, as modified.

The amendment was agreed to.

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 3987) was ordered to be engrossed for a third reading and was read the third time.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the name of the Senator from Colorado (Mr. DOMINICK) be added as a cosponsor.

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

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare be discharged from further consideration of H.R. 8395 and that the Senate proceed to the immediate consideration of that measure.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

H.R. 8395. An act to amend the Vocational Rehabilitation Act, to extend and revise the authorization of grants to States for vocational and comprehensive rehabilitation services, to authorize grants for rehabilitation services to those with severe disabilities, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from California? The Chair hears none, and it is so ordered.

The Senate proceeded to consider the bill.

Mr. CRANSTON. Mr. President, I move to strike all after the enacting clause of H.R. 8395 and insert in lieu thereof the language of S. 3987, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from California (putting the question).

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

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 assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Oklahoma (Mr. HARRIS), 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 Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from Virginia (Mr. SPONG), the Senator from Illinois (Mr. STEVENSON), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN) and the Senator from Wyoming (Mr. MCGEE) are absent on official business.

I further announce that, if present and voting, the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Virginia (Mr. SPONG), the Senator from Illinois (Mr. STEVENSON), and the Senator from New Jersey (Mr. WILLIAMS) would each vote "yea."

Mr. COTTON. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Delaware (Mr. BOGGS), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Illinois (Mr. PERCY), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

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

The Senator from Ohio (Mr. TAFT) and the Senator from Vermont (Mr. STAFFORD) are absent on official business to attend the Interparliamentary Union meetings.

The Senator from North Dakota (Mr. YOUNG) is detained on official business.

If present and voting, the Senator from Delaware (Mr. BOGGS), the Senator from Illinois (Mr. PERCY), the Senator from Vermont (Mr. STAFFORD), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 70, nays 0, as follows:

[No. 477 Leg.]

YEAS—70

Aiken	Ervin	Mondale
Allen	Fannin	Montoya
Anderson	Fong	Moss
Bayh	Gambrell	Muskie
Beall	Gravel	Nelson
Bellmon	Gurney	Packwood
Bennett	Hansen	Pastore
Bentsen	Hart	Pearson
Bible	Hartke	Proxmire
Brooke	Hatfield	Randolph
Burdick	Hollings	Ribicoff
Byrd, Robert C.	Hruska	Roth
Cannon	Hughes	Saxbe
Case	Inouye	Schweiker
Chiles	Jackson	Smith
Church	Javits	Stennis
Cook	Jordan, Idaho	Stevens
Cooper	Kennedy	Symington
Cotton	Long	Talmadge
Cranston	Magnuson	Thurmond
Curtis	Mansfield	Tunney
Dole	Mathias	Weicker
Dominick	McClellan	
Edwards	Miller	

NAYS—0

NOT VOTING—30

Allott	Griffin	Scott
Baker	Harris	Sparkman
Boggs	Humphrey	Spong
Brock	Jordan, N.C.	Stafford
Buckley	McGee	Stevenson
Byrd, Harry F., Jr.	McGovern	Taft
	McIntyre	Tower
Eagleton	Metcalf	Williams
Eastland	Mundt	Young
Fulbright	Pell	
Goldwater	Percy	

So the bill (H.R. 8395) was passed.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further consideration of S. 3987 be postponed indefinitely.

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

Mr. CRANSTON. Mr. President, now that we have acted on S. 3987 and H.R. 8395, I wish to thank the leadership on both sides of the aisle for their great help in scheduling this bill for such prompt consideration on the floor today. I know that they share a warm and abiding interest in the problems of handicapped individuals and the purposes of the legislation which the Senate has adopted today.

Mr. President, I ask unanimous consent that the text of H.R. 8395 as it has been amended and passed by the Senate be printed as a separate bill.

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

Mr. ROBERT C. BYRD. Mr. President, on behalf of the leadership I wish to express appreciation to the Senator from California (Mr. CRANSTON), the Senator from West Virginia (Mr. RANDOLPH), the Senator from North Carolina (Mr. ERVIN), the Senator from South Carolina (Mr. THURMOND), the Senator from New York (Mr. JAVITS), the Senator from Louisiana (Mr. LONG), and other Senators who worked in such a cooperative way and in a spirit of give and take so that this legislation could be moved forward expeditiously. I thank them and commend them.

Mr. CRANSTON. I thank the distinguished majority leader for his help.

Mr. THURMOND. Mr. President, I thank the majority leader also for his kind words.

ACT FOR THE PROTECTION OF FOREIGN OFFICIALS

Mr. HRUSKA. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 15883.

The PRESIDING OFFICER (Mr. GRAVEL) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 15883) to amend title 18, United States Code, to provide for expanded protection of foreign officials, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. HRUSKA. I move that the Senate insist upon its amendments and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. GRAVEL) appointed Mr. MCCLELLAN, Mr. EASTLAND, Mr. BURDICK, Mr. HRUSKA, and Mr. COOK conferees on the part of the Senate.

QUORUM CALL

The PRESIDING OFFICER. What is the will of the Senate?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MODIFICATION OF BOUNDARIES OF CERTAIN NATIONAL FORESTS

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished Senator from New Mexico (Mr. ANDERSON), I ask the Chair to lay before the Senate a message from the House of Representatives on S. 447.

The Presiding Officer laid before the Senate the amendment of the House of Representatives to the bill (S. 447) to modify the boundaries of the Santa Fe, Gila, Cibola, and Carson National Forests in the State of New Mexico, and for other purposes," which was to strike out all after the enacting clause, and insert:

That the exterior boundaries of the Santa Fe, Gila, Cibola, and Carson National Forests, in New Mexico, respectively, are modified to include the following described lands:

SANTA FE NATIONAL FOREST, NEW MEXICO PRINCIPAL MERIDIAN

1. The Canon de San Diego Grant, situated in townships 16, 17, 18, and 19 north, ranges 1, 2, and 3 east, and known in the Office of the United States Surveyor General as Report numbered 36, confirmed by Congress of the United States of America on the 21st day of June 1861, and patented by the United States of America in accordance with said Act of Confirmation of the 21st day of October 1881.

2. Township 18 north, range 1 east.
Section 6, lots 1 through 8 inclusive.
Township 18 north, range 1 west.
Section 1, lots 1 through 4, inclusive, west half northeast quarter, and east half northwest quarter.

3. Township 17 north, range 2 east.
Section 25, lot 1.
Section 36, lots 1, 2, and 4.
Township 17 north, range 3 east.
Section 19, lots 1 and 2 in accordance with G.L.O. plat approved April 28, 1919.
Section 30, lots 1 through 4, inclusive.
Section 31, lots 1 through 3, inclusive and lots 5 to 9, inclusive.
Section 32, lots 1 through 4, inclusive.
Township 16 north, range 3 east.
Sections 5, 6, 7, and 8.

4. Township 15 north, range 12 east.
Section 29, lots 3, 4, and 5, southwest quarter southeast quarter.
Section 33, lots 1, 2, 3, and 4, southwest quarter southwest quarter.

5. Township 15 north, range 12 east.
Section 12, east half southwest quarter, southeast quarter.
Township 15 north, range 13 east.
Section 5, all.
Section 6, all.
Section 7, all.
Section 8, all.
Section 9, west half southwest quarter.
Section 16, west half west half.
Sestion 17, east half east half.
Section 20, east half northeast quarter.
Section 21, west half west half.
Section 28, west half.
Section 32, all.
Section 33, all.

6. A tract or parcel of land situated in the counties of Sandoval and Santa Fe in the State of New Mexico, known as the Caja del Rio Grant, as shown upon the plat of said grant on file in the United States Public Survey Office in Santa Fe, New Mexico, which plat was approved by the United States Surveyor General of New Mexico on November 23, 1894, and approved by the Court of Private Land Claims, through its Deputy Clerk Irene L. Chavez, on April 15, 1895, and representing a survey of said grant as made by Sherrard Coleman, United States Deputy Surveyor, May 8 to 18, 1894, under Contract Numbered 280, dated March 26, 1894, which tract of land is intended to include all that portion of the said grant extending westward to the Rio Grande, but exclusive of the conflict with the Cochiti Pueblo Grant and which was more particularly described in a deed from the General American Life Insurance Company to the United States of America dated November 13, 1935, and recorded in Sandoval County in book 4, DR, pages 503–515, on December 20, 1935.

7. A tract or parcel of land situated in the counties of Sandoval and Santa Fe in the State of New Mexico, known as the La Majada Grant, as shown upon the plat of the grant on file in the United States Public Survey Office in Santa Fe, New Mexico, which plat was approved by the United States Surveyor General of New Mexico on January 23, 1896, and approved by the Court of Private Land Claims, through its Deputy Clerk Irene L. Chavez, on March 25, 1896, and representing a survey of said Grant as made by Albert F. Easley, United States Deputy Surveyor, June 28 through July 7, 1895, under Contract Numbered 292, April 29, 1895, which tract of land is intended to include all of that portion of the said grant exclusive of the conflicts with the Cochiti Pueblo Grant,

the Mesita de Juana Lopez Grant, and the Caja del Rio Grant, and a portion of the said La Majada Grant lying south of the Corps of Engineers' Road Numbered 90, more particularly described as a line beginning at a point on the south boundary of the Cochiti Pueblo Grant which lies south 89 degrees 54 minutes west 18.35 chains from the half mile corner; thence south 44 degrees 15 minutes west 125.65 chains; thence south 51 degrees 50 minutes east 14.59 chains; thence south 43 degrees 50 minutes east 101.91 chains; thence south 49 degrees 35 minutes east 24.35 chains to a point on the south boundary of the La Majada Grant which lies north 73 degrees 48 minutes west 18.18 chains from the 4½ mile corner on the south boundary of the said grant.

8. Township 14 north range 13 east.
Section 35, north half.
9. Township 16 north range 14 east.
Section 5, all.
Section 8, all.
Section 27, lot 5, east half southeast quarter.
Section 34, east half east half.

GILA NATIONAL FOREST, NEW MEXICO PRINCIPAL MERIDIAN

A tract or parcel of land situated in Grant County, New Mexico, in township 17 south, ranges 12 and 13 west, as shown in the office of the United States Surveyor General on Supplemental Plat of Retracements and Resurveys, approved by the Surveyor General on July 7, 1908, excepting that portion of the said military reservation lying south of a line described as follows: Beginning at a point which is the intersection of the north right-of-way line for State Highway 180 with the east boundary of the reservation; thence southwesterly along the highway right-of-way to the south line of section 25; thence westerly along the section line between sections 25 and 36 to a point lying 735 feet west of the quarter corner between said sections; thence north 47 degrees 03 minutes east 585 feet; thence north 18 degrees 18 minutes west 2,380 feet; thence west 4,110.34 feet; thence south 01 degree 43 minutes east 2,661.24 feet to the quarter corner between sections 26 and 35; thence westerly along the section line to the west boundary of the said military reservation.

CARSON NATIONAL FOREST, NEW MEXICO PRINCIPAL MERIDIAN

1. Township 25 north, range 13 east.
Section 28, lots 4 and 12.

CIBOLA NATIONAL FOREST, NEW MEXICO PRINCIPAL MERIDIAN

1. Township 10 north, range 11west.
Sections 1 through 3, inclusive.
Sections 10 through 15, inclusive.
Township 11 north, range 11 west.
Sections 1 through 3, inclusive.
Sections 10 through 15, inclusive.
Sections 22 through 27, inclusive.
Sections 34 through 36, inclusive.
Township 12 north, range 11 west.
Sections 31 through 36, inclusive.

2. A tract of land in township 14 north range 16 west which was originally a portion of the Fort Wingate Military Reservation as established by Executive order of February 18, 1870, more particularly described as: Beginning at a point which is the quarter corner common to section 2 of township 14 north range 16 west and section 35, township 15 north range 16 west; thence southerly along the Cibola National Forest boundary approximately 3 miles to the quarter corner common to sections 14 and 23 in unsurveyed township 14 north range 16 west; thence westerly along the Cibola National Forest boundary approximately 4½ miles to a point on the east boundary of the Fort Wingate Ordnance Depot, designated 361+00 south and 20+00 east Wingate Ordnance Depot coordinating system; thence northerly along the Wingate Ordnance Depot east fence approximately 10,285 feet to a point designated 258 + 15 south and 20 + 00 east Wingate Depot coordinating system; thence in a random northeasterly direction along the Wingate Depot fence system approximately 8,500 feet to a brass cap set in concrete which is the northwest corner of the Navajo Indian School tract; thence due south 6,293.84 feet to a brass cap set in concrete which is the southwest corner of the school tract; thence due east 7,728.15 feet to a 3-inch pipe which is the southeast corner of the school tract; thence due north 6,716.00 feet to a brass cap set in concrete which is the northeast corner of the school tract; thence easterly approximately 1⅜ miles to the point of beginning, containing 6,810 acres, more or less.

SEC. 2. The exterior boundaries of the Carson National Forest in New Mexico are modified to exclude section 16, township 24 north, range 11 east, New Mexico principal meridian.

SEC. 3. Subject to valid existing rights, all lands owned by the United States in the areas described in section 1 of this Act are hereby added to the national forests as listed in that said section, and shall be administered in accordance with the laws, rules, and regulations applicable thereto.

SEC. 4. For the purposes of section 6 of the Act of September 3, 1964 (78 Stat. 903), the boundaries of the Santa Fe, Gila, Cibola, and Carson National Forests, as modified by section 1 of this Act, shall be treated as if they were the boundaries of those forests on January 1, 1965.

Mr. ROBERT C. BYRD. Mr. President, the House amendment to S. 447 corrected some typographical errors and also made two substantive changes. The House struck section 3 of the Senate-passed bill, which proposed a statutory withdrawal of lands within that portion of the Old Fort Bayard Military Reservation to be added to the Gila National Forest. These lands, if so withdrawn, would not be subject to any of the public land laws, including the mining laws, unless authorized by the Secretaries of Agriculture and Interior. These lands were originally withdrawn in 1869 when the reservation was established and have remained withdrawn since that time. The elimination of section 3 will not in any way change the status of the present withdrawal.

The House also amended S. 447 to assure that valid existing rights, if any will be preserved and inserted new language to assure that funds appropriated pursuant to the Act of September 3, 1964, the Land and Water Conservation Fund Act, can be used for the acquisition of land and waters within the national forests boundaries as enlarged by S. 447, if they are primarily valuable for outdoor recreation.

Mr. President, I am advised by the Senator from New Mexico (Mr. ANDERSON) that these amendments are acceptable to him. He is the distinguished sponsor of the bill. Therefore, I move that the Senate concur in the amendment of the House to S. 447.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

TRANSACTION OF ROUTINE MORNING BUSINESS

Routine morning business transacted during the day is printed here, as follows:

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Armed Services, without amendment:

H.R. 14542. An act to amend the Act of September 26, 1966, Public Law 89-606, to extend for four years the period during which the authorized numbers for the grades of major, lieutenant colonel, and colonel in the Air Force may be increased, and for other purposes (Rept. No. 92-1227).

By Mr. THURMOND, from the Committee on Armed Services, without amendment:

S. 3310. A bill to amend title 10, United States Code, to establish the authorized strength of the Naval Reserve in officers in the Judge Advocate General's Corps in the grade of rear admiral, and for other purposes (Rept. No. 92-1228).

STATE AND LOCAL FISCAL ASSISTANCE ACT OF 1972—REPORT OF A COMMITTEE (S. REPT. NO. 92-1229)

Mr. LONG, from the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14370) to provide payments to localities for high-priority expenditures, to encourage the States to supplement their revenue sources, and to authorize Federal collection of State individual income taxes, submitted a report thereon, which was ordered to be printed.

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

H.R. 1. An act to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State Public Assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes (Rept. No. 92-1230) (together with individual views).

Mr. LONG. Mr. President, on behalf of the Committee on Finance I send to the desk the report on H.R. 1.

Mr. President, during Senate consideration of H.R. 1, including votes, I ask unanimous consent that the following Finance Committee staff members be permitted on the floor, Michael Stern, Jay Constantine, Jim Mongan, William Galvin; and the following persons from the Congressional Reference Service, Fred Arner, Joseph Humphreys, Frank Crowley, and Robert Guttman.

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

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. INOUYE:

S. 4026. A bill for the relief of Christopher Pin-Wah Lo. Referred to the Committee on the Judiciary.

By Mr. TUNNEY (for himself and Mr. CRANSTON):

S. 4027. A bill to establish the Tijuana National Wildlife Refuge. Referred to the Committee on Commerce.

By Mr. McCLELLAN (by request):

S. 4028. A bill to amend title 35 of the United States Code to provide a remedy for postal interruptions in patent and trademark cases. Referred to the Committee on the Judiciary.

By Mr. THURMOND:

S. 4029. A bill to amend section 4 of the Internal Security Act of 1950. Referred to the Committee on Armed Services.

By Mr. TOWER:

S. 4030. A bill to amend the Social Security Act to prohibit the payment of aid or assistance under approved State public assistance plans to aliens who are illegally within the United States; and

S. 4031. A bill to amend the Internal Revenue Code of 1954 to encourage higher education, and particularly the private funding thereof, by authorizing a deduction from gross income of reasonable amounts contributed to a qualified higher education fund established by the taxpayer for the purpose of funding the higher education of his dependents. Referred to the Committee on Finance.

S. 4032. A bill to amend the Outer Continental Shelf Lands Act by providing authority for the issuance of permits to construct, operate, and maintain port and terminal facilities. Referred to the Committee on Interior and Insular Affairs.

By Mr. BENTSEN:

S. 4033. A bill for the relief of Jorge Ortuzar-Varas and Maria Pabla de Ortuzar. Referred to the Committee on the Judiciary.

By Mr. EASTLAND:

S. 4034. A bill for the relief of Jose Luis Montero. Referred to the Committee on the Judiciary.

By Mr. MONDALE:

S. 4035. A bill to amend the Public Health Service Act to provide assistance for kidney transplantation, hemodialysis and related facilities and services needed for comprehensive treatment of patients suffering from chronic renal disease. Referred to the Committee on Labor and Public Welfare.

By Mr. MAGNUSON (by request):

S. 4036. A bill to amend the Act to authorize appropriations for the fiscal year 1973 for certain maritime programs of the Department of Commerce. Referred to the Committee on Commerce.

By Mr. MAGNUSON:

S. 4037. A bill to amend the Sockeye Salmon Fisheries Act of 1947 to authorize the restoration and extension of the sockeye and pink salmon stocks of the Fraser River system, and for other purposes. Referred to the Committee on Commerce.

By Mr. FONG:

Senate Joint Resolution 270. A joint resolution to establish a National Commission on Social Security. Referred to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TUNNEY (for himself and Mr. CRANSTON):

S. 4027. A bill to establish the Tijuana National Wildlife Refuge. Referred to the Committee on Commerce.

NATIONAL WILDLIFE REFUGE IN SAN DIEGO, CALIF.

Mr. TUNNEY. Mr. President, I am pleased to introduce legislation which will establish a national wildlife refuge in the Tijuana estuary, a natural salt water marsh south of San Diego, Calif., in the southwesternmost corner of the continental United States.

Mr. President, this estuary is one of the finest salt water marshes remaining along the California coastline. Due to its size and its natural, open mouth to the Pacific Ocean, the Tijuana estuary is a valuable habitat for a large variety of birds, fish, invertebrates and other wildlife, as well as a valuable natural attraction and scientific and educational asset to the San Diego community. The estuary is made increasingly more valuable by the fact that it is one of very few such natural habitats which are in a natural state, relatively untouched by the effects of man and his technology.

Large salt marshes such as the Tijuana estuary historically existed in all major bays, but few have not been destroyed or severely damaged by harbor construction and pollution. In San Diego Bay alone, 80 to 85 percent of the bay's tidelands have been bulkheaded or filled for industrial and commercial purposes. This situation is typical of southern California as a whole: While California's coastal wetlands and estuarine acreage is about 422,000 acres—less than half of 1 percent of the State's land area—only about 31,700 acres of this is in southern California. This figure is less than 25 percent of that which existed in 1900, and a large portion of that has been highly modified, resulting in greatly decreased fish and wildlife values.

Such drastic alteration of estuarine environments ignores the fact that they rank with forests and rivers as vital natural resources, and outrank both in productivity and versatility: Estuaries are among the most naturally fertile and shared-use areas of the world. However, due to man's disinterest and misinformation, coastal wetlands have been largely ignored as a resource in need of protection, while development of all sorts continues, carving up and destroying the habitat.

While there is a vital need to preserve these natural habitats all along the coast, the Tijuana estuary is particularly deserving of governmental protection. As Sanford Wilbur, a wildlife biologist, stated in a Bureau of Sport Fisheries and Wildlife memorandum:

> I doubt there is a better place on the West Coast to use Land and Water Conservation Fund monies for habitat really essential to wildlife.

"The area, abundant in plant life indigenous to a free-flowing salt water marsh, provides an excellent feeding ground and gathering place for all types of wildlife. The Tijuana River estuary and adjacent uplands are occupied seasonally or continually by at least 173 species of water fowl and other birds; 26 species of fish, and 42 species of large invertebrates such as clams, snails, crabs and shrimp are known to live in the estuary, feeding on or dwelling within habitats created by 31 species of marsh plants. All this is made possible by the high quality of the marsh, a result of the rapid tidal flushing and relative absence of pollution. In addition, four species of birds known to inhabit the estuary and adjacent beach and uplands are on the official U.S. Fish and Wildlife list of endangered species: the California clapper rail, the brown pelican, the California least tern, and the American peregrine falcon. Four more species are listed as rare or endangered. The estuary is considered one of the most important light-footed rail areas remaining.

Our duty to preserve this natural habitat is one we owe not only to the wildlife themselves, although that is a major responsibility in itself. The migratory shorebirds and water fowl, part of the Pacific flyway, are protected by international treaties, obligating us as a Nation to adequately protect these species. And this protection cannot be accomplished without preservation of the habitat on which they depend.

We also have a responsibility to the quality of human life when considering the role played by such natural environments. The tidal ebb and flow through the marsh carries algae and eel grass plant communities and plankton, which, as basic energy for a wide variety of fish and bird life, form the bottom of our food chain. The fish which swim into the estuary to feed are a link in the chain supporting the fish industry on which many depend for food and a livelihood. Even more important, perhaps, is the need we as humans have of such areas for more esthetic reasons. The Tijuana estuary is now used for a number of scientific and educational purposes, as an open air laboratory for scientists and school children alike. It also serves as an escape for those who seek out a place for walking, for sitting in solitude, or merely observing the natural world in a pleasurable surrounding, away from, although close to, the complex world they are a part of.

Our need of areas such as the Tijuana estuary certainly is not going to diminish as time passes. The San Diego South Bay area, like all urban areas, is becoming increasingly more urbanized and complex, with open space diminishing and natural environments disappearing under the high priority of land for industrial and residential development. Such a transformation of our environment is, we must recognize, irreversible, and this is particularly true of our coastal wetlands. It does not take much in the way of human interference to substantially alter—forever—the fragile ecosystem of an estuary. All along the coast, draining, diking, filling and dredging of the coastline is continuing, as development is given top priority. It is time to reverse this trend, by protecting our resources from such thoughtless destruction.

The need for official protection of the Tijuana estuary has been recognized by all levels of government. In Bureau of Sport Fisheries and Wildlife plans for a national coastal estuarine refuge complex, the Tijuana estuary is strongly recommended as an important element. The State of California Department of Fish and Game and the Department of Parks and Recreation are also strongly supportive of preservation of the natural habitat, and city of San Diego planners recently recommended protection of the estuary in the city plan. A Bureau of Sport Fisheries and Wildlife official stated it well:

> Time is running out for key estuarine habitats . . . and they need protection now.

We can take a step in this direction by taking rapid action on this legislation. The Tijuana estuary is a valuable resource, and it must be protected before irreversible damage is done.

Mr. President, I ask unanimous consent that the text of my bill may 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. 4027

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to preserve the Tijuana Estuary in its natural state, recognizing its value as a natural wildlife habitat and as an educational and scientific asset to the community, the Secretary of the Interior is authorized and directed to establish the Tijuana National Wildlife Refuge (hereinafter referred to in this Act as the "refuge") as part of the national wildlife refuge system.

SEC. 2. (a) (1) The refuge shall consist of such lands and waters, as determined by the Secretary of the Interior, within the following described area:

T19S R2W, SB BM; W ½ of the NE ¼ of the NW ¼ of Sec. 5, NW ¼ of the NW ¼ of Sec. 5, W ½ of the NE ¼ of Sec. 6, that portion of the NE ¼ of the NW ¼ lying east of the mean high tide line of the Pacific Ocean; T18S R2W, SB BM: the W ½ of the SE ¼ of the SW ¼ of Sec. 32, SW ¼ of the SW ¼ of Sec. 32, SE ¼ of the SE ¼ of Sec. 31, SW ¼ of the SE ¼ of Sec. 31, NW ¼ of the SE ¼ of Sec. 31, W1.2 of the NE ¼ of Sec. 31, all that portion of the SE ¼ of Sec. 30, and the SE ¼ of the SW ¼ of Sec. 30.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, any such lands under the jurisdiction or control of the Secretary of the Navy and which are within the United States Naval Air Station, Imperial Beach, California, shall be included as a part of the refuge only with the advice and consent of the Secretary of the Navy.

(b) Upon determination of the boundaries of the refuge by the Secretary of the Interior and the Secretary of the Navy, the Secretary of the Interior shall immediately establish the area agreed upon as the refuge by publication of a description of such area in the Federal Register.

SEC. 3. The Secretary of the Interior shall determine recreational and educational use compatible with the natural state of the estuary, and shall administer the area to conform with such uses.

SEC. 4. The Secretary of the Interior shall administer the refuge in accordance with the provisions of the Act entitled "An Act to provide for the conservation, protection, and propagation of native species of fish and wildlife, including migratory birds, that are threatened with extinction; to consolidate the authorities relating to the administration by the Secretary of the Interior of the national wildlife refuge system; and for other purposes", that approved October 15, 1966 (16 U.S.C. 668dd et seq.), to the extent that such Act is not inconsistent with the operation of the United States Naval Air Station, Imperial Beach, California. In addition, the Secretary shall, in cooperation with agencies of the State of California, insure compatible usage of estuary lands which fall within Border State Park and the National Wildlife Refuge.

SEC. 5. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. MCCLELLAN (by request):

S. 4028. A bill to amend title 35 of the United States Code to provide a remedy for postal interruptions in patent and trademark cases. Referred to the Committee on the Judiciary.

Mr. MCCLELLAN. Mr. President, as chairman of the Subcommittee on Patents, Trademarks, and Copyrights, I introduce, by request of the Department of Commerce, for appropriate reference, a bill to amend title 35 of the United States Code to grant relief from delays or stoppages in the postal service in patent and trademark cases.

The patent and trademark laws of the United States contain certain time periods, during which specified actions must be taken by patent and trademark applicants and owners or by their attorneys or agents. Failure to take a required action within the statutory time period generally results in a forfeiture of some or all of the patent or trademark rights involved. There has occurred in the past, and may well occur in the future, disruptions of postal service because of labor disputes or exceptional circumstances, such as floods, riots, and so forth. The purpose of this legislation is to permit the Commissioner of Patents to provide relief from injury sustained by patent and trademark applicants when there is an interruption in regular postal service. Favorable action on this bill would relieve the Congress and the executive branch of the time consuming process of considering the merits of individual private bills for relief in the event of an interruption of postal service.

By Mr. THURMOND:

S. 4029. A bill to amend section 4 of the Internal Security Act of 1950. Referred to the Committee on Finance.

Mr. THURMOND. Mr. President, for many years I have favored the strengthening of our internal security system. The bill I am introducing would close one loophole in our present law which the trips of Jane Fonda and Ramsey Clark have dramatically exemplified. This problem is the travel of certain U.S. citizens without official authorization to a country whose military forces are engaged in armed conflict with the military forces of the United States.

Through misguided idealism, certain citizens have become tools for Communist propaganda. It is one thing to have misgivings about war, but quite another to willfully cooperate with an enemy by naively accepting his every assertion as truth and by broadcasting his propaganda to our troops and citizens. These broadcasts were clearly aimed at the creation of doubt and unrest in the minds of our soldiers at the very time when they were fighting for their lives. We must not allow such action to continue.

Mr. President, the trip of Jane Fonda to Hanoi is an example of the damage that such unrestricted travel can have on our war effort. In playing into North Vietnam's hands, Jane Fonda jeopardized the welfare of the very men whom she professed to be helping.

The other recent example of harm resulting from unrestricted travel is the trip of Ramsey Clark. Even Ramsey Clark after his return admitted that he saw only what Hanoi wanted him to see, but this did not prevent him from making tapes which were broadcast over Radio Hanoi.

We cannot allow our Nation's security to be threatened by trips of this nature. I am sure most Americans agree that such actions are damaging and harmful not only to our Nation as a whole but also to our men who are serving their country in wartime. I urge my colleagues to support this bill and stop unrestricted travel to enemy countries.

Mr. President, I ask unanimous consent that an article on August 2, 1972, in the New York Daily News; an article from the Guardian, a radical news weekly, on August 9, 1972; an article from the Militant, the official paper of the Socialist Workers Party, on September 8, 1972; two articles from the Washington Evening Star on August 19, 1972, and August 15, 1972; three articles from the Washington Post on August 12, 1972, August 26, 1972, and September 8, 1972; an article from the New York Times on August 24, 1972; and an article from the New York Daily News on August 24, 1972; be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks. I also request that this bill be appropriately referred and ask unanimous consent that it be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

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

S. 4029

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 4 of the Internal Security Act of 1950 (50 U.S.C. 783) is amended by adding immediately following subsection (c) of such section the following new subsection:

"(d) The President may restrict travel by citizens and nationals of the United States to, in, or through any country or area whose military forces are engaged in armed conflict with the military forces of the United States. Such restriction shall be announced by public noticed which shall be published in the Federal Register. Travel to such restricted country or area by any person may be authorized by the President when he deems such travel to be in the national interest. It shall be unlawful for any citizen or national of the United States willfully and without such authorization to travel to, in, or through any country or area in violation of a restriction on such travel pursuant to this subsection.

(b) Section 4 of such Act is further amended by redesignating existing subsections (d) through (f), as (e) through (g).

[From the New York Daily News, Aug. 2, 1972]

BEING USED, JANE WARNS SOUTH VIET GUYS

SAIGON, Aug. 1.—Actress Jane Fonda told South Vietnamese troops today that they were being used "as cannon fodder for U.S. Imperialism" and hailed government soldiers who have defected to the Communist side in the war.

In a message recorded during her recent two-week visit to Hanoi and addressed specifically to South Vietnamese forces, the antiwar actress termed the U.S. war role in Vietnam as "racist aggression" and a "white man's war." She said American bombings—wantonly, accidentally, perhaps—of South Vietnamese troops reflected "a lack of concern . . . for your lives by the White American officers, both in Vietnam and in the Pentagon and in the White House."

Miss Fonda, who at a press conference

Friday in New York labeled absurd an allegation that she urged U.S. pilots in Vietnam to defect, glorified South Vietnamese troops who defected to the Communists in the latest Hanoi broadcast. "We read with interest about the growing number of you who are understanding the truth and joining with your fellow countrymen to fight for freedom and independence and democracy. We note with interest, for example, that as in the case of the 56th Regiment of the Third Division of the Saigon army, army of the Republic of Vietnam soldiers are taken into the ranks of the National Liberation Front (Viet Cong), including officers who may retain their rank."

REFERENCE TO IMPERIALISM

Miss Fonda also said in her taped message: "We know what U.S. imperialism has done to our country in the United States . . . and so we know what lies in store for any third world country that could have the misfortune of falling into the hands of a country such as the United States and becoming a colony."

The actress' earlier broadcasts from Hanoi urging U.S. servicemen not to take part in the war spurred critics in America to urge a boycott of her movies as a protest. One congressman, Rep. John G. Schmitz (R.-Calif.) called for her prosecution on grounds that she violated federal laws which prohibit encouraging "insubordination, disloyalty, mutiny or refusal of duty by U.S. servicemen.

[From the Militant, Sept. 8, 1972]

JANE FONDA UNDER ATTACK FOR TELLING TRUTH

(By Lee Smith)

AUG. 24—Since she returned from North Vietnam in late July, Jane Fonda has been spreading the word on the U.S. bombing destruction she witnessed there. The anti-war actress has described the damage done to North Vietnams dike system by deliberate U.S. air attacks in news conferences, speeches, and interviews.

While the Academy Award winner has been telling people about the criminal U.S. bombings, some politicians and prowar veterans groups have been denouncing her for treason. Much to the dismay of such flag-wavers as Representative Fletcher Thompson (R-Ga.), however, no official moves against Fonda seem likely.

Attacking Fonda for antiwar radio broadcasts she taped in Hanoi, Thompson compared her to Tokyo Rose. Calling the actress "Hanoi Hannah" the Georgia congressman publicly asked that she be subpoenaed to testify before the witch-hunting committee on which he serves, the House Internal Security Committee. The rest of the committee voted down Thompson's request. Another committee member charged that Thompson just wanted to use an investigation to get some publicity in his campaign for the U.S. Senate.

What the committee did do was request an investigation of Fonda's trip and radio broadcasts by the Justice Department. The same request was made Aug. 23 by the national convention of the Veterans of Foreign Wars in a resolution that called Fonda and former U.S. Attorney General Ramsey Clark "traitorous meddlers." A similar motion was introduced the same day at the convention of the American Veterans of World War II, Korea, and Vietnam.

Clark, who visited North Vietnam directly after Fonda, also made radio broadcasts from Hanoi and has also insisted since his return that the U.S. is systematically bombing the dikes there. A member of the Danish parliament, Frode Jacobsen, visited North Vietnam along with Clark. Jacobsen has appeared on TV in Denmark since his return, testifying to the destruction of the dikes and saying, "The American government is simply lying."

The calls for a Justice Department investigation of Fonda are a means for the prowar minority to vent its spleen. Such an investigation was already underway before the earliest public requests were issued. But Stan Carter reported in the Aug. 4 New York *Daily News* that "the administration officials, acknowledging the unpopularity of the war, doubt the advisability of prosecution, for political reasons; they fear it would merely turn the Academy Award-winning actress into a martyr."

In part of an interview with the Asia Information Group, printed in the Aug. 12 *People's World,* Fonda described how bombing around dikes where there are no military installations has caused fissures weakening the dikes, bringing about the danger of disastrous floods.

One indication that the bombing is systematic, Fonda is quoted as saying in this interview, "is the fact that the first—coastal—dikes were bombed during the typhoon season. The salt water rushing into the rice paddies will destroy the soil for a long time if not forever.

"The next wave of bombings hit the inland dikes, during the monsoon season.

"Another indication of the aim of flooding the Red River Delta is shown by the bombing of dams, hydraulic systems, sluices, and pumping stations and repair crews."

Fonda told of interviewing a woman from Thanh Hoa province on the Ma River who related what happened in an air raid carried out while a repair crew was working on a dike that had been bombed three times. "Planes dropped steel pellet bombs on them," Fonda said, "killing many."

Asked what she thought of Fonda's charges about the bombing, Pat Nixon told reporters at a White House news conference Aug. 8: "I think she should have been in Hanoi asking them to stop their aggression. . . . Then there wouldn't be any conflict."

Judging that the public will not prove receptive to charges that Fonda is a traitor, some supporters of the administration have attempted instead to use sexism to discredit her charges. For example, in the *Daily News* article already quoted, Stan Carter wrote: "Miss Fonda does not give the impression of being a conscious agent of the other side. She appeared terribly sincere—but totally taken in, like a romantic schoolgirl. . . ."

But many people are more inclined to trust Jane Fonda than Stan Carter or Pat Nixon. And some of them may be among the GIs who heard her tell them from Hanoi: "You know that when Nixon says the war is winding down that he's lying. . . . If they told you the truth, you wouldn't fight, you wouldn't kill . . . you have been told lies so that it would be possible for you to kill."

[From the Guardian, Aug. 9, 1972]

JANE FONDA SCORES BOMBING OF DIKES

(By John Cook)

U.S. bombing of the dikes and civilian centers of the Democratic Republic of Vietnam is "deliberate and systematic," declared anti-war activist Jane Fonda, the actress.

Fonda, who recently returned from a two-week visit to the DRV, told a crowded press conference in New York City late last month that "the U.S. is conducting genocide in Vietnam."

Fonda's eyewitness account of the damage caused by U.S. bombs was backed up by a 25-minute film produced during her stay in North Vietnam. The film showed dikes, housing complexes, markets, hospitals and cultural centers that had been heavily damaged by the bombings. The Nghia Minh dike alone was hit by 50 bombs which sent fissures deep into the base of the dike, leaving huge craters.

"A dike doesn't have to be hit directly for it to give way when the floods come," she explained. "More damage is done by hitting it on the side, which weaken the foundation and gives Nixon a chance to say 'we don't hit dikes.' "

Regardless of the devastation and loss of life, Fonda said the North Vietnamese were resolute in their determination to win. "Work goes on," she said. "Hanoi is crowded and busy despite the evacuation. You don't feel like you're in a country that's at war. People are exuberant and optimistic, because the land is theirs now."

After visiting bombed-out Bach Mai hospital in Hanoi, Fonda broadcast a message to U.S. servicemen over Radio Hanoi. She asked them—especially the jet pilots—to reconsider what they were doing to the people and the land in Vietnam.

She said in the broadcast: "Their land (Vietnam) is being destroyed. Why? Certainly not for anything that is in your interests, the soldiers of the United States, or in the interests of the people in the United States except the very few people who are determined to prevent the nation of Vietnam from achieving freedom and independence."

For this broadcast, Rep Fletcher Thompson (R-Ga.) made a speech asking the Justice Department to charge the actress with treason. Defending her broadcast, she said she "knew of no other way to communicate with the pilots and to let them know what kind of destruction they were causing. This country has been turned around from its true revolutionary heritage by murderers, not patriots." Fonda brought back 241 letters from POWs and talked to several of them during her visit.

"They all told me to call members of their families and tell them to get involved in the peace movement," she said.

[From the Washington Star, Aug. 19, 1972]

ATTILA, CALIGULA AND THE RAMSEY CLARK CAPER

(By Smith Hempstone)

How you feel about Ramsey Clark depends largely, but not entirely, upon your attitude toward events in Southeast Asia over the past decade. Truth is, as the say, in the eye of the beholder.

Now if you believe, with George McGovern that President Nixon's conduct of the war in Vietnam is comparable to Hitler's extermination of the Jews, then it is likely that you will agree, again with McGovern, that whatever Clark may have said in Hanoi about the American bombing of North Vietnam and the condition of our prisoners there "pales into insignificance." Indeed, you may find President Johnson's former attorney general culpable in not having compared Nixon unfavorably to Attila the Hun, Caligula and other authors of liberty.

In contrast, if in your considered opinion nothing less than a complete victory over Godless communism will suffice, if you feel there is a worldwide conspiracy against America centered in the Council on Foreign Relations and Nixon is in reality a cryptomarxist, then you will undoubtedly favor nailing Clark's hide, rather than the proverbial coonskin, to the wall. Your tendency will be to view the man whom J. Edgar Hoover once described as "a jellyfish" as a sort of Jane Fonda in drag.

But if you find it possible to believe that those who got us into the Vietnam War did so for reasons they thought honorable, that Nixon is doing his best to extricate us from the conflict and that the war, in the perspective of history, may be judged rather differently from the way it is judged now by us, then it is just possible that you may be able to find another explanation for Clark's conduct.

By way of background, it should be noted that Clark, since Nixon's election and the Texan's departure from the Justice Department, has been increasingly identified with the Berrigan brothers and elements of the Democratic party's lunatic left. That his recent two-week visit to North Vietnam was

made under the auspices of the Stockholm-based "International Commission of Inquiry into United States War-crimes in Indochina" hardly adds to Clark's credentials as an unbiased observer: The group's name somehow suggests that its members' minds are made up.

It can be suggested, of course, that Clark's visit had little to do with the commission's work, that he was in Hanoi as the special representative of McGovern, who on previous occasions has expressed a high opinion of the Texan. But that is up to McGovern to affirm or deny.

All we know is that Clark has a record of anti-war activism and that he went to Hanoi under the auspices of a group which has been quick to detect a mote in Uncle Sam's eye while being unable to discern anything approaching a beam in Hanoi's.

While in North Vietnam, Clark made several comments to newsmen. He apparently waxed lyrical about Hanoi's treatment of American POWs and criticized the U.S. bombing of the North. There have been suggestions that Clark's taped statements, which were broadcast over Radio Hanoi, may have been edited—indeed changed—to give them a thrust and a slant which he had not intended. This may have been the case. But it should be said that nothing Clark is alleged to have said in North Vietnam is inconsistent with what he has said on many occasions in this country.

There have been dark mutterings in Congress to the effect that Clark, like Miss Fonda, the go-go girl of the anti-war freaks, should be charged with treason. There is, needless to say, nothing either would enjoy more and for that reason, if for no other, such thoughts should be put aside. Miss Fonda, having burned her bra and Clark his mainstream political bridges, neither requires assistance in making a spectacle of himself.

The curious thing about Clark is that he accepted the attorney-generalship in the spring of 1967, at which time that old peacenik, LBJ, was well on his way to a massive buildup of American troops in South Vietnam while merrily bombing the bejeezus out of North Vietnam. Clark was not priced out of the Justice Department until after Nixon won the 1968 election. In the interim, Clark had little to say about the immorality of the war. All of which might well lead the average person to the conclusion that Clark is either a hypocritical opportunist or a fool. And that is probably a kinder and more accurate judgment than comparing him to Lord Haw-Haw, Tokyo Rose or Benedict Arnold.

What is a matter for concern is that McGovern, who has yet to say that he is behind Clark 1,000 percent, obviously sees the Texan as a man fit to hold high office. After a while one really does begin to wonder if Miss Fonda also may not figure in the South Dakotan's cabinet plans. Perhaps as Secretary of Defense.

[From the Washington Evening Star, Aug. 15, 1972]

MESSENGER FROM HANOI

Ever since the war in Vietnam escalated beyond the adviser stage. Americans have been subjected to free advice from a veritable parade of sincere, albeit apparently misguided, anti-warriors travelling the road to Hanoi, who invariably "discover" evidence that the United States is the real villain in the dirty and seemingly endless Indochinese fighting.

To name a few recent visitors to the North Vietnamese capital: There was Dr. Eugene Carson Blake of the World Council of Churches, followed by actress Jane Fonda, and, most recent of all, a former attorney general of the United States, Ramsey Clark.

Clark, returning to our shores after a 600-mile guided tour of North Vietnam, claims to bring the real word from Hanoi on U.S. bombing, plus the message that our prisoners will be released when "we end this murderous bombing and the war" and "get back to the business of building the peace and giving happiness to little children around the world."

But, not content with bringing his observations back with him to use in attempting to discredit the Nixon administration's conduct of Southeast Asian policy, Clark took advantage of being on the spot to involve himself in a recorded interview, promptly aired to the world by Radio Hanoi, recounting and editorializing on what he had seen, heard and been told.

In the light of his remark at a subsequent news conference in Bangkok, in which he averred that he was an American citizen and would "make my report on "American soil," one wonders just where he thought he was when he participated in Hanoi's recorded interview.

While we stop short of subscribing to the notion that his performance verged on the treasonable, we are forced to conclude: (1) That his performance was incredibly naive and (2) that a former cabinet member surely should be aware that, with Henry Kissinger commuting between here and Paris to receive any meaningful messages Hanoi has a mind to send us, the last thing the United States needs at this point is one more volunteer "messenger" to bring us to the "word" on what Hanoi is prepared to do.

A little more than five years ago newly appointed Attorney General Clark was questioned on the marked increase in crime, which, according to then recent statistics for the District of Columbia, had just registered a 59.7-percent increase over the previous year. "The level of crime has risen a little bit," he said, "but there is no wave of crime in this country." And he went on to state that "we do ourselves a great disservice with statistics."

Ramsey Clark would do well to take some of his own advice concerning statistics—Hanoi's especially. His report from Hanoi has been summed up by Representative Samuel Stratton, a New York Democrat, as "one of the most disgraceful things that have come out of the Vietnam war . . . Jane Fonda is one thing. But a former cabinet officer playing the enemy's game over Hanoi Radio . . ."

That may seem a bit harsh. But only a bit.

[From the Washington Post, Aug. 12, 1972]

RAMSEY CLARK AIRINGS CALLED "CONTEMPTIBLE"

(By Tim O'Brien)

Secretary of State William P. Rogers yesterday criticized former Attorney General Ramsey Clark for an attack against U.S. bombing policy broadcast over Radio Hanoi.

Rogers said he was "shocked" by Clark's statements, calling his action "contemptible."

"I was surprised that he went to (North) Vietnam," Rogers said. "But to hear the voice of a former member of President Johnson's Cabinet—a former Attorney General of the United States, a man who was involved in sending more than half a million Americans to Vietnam—to hear him on Radio Hanoi was, to me, contemptible.

"It's beyond belief, frankly," Rogers said.

Clark was appointed Attorney General in the spring of 1967, after President Johnson's decision to begin troop buildups in Vietnam.

Since leaving his Cabinet post, Clark has been a frequent critic of U.S. war policies.

Clark is touring North Vietnam as a member of an international committee of inquiry into U.S. "war crimes" in Indochina.

Radio Hanoi broadcasts have quoted Clark as saying that U.S. bomb strikes against the country's dike system should be halted immediately. The United States denies that the dikes have been intentionally bombed, while admitting that some may have been hit accidentally.

The North Vietnamese broadcast also quoted Clark as having begged villagers of a bombed area "to forgive the criminal actions of the American people."

(Meanwhile, United Press International reported that Clark was quoted by the Vietnam News Agency, a Hanoi organization, in a broadcast heard in Tokyo, as saying in a press conference in Hanoi yesterday that there has been "massive, inhuman" American bombing of North Vietnam.

(Clark, according to the communist agency's report, said two things were clear: "That there has been massive, inhuman bombing on cities, villages, churches, schools, hospitals, dikes, sluices, canals and the wide water system that supports the culture and the life of the country. Whatever the cause and the purpose of that bombing there can be no possible justification in the eyes of common morality.

("Secondly," he was quoted as saying, "the people of this country believe their cause is just. Every person I have seen has shown by his acts and his word his total commitment.")

Rogers said there are "two types of Americans" that go to North Vietnam. "One is the Jane Fonda type, and I think people understand the Jane Fonda types.

"Ramsey Clark is different. I listened to him—I think it was him—yesterday on a broadcast that was repeated here and that was alleged to be a broadcast he made from Hanoi on Radio Hanoi.

"I am frank to say that I was shocked," Rogers said.

"Imagine going to a nation that we are at war with, taking their version of everything that is said, and then going on their radio and broadcasting back to the U.S. and around the world, at a time when American men are flying over there and losing their lives."

He said "the American people would be shocked to hear his voice on Radio Hanoi while the war is in progress, while American lives are being lost, particularly a man who was involved in the very decisions that made the whole thing come about."

Meanwhile, Rep. Fletcher Thompson (R-Ga.) asked the Justice Department to inquire into Clark's activities in North Vietnam.

Thompson accused Clark of lending his support to enemy propaganda attacks on the United States. He said he wrote Attorney General Richard Kleindienst, asking him to initiate an inquiry into whether Clark's activities constitute violations of U.S. sedition or treason laws.

"It is too bad that a former Attorney General of the United States would lend himself to support propaganda activities of the enemy and not condemn the thousands of murders and atrocities they have committed," Thompson said.

The House Internal Security Committee voted Thusday to reject Thompson's motion that it subpoena actress Jane Fonda for questioning.

Thompson had earlier asked the Justice Department to make a similar investigation of Miss Fonda's Radio Hanoi broadcasts, reportedly beamed at U.S. troops in Vietnam.

ON THE MIDEAST

On another press conference subject, Secretary Rogers reiterated his call for "active negotiations between Egypt and Israel," saying this is the only area in the world where there are longstanding hostilities where talks have not been undertaken.

Rogers supported the Israeli position that talks will eventually have to be face-to-face "because it makes sense." But he also said U.S. policy on the Mideast, as he stated it on Dec. 9, 1969, remains unchanged.

This policy would allow for only insubstantial alterations of frontiers, had been de-

nounced by the Israelis, and has not been discussed lately by administration officials.

Rogers refused to comment on the ouster of Soviet military men from Egypt, calling it an "internal decision."

In other comments, Rogers:

Said it is possible that North Vietnam might launch a pre-election offensive in South Vietnam. "The Secretary of Defense and the members of the military establishment feel that there is a real prospect that this might occur." But he predicted that South Vietnam could handle "any such activity on the part of the enemy."

Struck out at Democratic presidential nominee George McGovern, saying that "once a political opponent says to the enemy 'we'll give you everything you want if I'm elected,' does impair the prospects for successful negotiations."

Praised the House of Representatives for defeating a provision of the foreign military aid bill that would have fixed a date for total U.S. military withdrawal from Indochina. He said that, "If the House of Representatives had voted the other way, our prospects for a negotiated settlement would have been damaged."

Rogers also said he has no plans to leave his post after the fall election, and said he will speak out on foreign policy matters, which he thinks will be important as the campaign progresses.

[From the Washington Post, Aug. 26, 1972]

UNITED STATES WON'T PROSECUTE JANE FONDA

(By Sanford J. Ungar)

The Justice Department has no intention of prosecuting actress Jane Fonda for her broadcasts to American servicemen over Radio Hanoi, sources in the department and on Capitol Hill said yesterday.

Although the department's Internal Security Division is conducting an "inquiry" at the request of the House Internal Security Committee, the sources said, there is no plan for a federal grand jury investigation of the antiwar activist.

The State Department initially reacted angrily to reports of Miss Fonda's broadcasts during a visit to Hanoi in July.

Justice Department lawyers have apparently concluded, however, that she did not violate any statutes—including the law intended to punish anyone who "advises, counsels, urges, or in any manner causes or attempts to cause insubordination, disloyalty, mutiny, or refusal of duty by any member of the military or naval forces of the United States."

That is expected to be the Justice Department's advice in its report to the House committee.

The House panel, formerly known as the House Un-American Activities Committee, revived the Fonda controversy yesterday with a statement announcing it had received formal notice of the Justice Department inquiry from A. William Olson, assistant attorney general for the Internal Security Division.

Committee Chairman Richard H. Ichord (D-Mo.) used the occasion to release selected quotations from transcripts of Miss Fonda's broadcasts to GIs, provided by the Foreign Broadcast Information Service of the Central Intelligence Agency.

Among the statements attributed to her:

"Tonight when you are alone, ask yourselves: What are you doing? Accept no ready answers fed to you by rote from basic training . . . I know that if you saw and if you knew the Vietnamese under peaceful conditions, you would hate the men who are sending you on bombing missions."

"Have you any idea what your bombs are doing when you pull the levers and push the buttons?"

"Should you allow these same people and same liars to define for you who your enemy is?"

Ichord said his own committee staff "is carrying out a similar but separate analysis of her broadcasts and other activities during the trip" to Hanoi.

But committee sources said that even this investigation is likely to be dropped without ever subpoenaing Miss Fonda to testify, as originally urged by Republican Reps. Fletcher Thompson of Georgia and John G. Schmitz of California, presidential candidate of the American Independent Party.

The committee voted 8–1 on August 10 to put off the subpoena question until it had received the Justice Department report.

Ichord is opposed to calling Miss Fonda before the committee, the sources said yesterday, because he fears it would provide a forum for her strong views against American involvement in Southeast Asia.

Both congressional and Justice Department sources said that if anything comes of the Fonda broadcasts, it could be a push for new legislation to deal with such situations.

They rejected the earlier suggestions of those angered by the Fonda broadcasts that her remarks were comparable to those of Iva Toguri D'Aguino, known as "Tokyo Rose" for her broadcasts to American servicemen over Radio Tokyo in World War II.

After a 56-day trial on treason charges—the longest in American history—Mrs. D'Aquino was convicted in federal court in San Francisco in 1949 and sentenced to 10 years in prison and a $10,000 fine.

She was paroled in 1956 after serving more than six years in the Federal Reformatory for Women in Alderson, W. Va., and later successfully resisted deportation proceedings.

After Miss Fonda's return from Hanoi, Thompson urged that she be prosecuted in a similar manner. "Declared war or undeclared war, this is treason," he said last month.

But the Justice Department has interpreted the matter differently and hopes the controversy will subside. The Nixon administration has not indicated what its position would be on new legislation.

[From the Washington Post, Sept. 8, 1972]

CLARK'S POW CHARADE

(By Rowland Evans and Robert Novak)

During his two hours in Hanoi with ten carefully selected prisoners of war, Ramsey Clark lectured on American politics—indicating to the prisoners their early freedom depends on electing as president Sen. George McGovern, who he said "can win by a big vote."

These pronouncements, previously unpublished, reflect the bizare flavor of Clark's POWs. While the prisoners were ominously uncomplaining about their treatment and harshly critical of their own government, Clark delivered the repeated homillies on the virtues of North Vietnam.

Simply put, the Aug. 10 meeting was a charade, giving the dubious impression of American POWs splendidly treated by their captors and infuriated by U.S. war policies. Clark has not publicized how Hanoi rebuffed his efforts to see a wider cross-section of prisoners. Inded, the full two-hour tape leaves no doubt Clark was meeting a small, cohesive group of POWs actively opposing U.S. policy.

Clark revealed his problems in contacting prisoners only during private meetings in Washington with families of POWs. He told them he asked to see specific prisoners believed to be in North Vietnamese hands but was refused. "I wanted to go into Laos and into the South (Vietnam) to see what they had there." He was refused. He requested a list of POWs and was refused. Reducing his request to 20 prisoners, he finally got to see ten.

The Communist officials "told me there was a war going on," he explained to prisoners' relatives.

When one relative noted that the same prisoners are repeatedly "trotted out" for visitors, Clark bristled with indignation. But, he was asked, "Why aren't the North Vietnamese showing the rest?" Clark's reply: "I asked for new faces, and you take what they give you because they have the power."

The 30-minute segment of the Clark-POW meeting broadcast by ABC radio is dominated by the prisoners' testimony of their humane treatment. It does not contain Clark's gushing interjections. Devotion to "freedom," he told the POWs, "is written deep in the hearts of the North Vietnamese people" who "believe that their cause is just."

Once the prisoners related their experiences, they asked about American politics. Clark's answer, also omitted from the ABC segment, contained the hope for a "big" McGovern victory. When a prisoner referred to President Nixon's bombing policy as "idiotic," Clark delivered a denunciation of bombing.

"If McGovern were elected," Clark told the POWs, "the war would end on the day he came into office . . . There can be no question that the prisoners would be returned immediately." He then agreed with a prisoner that Mr. Nixon would not accept Hanoi's "seven points," adding that Hanoi "won't settle for anything less."

Asked why Sargent Shriver replaced Sen. Thomas Eagleton for Vice President, Clark produced a bowdlerized account. "Tom had some mental health problems", that he kept from McGovern but which columnist Jack Anderson published (untrue) based on "a plant from FBI files" (also untrue). "But McGovern then did what I think was the strong thing to do. He talked it over with Tom Eagleton. He said, 'I'm going to change.'" (If not untrue, at least distorted.)

The POWs next returned to their own problems. Clark later told prisoner families that the POWs "had complained in a number of areas." In fact, none complained about their captors. Instead, they expressed fear of government reprisals upon returning home and repeated Hanoi's libel that the U.S. government intercepts their mail.

Why didn't Clark publicly announce he talked to only a select handful of prisoners, learning nothing about the hundreds of others? His explanation to POW relatives: "You're not going to be successful if you offend them (the North Vietnamese)."

He lectured the families: "You're going to have to think about their (Hanoi's) point of view, about their suffering." In sum, say not a word about Hanoi's violations of the Geneva Convention even if the world thereby receives a glowing account from a few prisoners who may be very special indeed.

[From the New York Daily News, Aug. 24, 1972]

JANE INQUIRY ASKED

NEW ORLEANS, Aug. 23.—A resolution was introduced today at the Amvets' convention calling for the Justice Department to investigate actress Jane Fonda. Robert B. Gomulinski of Potomac, Md., the head of the American Veterans of World War II, Korea, and Vietnam, said the resolution would be voted on tomorrow by the 2,500 delegates at the 28th national convention. The resolution will say that if Miss Fonda has been quoted accurately "she gives aid and comfort to the enemy."

[From the New York Times, Aug. 24, 1972]

V.F.W. URGES PROSECUTION OF CLARK AND MISS FONDA

MINNEAPOLIS, Aug. 23.—The Veterans of Foreign Wars have accused Jane Fonda, the actress; and the former Attorney General, Ramsey Clark, of being "traitorous meddlers" in United States foreign policy and recommended that they be prosecuted.

The V.F.W.'s annual convention adopted yesterday a resolution urging that "individual citizens such as Jane Fonda, Ramsey Clark and other so-called unofficial ambassa-

dors for peace be classified as traitorous meddlers in official Government security."

The resolution also said that the "legal machinery of the Federal Government be utilized to investigate and prosecute any and all of such individuals."

Miss Fonda and Mr. Clark both visited North Vietnam recently and criticized American bombing of North Vietnamese dikes.

By Mr. TOWER:

S. 4030. A bill to amend the Social Security Act to prohibit the payment of aid or assistance under approved State public assistance plans to aliens who are illegally within the United States. Referred to the Committee on Finance.

Mr. TOWER. Mr. President, I am today introducing legislation to close a loophole in the various federally funded public assistance programs. This legislation would amend the Social Security Act to prohibit the payment of welfare under State public assistance programs to illegal aliens.

Unfortunately, no substantial data exists on the number of illegal aliens receiving welfare payments. The Department of Health, Education, and Welfare has been asked on numerous occasions to supply the Congress with these figures, but to date they have been unable to meet this request. While it may be true that aliens illegally enter the United States primarily for the purpose of obtaining employment at a higher wage scale than they could receive in their native land, it is also clear that many illegal aliens eventually end up on the welfare rolls. The legislation I now propose would prohibit these payments, and authorize the States to establish methods to screen out those illegal aliens who apply for public assistance.

Over the past few years, the House Judiciary Committee has conducted hearings on the subject of illegal aliens. Last year 2 days of hearings were conducted in El Paso, Tex. At that time, officials of the various Federal and State agencies and private citizens submitted testimony on this problem. The Commissioner of the Texas Department of Public Welfare, Mr. Raymond Vowell, stated that stricter requirements for citizenship were definitely needed to effectuate a responsible public assistance program.

This problem has been enlarged by the recent proposal of a regulation— Federal Register, June 16, 1972—to revamp the public assistance programs so that they will be consistent with the Supreme Court decision in Graham against Richardson. When this proposed regulation was issued, the Department of Health, Education, and Welfare received a great deal of critical comment.

For the most part, State regulations have not differentiated between resident aliens and illegal aliens. Federal requirements of the Social Security Act, likewise, do not make any distinction between these groups. Simply put, the Supreme Court in the Graham decision stated that statutes which attempt to restrict public assistance payments from lawfully admitted resident aliens are in violation of the 14th amendment. The concern in both the public and private sectors has resulted from the apparent intention of the Department of Health, Education, and Welfare to interpret the Graham decision in such a way as to prevent the States from denying welfare payments to illegal aliens. As I have stated, this concern is manifested by the fact that existing law does not distinguish between resident and illegal aliens.

In a letter to Secretary Richardson on July 28, 1972, I reviewed the Supreme Court cases on this matter and concluded that the Court never intended to state that laws which deny welfare payments to illegal aliens are violative of the equal protection clause of the 14th amendment. The majority decision which was written by Justice Blackmun is quite clear on this point. Nevertheless, those who interpret the Constitution "loosely" no doubt believe that, under existing law, illegal aliens must be categorized in the same manner as lawfully admitted resident aliens. As I have stated, I cannot agree with this contention and cannot see how such an interpretation of the Social Security Act or the Graham decision could be formulated.

Nevertheless, the Department of Health, Education, and Welfare is still reviewing the hundreds of comments received on the proposed regulation, and, therefore, I believe it is incumbent upon the Congress to be attuned to this very difficult and complex subject matter.

As I have noted, there is evidence that illegal aliens are receiving public assistance. I do not think that the Federal and State Governments have an obligation to individuals who are in the United States on an illegal basis. Consequently, I suggest there is a great need for the Congress to categorically state the policy that illegal aliens should not receive public assistance.

The percentage of illegal aliens which comprise our welfare rolls is unknown. In certain areas of Texas, it may be substantial, however, which would explain the grave economic and social problems experienced in areas of Texas where illegal aliens are known to predominate. Their presence particularly affects the economic growth of the Mexican-American communities in these areas. The Mexican American faces enough problems without having to compete with illegal aliens for economic security. I believe this legislation would defintely serve his best interests.

Likewise, the State of Texas can ill afford further increases in its welfare rolls. There are more than 650,000 recipients of public assistance in Texas, a sizable majority of whom receive payments under the aid to families with dependent children program. Additionally, these programs are restricted by a constitutionally imposed $80 million ceiling on welfare expenditures. Those who are truly in need of public assistance would be greatly harmed by a Federal Government regulation requiring welfare assistance to illegal aliens.

I have previously called for increased enforcement activities by the Immigration and Naturalization Service to detect and deport illegal aliens found within our borders. I also feel the Congress should take the initiative in giving direction to the Supreme Court decision in the Graham case. At this time, State welfare officials are unable to make any substantive reforms in their policies due to the consideration of the proposed regulation by the Department of Health, Education, and Welfare. It is my understanding, in fact, that Governor Rockefeller vetoed a bill passed by the New York State legislature which would have established procedures to screen out illegal aliens because of his uncertainty over the HEW regulation.

On September 12 the House of Representatives passed an amendment proposed by Congressman PICKLE, to H.R. 16188, a bill to amend the Immigration and Nationality Act, to require that Department of Health, Education, and Welfare personnel notify the Immigration and Naturalization Service of any illegal alien who is receiving or has received public assistance. I commend the House of Representatives on this action, which would effectuate greater cooperation between government officials in this regard; however, while I strongly support this action, it is clear that it is not sufficient to insure that illegal aliens will not receive public assistance. Under current practice, it is very difficult for government officials involved in the administration of public-assistance programs to actually know the citizenship status of a beneficiary. There is obviously a need for a clear cut congressional statement that illegal aliens should not receive public assistance. At the same time, authority must be given to the Department of Health, Education, and Welfare and the State Welfare Departments to implement effective methods of screening out illegal aliens. For these reasons, I urge expeditious consideration of this important measure.

Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the RECORD. I also request unanimous consent that the various other supporting documents herewith attached be printed in the RECORD for the examination of my colleagues.

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

S. 4030

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (13) the following new paragraph:

"(14) prohibit the payment of assistance under the plan to or on behalf of any individual who is neither a citizen of the United States nor an alien lawfully admitted to or lawfully resident in the United States, and provide for the establishment of effective methods, facilities, and procedures for administering and enforcing this prohibition."

(b) Section 402(a) of such Act is amended—

(1) by striking out "and" at the end of clause (22); and

(2) by striking out the period at the end of clause (23) and inserting in lieu thereof the following: "; and (24) prohibit the payment of aid under the plan to or on behalf of any individual who is neither a citizen of

the United States nor an alien lawfully admitted to or lawfully resident in the United States, and provide for the establishment of effective methods, facilities, and procedures for administering and enforcing this prohibition."

(c) Section 1002(a) of such Act is amended—

(1) by striking out "and" at the end of clause (12); and

(2) by striking out the period at the end of clause (13) and inserting in lieu thereof the following: "; and (14) prohibit the payment of aid under the plan to or on behalf of any individual who is neither a citizen of the United States nor an alien lawfully admitted to or lawfully resident in the United States, and provide for the establishment of effective methods, facilities, and procedures for administering and enforcing this prohibition."

(d) Section 1402(a) of such Act is amended—

(1) by striking out "and" at the end of clause (11); and

(2) by striking out the period at the end of clause (12) and inserting in lieu thereof the following: "; and (13) prohibit the payment of aid under the plan to or on behalf of any individual who is neither a citizen of the United States nor an alien lawfully admitted to or lawfully resident in the United States, and provide for the establishment of effective methods, facilities, and procedures for administering and enforcing this prohibition."

(e) Section 1602(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (16);

(2) by striking out the period at the end of paragraph (17) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (17) the following new paragraph:

"(18) prohibit the payment of aid or assistance under the plan to or on behalf of any individual who is neither a citizen of the United States nor an alien lawfully admitted to or lawfully resident in the United States, and provide for the establishment of effective methods, facilities, and procedures for administering and enforcing this prohibition."

(f) Section 1902(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (30);

(2) by striking out the period at the end of paragraph (31) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (31) the following new paragraph:

"(32) prohibit the furnishing of medical assistance under the plan to or on behalf of any individual who is neither a citizen of the United States nor an alien lawfully admitted to or lawfully resident in the United States, and provide for the establishment of effective methods, facilities, and procedures for administering and enforcing this prohibition."

SEC. 2. (a) (1) The first sentence of section 6(a) of the Social Security Act is amended by inserting before the period at the end thereof the following: ", or any payments to or care in behalf of any individual who is neither a citizen of the United States nor an alien lawfully admitted to or lawfully resident in the United States".

(2) Section 6(b) of such Act is amended by inserting before the period at the end thereof the following: "or any individual who is neither a citizen of the United States nor an alien lawfully admitted to or lawfully resident in the United States".

(b) Section 406(b) of such Act is amended by adding at the end thereof (after and below clause (E)) the following new sentence: "Such term does not include any money payments with respect to, or medical or remedial care in behalf of, any individual who is neither a citizen of the United States nor an alien lawfully admitted to or lawfully resident in the United States."

(c) The first sentence of section 1006 of such Act is amended by inserting before the period at the end thereof the following: ", or any such payments to or care in behalf of any individual who is neither a citizen of the United States nor an alien lawfully admitted to or lawfully resident in the United States".

(d) The first sentence of section 1405 of such Act is amended by inserting before the period at the end thereof the following: ", or any such payments to or care in behalf of any individual who is neither a citizen of the United States nor an alien lawfully admitted to or lawfully resident in the United States".

(e) (1) The first sentence of section 1605 (a) of such Act is amended—

(A) by striking out "or" at the end of clause (1);

(B) by striking out the period at the end of clause (2) and inserting in lieu thereof "; or"; and

(C) by adding after clause (2) the following new clause;

"(3) any such payments to or care in behalf of any individual who is neither a citizen of the United States nor an alien lawfully admitted to or lawfully resident in the United States.",

(2) Section 1605(b) of such Act is amended by inserting before the period at the end thereof the following: ", or for any individual who is neither a citizen of the United States nor an alien lawfully admitted to or lawfully resident in the United States."

(f) The first sentence of section 1905(a) of such Act is amended—

(1) by striking out "or" at the end of clause (A);

(2) by striking out the period at the end of clause (B) and inserting in lieu thereof "; or"; and

(3) by adding after clause (B) the following new clause:

"(C) any such payments with respect to care or services for any individual who is neither a citizen of the United States nor an alien lawfully admitted to or lawfully resident in the United States."

SEC. 3. The amendments made by the first section of this Act shall take effect July 1, 1973. The amendments made by section 2 of this Act shall be effective with respect to expenditures made for calendar quarters beginning on or after the date of the enactment of this Act.

Department of Health, Education, and Welfare, Social and Rehabilitation Service, [45 CFR Parts 23, 248]

FINANCIAL AND MEDICAL ASSISTANCE PROGRAMS—CITIZENSHIP AND ALIENAGE

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare. The proposed regulations amend §§ 233.50 and 248.50 to implement the Supreme Court decision in Graham v. Richardson et al., June 14, 1971, the syllabus of which states:

"State statutes, like the Arizona and Pennsylvania statutes here involved, that deny welfare benefits to resident aliens or to aliens who have not resided in the United States for a specified number of years are violative of the Equal Protection Clause and encroach upon the exclusive federal power over the entrance and residence of aliens; * * *"

The amendments specify that, as a condition of approval, a State plan may not exclude an otherwise eligible individual solely on the basis that he is not a citizen or because of his alien status.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objections thereto which are submitted in writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, DC 20201, within a period of 30 days from date of publication of this notice in the FEDERAL REGISTER. Comments received will be available for public inspection in room 5121 of the Department's offices at 301 C Street SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (area code 202—963–7361).

The provisions of these sections are to be issued under section 1102, 49 Stat. 647, 42 U.S.C. 1302.

Dated: April 21, 1972.

JOHN D. TWINAME,
Administrator, Social and Rehabilitation Service.

Approved: June 1, 1972.

ELLIOT L. RICHARDSON,
Secretary.

1. Section 233.50 is revised to read as follows:

§ 233.50 Citizenship and alienage.

Condition for plan approval: A State plan under title I, IV–A, X, XIV, or XVI of the Social Security Act may not exclude an otherwise eligible individual on the basis that he is not a citizen, or because of his alien status.

2. Section 248.50 is revised to read as follows:

§ 248.50 Citizenship and alienage.

Condition for plan approval: A State plan under title XIX of the Social Security Act may not exclude an otherwise eligible individual on the basis that he is not a citizen, or because of his alien status.

STATE DEPARTMENT OF PUBLIC WELFARE,
Austin, Tex., July 3, 1972.

Re Citizenship and Alienage—Proposed Regulations 45 CFR, Parts 233 and 248.

Hon. JOHN G. TOWER,
Member, Senate of the United States, Washington, D.C.

DEAR SENATOR TOWER: On Friday, June 16, 1972, the Department of Health, Education, and Welfare published in the Federal Register, Volume 37, Number 117, Page 11977, proposed amendments to 45 CFR, Parts 233 and 248 and, more specifically, Sections 233.50, Citizenship and Alienage and 248.50, Citizenship and Alienage. The Secretary stated that the proposed amendments to the regulations were to implement the Supreme Court decision in *Graham* v. *Richardson et al.* The states have thirty (30) days from the date of filing prior to the adoption of the proposed regulations in which to make comments, suggestions or raise objections. A Xerox copy of the proposed regulations is attached for your ready reference.

At the time the proposed regulations were filed, the United States Department of Health, Education, and Welfare, Social and Rehabilitation Service, Office of Public Affairs, Washington, D.C., gave a new release for Friday, June 16, 1972. In this release it was implied that Texas had citizenship requirements inconsistent with these proposed regulations.

The proposed regulations as written appear innocuous. They do not explicitly state that the states will be required to pay assistance to aliens *who are unlawfully in this country.* By letter dated June 30, 1972, Mr. Dudley Hall, Associate Regional Commissioner for Assistance Payments, Department of Health, Education, and Welfare Regional Office, Dallas, Texas informed us that the Department of Health, Education, and Welfare is interpreting these regulations so that the states will be required to pay assistance and medical

assistance to *all aliens, including those who are illegally in the United States.* The Secretary's statement in the news release seems to confirm this.

Since the Department of Health, Education, and Welfare is interpreting these regulations to mean that the states must pay illegal aliens assistance, we are convinced that the Department of Health, Education, and Welfare will be exceeding its authority in requiring state plans to include public assistance and medical assistance *for all aliens,* irrespective of their *lawful entry.*

If there has been some misunderstanding about the interpretation to be given this regulation by the Department of Health, Education, and Welfare and if it is intended that the states may have as a requirement *lawful entry,* then there should be no objection to clarifying the proposed regulations by adding the amendments suggested by this Department.

The regulations in their proposed form are ambiguous and subject to interpretation. Mr. Hall's letter makes it clear that the Department of Health, Education, and Welfare is interpreting the regulations as requiring the states to pay *illegal* aliens. It is imperative that the regulations be sufficiently clear that the states are not required to pay assistance or medical assistance to aliens who are *unlawfully* in this country. Such a clarification will avoid a misunderstanding at a later date.

We are enclosing a copy of this Department's protest directed to Mr. John D. Twiname, Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, and a copy of the letter the Texas Department sent to the Commissioner of the Welfare Department of each of the other states. It is our understanding that the Honorable Preston Smith, Governor of Texas and the Honorable Crawford C. Martin, Attorney General of Texas are writing letters outlining the State's position. Copies of these letters will be made available to you.

As you know, the State of Texas is continuously faced with the problem of raising additional tax funds to support the welfare programs in the State. Due to our proximity to Mexico, it is imperative that there be no misunderstanding about the citizenship requirements for eligibility for public assistance and medical assistance. When the United States Supreme Court held that the citizenship requirements were unconstitutional, the State of Texas immediately changed its policies so as to include aliens who were lawfully admitted. As pointed out in the letter to Mr. Twiname, when the Texas case was decided following the Supreme Court's decision in the *Graham* case, the Federal District Court ordered the Department to make payments to aliens who were lawfully admitted. Obviously, that Court was interpreting the United States Supreme Court decision as permitting the states to include lawful entry as a part of its program for assistance to aliens.

The Texas Department, as of June 1, 1972, was paying assistance grants and medical care to and on behalf of 11,500 aliens at a total cost of approximately $9,000,000 a year. If we are required to make payments to illegal aliens as well as those who have been lawfully admitted, this number could triple within a year.

We respectfully request you to consider our protest to these proposed regulations and to urge the Department of Health, Education, and Welfare to make modifications so that the states may limit payments to aliens who are lawfully admitted. If a modification cannot be made, then as an alternative, please give your careful consideration to a modification of the regulations or statutory enactments which will make the matter of caring for aliens who are unlawfully within the boundaries of the United States the exclusive responsibility of the Federal government. At no time have the states been required to assume the financial responsibility of a program which is and should be controlled and paid for exclusively by the Government of the United States.

We are sure that you will understand the problems confronting Texas if these regulations are permitted to become final. This matter is of vital importance to the State of Texas and it is crucial that some action be taken now for, as we understand the interpretation, all of the assistance programs and the Medical Assistance program will be placed in jeopardy if Texas refuses or is unable to comply with these proposed regulations. Therefore, we sincerely request your assistance in having them modified or altered before they become final.

Thank you for any assistance you may render us in relation to this important matter.

Sincerely yours,

RAYMOND W. VOWELL.

U.S. SENATE, COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS,
Washington, D.C., July 28, 1972.

Hon. ELLIOT L. RICHARDSON,
Secretary of Health, Education, and Welfare, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: This letter pertains to your Department's proposed regulations published in the *Federal Register* on June 16, 1972, to amend 45 CFR Parts 233.50 and 248.50.

As you know, this regulation concerns Citizenship and Alienage eligibility for federally funded welfare programs. It is intended to implement the Supreme Court's decision in *Graham* v. *Richardson,* 403 U.S. 365 (1971). I am most concerned that your Department's final regulation may make it mandatory for states to provide welfare assistance to illegal aliens.

I have reviewed the *Graham* case and a number of other decisions relating to this issue, and find no basis for a decision which would force the states to make welfare benefits available to illegal aliens. In numerous instances in the *Graham* decision, Justice Blackmun goes out of his way to state that the Pennsylvania and Arizona statutes violated the equal protection clause since they invidiously discriminated against *lawfully* admitted aliens.

The *Graham* case cites *Takahashi* v. *Fish and Game Commission,* 334 U.S. at 420 (1948), to the effect that the equal protection clause only extends to lawfully admitted aliens and not to those which the federal government has classified as being illegally within the jurisdictional borders of the United States. Furthermore, I do not believe that *Carleson* v. *Remillard,* No. 70–250, 40 U.S. Law Week 4624 (1972), adds anything to the issue at hand. This case only further delineates past decisions that a state may not exclude groups of persons already eligible under the federal regulatory scheme of the Social Security Act. Since *Graham* clearly states that federal eligibility only reaches citizens and lawful resident aliens, I do not believe a case can be made that Congress, through a negative implication, sought the inclusion of illegal aliens under public assistance programs authorized by the Social Security Act.

Even when it has applied a "strict scrutiny test" in non-economic equal protection cases, the Supreme Court has never implied that illegal aliens were to be given the status of lawful resident aliens and citizens to determine the scope of invidious discrimination.

Already one high-ranking official of the Department of Health, Education and Welfare Regional Office in Dallas has stated in writing that the Department is interpreting the Supreme Court's rulings to include illegal aliens, and that this will be reflected in the final regulation that I understand will be issued in the near future.

I cannot emphasize enough the fiscal difficulties which would be assumed by the State of Texas if it had to make public assistance payments available to illegal aliens. To begin with, neither the State of Texas nor the Immigration and Naturalization Service really knows how many illegal aliens are actually in Texas. In discussions with State officials concerning this proposed regulation, I was told that possibly as many as 500,000 illegal aliens might be in Texas at any given point in time. Furthermore, the State of Texas has a constitutionally imposed ceiling on certain public assistance categories and if it is forced to expand the eligibility roles, a grave crisis will threaten the State's fiscal integrity. A dilemma of this nature would, no doubt, penalize those individuals and families who are deserving of public assistance.

As Secretary of Health, Education and Welfare, you are, of course, well aware of the fiscal crises facing many state and local governments. In my State, this crisis is primarily caused by increases in the welfare rolls. According to a 1971 report by the State Senate Interim Committee on Welfare, the Aid to Families with Dependent Children category has been increasing on the average of 12,000 people a month in Texas. During the decade of the 1960's, the number of payments increased by 250 percent. Even if this alarming upward trend were halted, Texas would still be continually faced with grave difficulties simply because of the present burden which the public assistance programs have placed on the State budget. I am, therefore, sure that you can understand the damaging fiscal repercussions which would take place if the Texas State Department of Public Welfare was forced to make payments to illegal aliens.

I urge you to reexamine the many ramifications involved in this matter, including the issues I have raised, as well as the need to provide a consistent federal policy on immigration.

Your most careful consideration of this matter will be greatly appreciated.

Sincerely yours,

JOHN TOWER.

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., Sept. 19, 1972.

Hon. JOHN TOWER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TOWER: Please accept my apology for the delay in replying to your letter of July 28 regarding the Department's proposed regulations on citizenship and alienage.

The proposed regulations on citizenship and alienage in public assistance and medical assistance programs under the Social Security Act, which were published in the *Federal Register* on June 16, were developed to implement the Supreme Court decision of June 14, 1971, in the case of *Graham* v. *Richardson.*

In the *Graham* decision the court found that a citizenship requirement or a requirement that an alien has been a resident of the United States for a specified period violated the Equal Protection Clause and encroached on the exclusive congressional power to establish uniform rules for the entrance and residence of aliens. The Court stated that:

"A congressional enactment construed so as to permit State legislatures to adopt divergent laws on the subject of citizenship requirements for federally supported welfare programs would appear to contravene this explicit constitutional requirement of uniformity."

The proposed regulations provide that a State public assistance plan "may not exclude an otherwise eligible individual on the basis that he is not a citizen, or because

of his alien status." The question now being considered within the Department is whether aliens illegally in the country can be denied welfare benefits. The proposed regulations were issued in their present form with the understanding that they did not determine this issue. We are considering the effect of the *Graham* decision and also the recent decisions of the Supreme Court in *Townsend* v. *Swank* and *Carleson* v. *Remillard,* which indicated that eligibility under the public assistance programs must be measured by the standards in the Social Security Act and that HEW may not permit States to vary eligibility requirements from the Federal standards without express or clearly implied congressional authorization.

All the comments received regarding the proposed regulations are being analyzed and I will take them into account, as well as Supreme Court decisions, in making the decision on the final regulations.

With kindest regards,

Sincerely,

ELLIOT L. RICHARDSON,
Secretary.

GRAHAM AGAINST RICHARDSON

(Supreme Court of the United States, on appeal from the United States District Court for the District of Arizona)

SYLLABUS

No. 609. Argued March 22, 1971—Decided June 14, 1971*

State statutes, like the Arizona and Pennsylvania statutes here involved, that deny welfare benefits to resident aliens or to aliens who have not resided in the United States for a specified number of years are violative of the Equal Protection Clause and encroach upon the exclusive federal power over the entrance and residence of aliens; and there is no authorization for Arizona's 15-year durational residency requirement in § 1402(b) of the Social Security Act, Pp. 5–18.

313 F. Supp. 34 and 321 F. Supp. 250, affirmed.

BLACKMUN, J., delivered the opinion of the Court, in which BURGER, C. J., and BLACK, DOUGLAS, BRENNAN, STEWART, WHITE, and MARSHALL, JJ., joined. HARLAN, J., filed a statement joining in the judgment and in Parts III and IV of the Court's opinion.

Mr. JUSTICE BLACKMUN delivered the opinion of the Court.

These are welfare cases. They provide yet another aspect of the widening litigation in this area.[1] The issue here is whether the Equal Protection Clause of the Fourteenth Amendment prevents a State from conditioning welfare benefits either (a) upon the beneficiary's possession of United States citizenship, or (b) if the beneficiary is an alien, upon his having resided in this country for a specified number of years. The facts are not in dispute.

No. 609. This case, from Arizona, concerns the State's participation in federal categorical assistance programs. These programs originate with the Social Security Act of 1935, as amended, 42 U.S.C. c. 7. They are supported in part by federal grants-in-aid and are administered by the States under federal guidelines. Arizona Rev. Stat. Title 46, Article 2, as amended, provides for assistance to persons permanently and totally disabled (APTD). See 42 U.S.C. §§ 1351–1355. Ariz. Rev. Stat. § 46–233 reads:

"A. No person shall be eligible for general assistance who does not meet and maintain the following requirements:

"1. Is a citizen of the United States or has resided in the United States a total of fifteen years. . . ."

A like eligibility provision conditioned upon citizenship or durational residence appears in § 46–252.2, providing old age assistance, and in § 46–272.4, providing assistance to the needy blind. See 42 U.S.C. §§ 1201–1206, 1381–1385.

Appellee Carmen Richardson, at the institution of this suit in July 1969, was 64 years of age. She is a lawfully admitted resident alien. She emigrated from Mexico in 1956 and since then has resided continuously in Arizona. She became permanently and totally disabled. She also met all other requirements for eligibility for APTD benefits except the 15-year residency specified for aliens by § 46–233.A.1. She applied for benefits but was denied relief solely because of the residency provision.

Mrs. Richardson instituted her class action[2] in the District of Arizona against the Commissioner of the State's Department of Public Welfare seeking declaratory relief, an injunction against the enforcement of §§ 46–233.A.1, 46–252.2 and 46–272.4, and the award of amounts allegedly due. She claimed that Arizona's alien residency requirements violate the Equal Protection Clause and the constitutional right to travel; that they conflict with the Social Security Act and are thus overborne by the Supremacy Clause; and that the regulation of aliens has been preempted by Congress.

The three-judge court upheld Mrs. Richardson's motion for summary judgment on equal protection grounds. *Richardson* v. *Graham,* 313 F. Supp. 34 (Ariz. 1970). It did so in reliance on this Court's opinions in *Takahashi* v. *Fish & Game Commission,* 334 U.S. 410 (1948), and *Shapiro* v. *Thompson,* 394 U.S. 618 (1969). The Commissioner appealed. The judgment was stayed as to all parties plaintiff other than Mrs. Richardson. Probable jurisdiction was noted. 400 U.S. 956 (1970).

No. 727. This case, from Pennsylvania, concerns that portion of a general assistance program that is not federally supported. The relevant statute is § 432 (2) of the Pennsylvania Public Welfare Code, 62 P.S. § 432 (2) (1968),[3] originally enacted in 1939. It provides that those eligible for assistance shall be (1) needy persons who qualify under the federally supported categorical assistance programs and (2) those other needy persons who are citizens of the United States. Assistance to the latter group is funded wholly by the Commonwealth.

Appellee Elsie Mary Jane Leger is a lawfully admitted resident alien. She was born in Scotland in 1937. She came to this country in 1965 at the age of 28 under contract for domestic service with a family in Havertown. She has resided continuously in Pennsylvania since then and has been a taxpaying resident of the Commonwealth. In 1967 she left her domestic employment to accept more remunerative work in Philadelphia. She entered into a common-law marriage with a United States citizen. In 1969 illness forced Mrs. Leger and her husband to give up their employment. They applied for public assistance. Each was ineligible under the federal programs. Mr. Leger, however, qualified for aid under the state program. Aid to Mrs. Leger was denied because of her alienage. The monthly grant to Mr. Leger was less than the amount determined by both federal and Pennsylvania authorities as necessary for a minimum standard of living in Philadelphia for a family of two.

Mrs. Leger instituted her class action[4] in the Eastern District of Pennsylvania against the Executive Director of the Philadelphia County Board of Assistance and the Secretary of Philadelphia County Board of Assistance and the Secretary of the Commonwealth's Department of Public Welfare. She sought declaratory relief, an injunction against the enforcement of the restriction of § 432 (2), and the ordering of back payments wrongfully withheld. She obtained a temporary restraining order preventing the defendants from continuing to deny her assistance. She then began to receive, and still receives, with her husband, a public assistance grant.

Appellee Beryl Jervis was added as a party plaintiff to the Leger action. She was born in Panama in 1912 and is a citizen of that country. In March 1968, at the age of 55, she came to the United States to undertake domestic work under contract in Philadelphia. She has resided continuously in Pennsylvania since then and has been a taxpaying resident of the Commonwealth. After working as a domestic for approximately one year, she obtained other more remunerative work in the city. In February 1970 illness forced her to give up her employment. She applied for aid. However, she was ineligible for benefits under the federally assisted programs and she was denied general assistance solely because of her alienage. Her motion for immediate relief through a temporary restraining order was denied.

It was stipulated that "the denial of General Assistance to aliens otherwise eligible for such assistance causes undue hardship to them by depriving them of the means to secure the necessities of life, including food, clothing and shelter," and that "the citizenship bar to the receipt of General Assistance in Pennsylvania discourages continued residence in Pennsylvania of indigent resident aliens and causes such needy persons to remove to other States which will meet their needs."

The three-judge court, one judge dissenting, ruled that § 432(2) was violative of the Equal Protection Clause and enjoined its further enforcement. *Leger* v. *Sailer,* 321 F. Supp. 25 (ED Pa. 1970)). The defendant appealed. Probable jurisdiction was noted. 400 U.S. 956.

II

The appellants argue initially that the States, consistent with the Equal Protection Clause, may favor United States citizens over aliens in the distribution of welfare benefits. It is said that this distinction involves no "invidious discrimination" such as was condemned in *King v. Smith,* 392 U.S. 309 (1968), for the State is not discriminating with respect to race or nationality.

The Fourteenth Amendment provides, "[N]or shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." It has long been settled, and it is not disputed here, that the term "person" in this context encompasses lawfully admitted resident aliens as well as citizens of the United States and entitles both citizens and aliens to the equal protection of the laws of the State in which they reside. *Yick Wo* v. *Hopkins,* 118 U.S. 356, 369, (1886); *Truax* v. *Raich,* 239 U.S. 33, 39 (1915); *Takahashi* v. *Fish & Game Commission,* 334 U.S. at 420. Nor is it disputed that the Arizona and Pennsylvania statutes in question create two classes of needy persons, indistinguishable except with respect to whether they are or are not citizens of this country. Otherwise qualified United States citizens living in Arizona are entitled to federally funded categorical assistance benefits without regard to length of national residency, but aliens must have lived in this country for 15 years in order to qualify for aid. United States citizens living Pennsylvania, unable to meet the requirements for federally funded benefits, may be eligible for state supported general assistance, but resident aliens as a class are precluded from that assistance.

Under traditional equal protection principles, a State retains broad discretion to classify as long as its classification has a reasonable basis. *Lindsley* v. *Natural Carbonic Gas Co.,* 220 U.S. 61, 78 (1911); *Williamson* v. *Lee Optical Co.,* 348 U.S. 483, 489 (1955); *Morey* v. *Doud,* 354 U.S. 457, 465 (1957); *McGowan v. Maryland,* 366 U.S. 420, 425–427 (1961). This is so in "the area of economics and social welfare." *Dandridge* v. *Williams,* 397 U.S. 471, 485 (1970). But the

---

Footnote at end of article.

Court's decisions have established that classifications based on alienage, like those based on nationality[5] or race[6] are inherently suspect and subject to close judicial scrutiny. Aliens as a class are a prime example of a "discrete and insular" minority (see *United States* v. *Carolene Products Co.*, 304 U.S. 144, 152–153 n. 4 (1938)) for whom such heightened judicial solicitude is appropriate. Accordingly, it was said in *Takahashi*, 334 U.S. at 420, that ". . . the power of a state to apply its laws exclusively to its alien inhabitants as a class is confined within narrow limits."

Arizona and Pennsylvania seek to justify their restrictions on the eligibility of aliens for public assistance solely on the basis of a State's "special public interest" in favoring its own citizens over aliens in the distribution of limited resources such as welfare benefits. It is true that this Court on occasion has upheld state statutes that treat citizens and noncitizens differently, the ground for distinction having been that such laws were necessary to protect special interests of the State or its citizens. Thus, in *Truax* v. *Raich*, 239 U.S. 33 (1915), the Court, in striking down an Arizona statute restricting the employment of aliens, emphasized that "[t]he discrimination defined by the act does not pertain to the regulation or distribution of the public domain, or of the common property or resources of the people of the State, the enjoyment of which may be limited to its citizens as against both aliens and the citizens of other States." 239 U.S., at 39–40. And in *Crane* v. *New York*, 239 U.S. 195 (1915), the Court affirmed the judgment in *People* v. *Crane*, 214 N.Y. 154, 108 N.E., 427 (1915), upholding a New York statute prohibiting the employment of aliens on public works projects. The New York court's opinion contained Mr. Justice Cardozo's well-known observation:

"To disqualify aliens is discrimination, indeed, but not arbitrary discrimination for the principle of exclusion is the restriction of the resources of the state to the advancement and profit of the members of the state. Ungenerous and unwise such discrimination may be. It is not for that reason unlawful. . . . The state in determining what use shall be made of its own moneys, may legitimately consult the welfare of its own citizens rather than that of aliens. Whatever is a privilege rather than a right, may be made dependent upon citizenship. In its war against poverty, the state is not required to dedicate its own resources to citizens and aliens alike." 214 N.Y., at 161, 164, 108 N.E., at 429, 430.

See *Heim* v. *McCall*, 239 U.S. 175 (1915); *Ohio ex rel. Clarke* v. *Deckebach*, 274 U.S. 392 (1927). On the same theory, the Court has upheld statutes that, in the absence of overriding treaties, limit the right of noncitizens to engage in exploitation of a State's natural resources, restrict the devolution of real property to aliens,[8] or deny to aliens the right to acquire and own land.[9]

Takahashi v. *Fish & Game Commission*, 334 U.S. 410 (1948), however, cast doubt on the continuing validity of the special interest doctrine in all contexts. There the Court held that California's purported ownership of fish in the ocean off its shores was not such a special public interest as would justify prohibiting aliens from making a living by fishing in those waters while permitting all others to do so. It was said:

"The Fourteenth Amendment and the laws adopted under its authority thus embody a general policy that all persons lawfully in this country shall abide 'in any state' on an equality of legal privileges with all citizens under non-discriminatory laws." 334 U.S., at 420.

Whatever may be the contemporary vitality of the special public interest doctrine in other contexts after *Takahashi*, we conclude that a State's desire to preserve limited welfare benefits for its own citizens is inadequate to justify Pennsylvania's making noncitizens ineligible for public assistance, and Arizona's restricting benefits to citizens and longtime resident aliens. First, the special public interest doctrine was heavily grounded on the notion that "[w]hatever is a privilege rather than a right, may be made dependent upon citizenship." *People* v. *Crane*, 214 N.Y., at 164, 108 N.E., at 430. But this Court now has rejected the concept that constitutional rights turn upon whether a governmental benefit is characterized as a "right" or as a "privilege." *Sherbert* v. *Verner*, 374 U.S. 398, 404 (1963); *Shapiro* v. *Thompson*, 394 U.S., at 627, n. 6; *Goldberg* v. *Kelly*, 397 U.S. 254, 262 (1970); *Bell* v. *Burson*, ——— U.S. ———, ——— (1971). Second, as the Court recognized in *Shapiro:*

"a State has a valid interest in preserving the fiscal integrity of its programs. It may legitimately attempt to limit its expenditures, whether for public assistance, public education, or any other program. But a State may not accomplish such a purpose by invidious distinctions between classes of its citizens. . . . The saving of welfare costs cannot justify an otherwise invidious classification." 394 U.S., at 633.

Since an alien as well as a citizen is a "person" for equal protection purposes, a concern for fiscal integrity is no more compelling a justification for the questioned classification in these cases than it was in *Shapiro*.

Appellants, however, would narrow the application of *Shapiro* to citizens by arguing that the right to travel, relied upon in that decision, extends only to citizens and not to aliens. While many of the Court's opinions do speak in terms of the right of "citizens" to travel,[10] the source of the constitutional right to travel has never been ascribed to any particular constitutional provision. See *Shapiro* v. *Thompson*, 394 U.S., at 630, n. 8; *United States* v. *Guest*, 383 U.S. 745, 757–758 (1966). The Court has never decided whether the right applies specifically to aliens, and it is unnecessary to reach that question here. It is enough to say that the classification involved in *Shapiro* was subjected to strict scrutiny under the compelling state interest test, not because it was based on any suspect criterion such as race, nationality, or alienage, but because it impinged upon the fundamental right of interstate movement. As was said there, "The waiting-period provision denies welfare benefits to otherwise eligible applicants solely because they have recently moved into the jurisdiction. But in moving from State to State or to the District of Columbia appellees were exercising a constitutional right, and any classification which serves to penalize the exercise of that right, unless shown to be necessary to promote a *compelling* governmental interest, is unconstitutional." 394 U.S., at 634. The classifications involved in the instant cases, on the other hand, are inherently suspect and are therefore subject to strict judicial scrutiny whether or not a fundamental right is impaired. Appellants' attempted reliance on *Dandridge* v. *Williams*, 397 U.S. 471 (1970), is also misplaced, since the classification involved in that case (family size) neither impinged upon a fundamental constitutional right nor employed an inherently suspect criterion.

We agree with the three-judge court in the Pennsylvania case that the "justification of limiting expenses is particularly inappropriate and unreasonable when the discriminated class consists of aliens. Aliens like citizens pay taxes and may be called into the armed forces. Unlike the short-term residents in *Shapiro*, aliens may live within a state for many years, work in the state and contribute to the economic growth of the state." 321 F.Supp., at 253. See also *Purdy & Fitzpatrick* v. *California*, 71 Cal. 2d 566, 581–582, 456 P. 2d 645, 656 (1969). There can be no "special public interest" in tax revenues to which aliens have contributed on an equal basis with the residents of the State.

Accordingly, we hold that a state statute that denies welfare benefits to resident aliens and one that denies them to aliens who have not resided in the United States for a specified number of years violates the Equal Protection Clause.

III

An additional reason why the state statutes at issue in these cases do not withstand constitutional scrutiny emerges from the area of federal-state relations. The National Government has "broad constitutional powers in determining what aliens shall be admitted to the United States, the period they may remain, regulation of their conduct before naturalization, and the terms and conditions of their naturalization." *Takahashi* v. *Fish & Game Commission*, 334 U.S., at 419; *Hines* v. *Davidowitz*, 312 U.S. 52, 66 (1941); see also *Chinese Exclusion Case*, 130 U.S. 581 (1889); *United States ex rel. Turner* v. *Williams*, 194 U.S. 279 (1904); *Fong Yue Ting* v. *United States*, 149 U.S. 698 (1893); *Harisiades* v. *Shaughnessy*, 342 U.S. 580 (1952). Pursuant to that power, Congress has provided, as part of a comprehensive plan for the regulation of immigration and naturalization, that "[a]liens who are paupers, professional beggars, or vagrants" or aliens who "are likely at any time to become public charges" shall be excluded from admission into the United States, 8 U.S.C. §§ 1182(a)(8) and 1182(a)(15), and that any alien lawfully admitted shall be deported who "has within five years after entry become a public charge from causes not affirmatively shown to have arisen after entry . . . ." 8 U.S.C. § 1251(a)(8). Admission of aliens likely to become public charges may be conditioned upon the posting of a bond or cash deposit. 8 U.S.C. § 1183. But Congress has not seen fit to impose any burden or restriction on aliens who become indigent after their entry into the United States. Rather, it has broadly declared that "All persons within the jurisdiction of the United States shall have the same right in every State and Territory . . . to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens . . ." 42 U.S.C. § 1981. The protection of this statute has been held to extend to aliens as well as to citizens. *Takahashi*, 334 U.S., at 419 n. 7. Moreover, this Court has made it clear that, whatever may be the scope of the constitutional right of interstate travel, aliens lawfully within this country have a right to enter and abide in any State in the Union "on an equality of legal privileges with all citizens under non-discriminatory laws." *Takahashi*, 334 U.S., at 420.

State laws that restrict the eligibility of aliens for welfare benefits merely because of their alienage conflict with these overriding national policies in an area constitutionally entrusted to the Federal Government. In *Hines* v. *Davidowitz*, 312 U.S., at 66–67, where this Court struck down a Pennsylvania alien registration statute (enacted in 1939, as was the statute under challenge in No. 727) on grounds of federal pre-emption, it was observed that ". . . where the federal government, in the exercise of its superior authority in this field, has enacted a complete scheme of regulation . . . states cannot, inconsistently with the purpose of Congress, conflict or interfere with, curtail or complement, the federal law, or enforce additional or auxiliary regulations." And in *Takahashi* it was said that the States:

Footnote at end of article.

"can neither add to nor take from the conditions lawfully imposed by Congress upon admission, naturalization and residence of aliens in the United States or the several states. State laws which impose discriminatory burdens upon the entrance or residence of aliens lawfully within the United States conflict with this constitutionally derived federal power to regulate immigration, and have accordingly been held invalid." 334 U.S., at 419.

Congress has broadly declared as federal policy that lawfully admitted resident aliens who become public charges for causes arising after their entry are not subject to deportation, and that as long as they are here they are entitled to the full and equal benefit of all state laws for the security of persons and property. The state statutes at issue in the instant cases impose auxiliary burdens upon the entrance or residence of aliens who suffer the distress, after entry, of economic dependency on public assistance. Alien residency requirements for welfare benefits necessarily operate, as did the residency requirements in *Shapiro*, to discourage entry into or continued residency in the State. Indeed, in No. 727 the parties stipulated that this was so.

In *Traux* the Court considered the "reasonableness" of a state restriction on the employment of aliens in terms of its effect on the right of a lawfully admitted alien to live where he chooses:

"It must also be said that reasonable classification implies action consistent with the legitimate interests of the State, and it will not be disputed that these cannot be so broadly conceived as to bring them into hostility to exclusive Federal power. The authority to control immigration—to admit or exclude aliens—is vested solely in the Federal Government. . . . The assertion of an authority to deny to aliens the opportunity of earning a livelihood when lawfully admitted to the State would be tantamount to the assertion of the right to deny them entrance and abode, for in ordinary cases they cannot live where they cannot work. And, if such a policy were permissible, the practical result would be that those lawfully admitted to the country under the authority of the acts of Congress, instead of enjoying in a substantial sense and in their full scope the privileges conferred by the admission, would be segregated in such of the States as chose to offer hospitality." 239 U.S., at 42.

The same is true here, for the ordinary case an alien, becoming indigent and unable to work, will be unable to live where, because of discriminatory denial of public assistance, he cannot "secure the necessities of life, including food, clothing and shelter." State alien residency requirements, that either deny welfare benefits to noncitizens or condition them on longtime residency, equate with the assertion of a right, inconsistent with federal policy, to deny entrance and abode. Since such laws encroach upon exclusive federal power, they are constitutionally impermissible.

IV

Arizona suggests, finally, that its 15-year durational residency requirement for aliens is actually authorized by federal law. Reliance is placed on § 1402(b) of the Social Security Act of 1935, added by the Act of Aug. 28, 1950, c. 809, § 351, 64 Stat. 555, as amended, 42 U.S.C. § 1352(b). That section provides:

"The Secretary shall approve any plan which fulfills the conditions specified in subsection (a) of this section, except that he shall not approve any plan which imposes, as a condition of eligibility for aid to the permanently and totally disabled under the plan—

* * * * *

"(2) Any citizenship requirement which excludes any citizen of the United States."[11]

The meaning of this provision is not entirely clear. On its face, the statute does not affirmatively authorize, much less command, the States to adopt durational residency requirements or other eligibility restrictions applicable to aliens; it merely directs the Secretary not to approve state-submitted plans which exclude citizens of the United States from eligibility. Cf. *Shapiro* v. *Thompson*, 394 U.S., at 638–641.

We have been unable to find in the legislative history of the 1950 amendments any clear indication of congressional intent in enacting § 1402(b).[12] The provision appears to have its roots in identical language of the old age assistance and aid to the blind sections of the Social Security Act of 1935 as originally enacted. 49 Stat. 620, 42 U.S.C. § 302(b); 49 Stat. 645, 42 U.S.C. § 1202(b). The House and Senate Committee Reports expressly state, with reference to old age assistance, that:

"A person shall not be denied assistance on the ground that he has not been a United States citizen for a number of years, if in fact, when he receives assistance, he is a United States citizen. This means that a State may, if it wishes, assist only those who are citizens, but must not insist on their having been born citizens or on their having been naturalized citizens for a specified period of time."[13]

It is apparent from this that Congress' principle concern in 1935 was to prevent the States from distinguishing between native-born American citizens and naturalized citizens in the distribution of welfare benefits. It may be assumed that Congress was motivated by a similar concern in 1950 when it enacted § 1402(b). As for the indication in the 1935 Committee Reports that the States, in their discretion, could withhold benefits from non-citizens, certain members of Congress simply may have been expressing their understanding of the law only insofar as it had then developed, that is, before *Takahashi* was decided. But if § 1402(b), as well as the identical provisions for old age assistance and aid to the blind, were to be read so as to authorize discriminatory treatment of aliens at the option of the States. *Takahashi* demonstrates that serious constitutional questions are presented. Although the Federal Government admittedly has broad constitutional power to determine what aliens shall be admitted to the United States, the period they may remain, and the terms and conditions of their naturalization, Congress does not have the power to authorize the individual States to violate the Equal Protection Clause. *Shapiro* v. *Thompson*, 394 U.S., at 641. Under Art. 1, § 8, cl. 4 of the Constitution, Congress' power is to "establish an uniform Rule of Naturalization." A congressional enactment construed so as to permit state legislatures to adopt divergent laws on the subject of citizenship requirements for federally supported welfare programs would appear to contravene this explicit constitutional requirement of uniformity.[14] Since "statutes should be construed whenever possible so as to uphold their constitutionality," *United States* v. *Vuitch*, —— U.S. ——, —— (1971), we conclude that § 1402(b) does not authorize the Arizona 15-year national residency requirement.

The judgments appealed from are affirmed.

It is so ordered.

MR. JUSTICE HARLAN joins in Parts III and IV of the Court's opinion, and in the judgment of the Court.

FOOTNOTES

*Together with No. 727, *Sailer et al.* v. *Leger et al.*, on appeal from the United States District Court for the Eastern District of Pennsylvania.

[1] See, for example, *King* v. *Smith*, 392 U.S. 309 (1968); *Shapiro* v. *Thompson*, 394 U.S. 618 (1969); *Goldberg* v. *Kelly*, 397 U.S. 254 (1970); *Rosado* v. *Wyman*, 397 U.S. 397 (1970); *Danridge* v. *Williams*, 397 U.S. 471 (1970); *Wyman* v. *James*, 400 U.S. 309 (1971).

[2] The suit is brought on behalf of appellee and similarly situated Arizona resident aliens who, but for their inability to meet the Arizona residence requirement, are eligible to receive welfare benefits under state-administered federal categorical assistance programs for the permanently and totally disabled, the aged, and the blind.

[3] "§ 432. Eligibility.

"Except as hereinafter otherwise provided . . . needy persons of the classes defined in clauses (1) and (2) of this section shall be eligible for assistance:

"(1) Persons for whose assistance Federal financial participation is available to the Commonwealth . . .

"(2) Other persons who are citizens of the United States, or who, during the period January 1, 1938 to December 31, 1939, filed their declaration of intention to become citizens. . . ."

[4] It was stipulated that the class of persons the appellees represent approximates 65 to 70 cases annually. This figure stands in striking contrast to the 585,000 persons in the Commonwealth on categorical assistance and 8,500 on general assistance. Department of Public Welfare Report of Public Assistance, December 31, 1969.

[5] See *Oyama* v. *California*, 332 U. S. 633, 644–646 (1948); *Korematsu* v. *United States*, 323 U. S. 214, 216 (1944); *Hirabayashi* v. *United States*, 320 U. S. 81, 100 (1943).

[6] *McLaughlin* v. *Florida*, 379 U. S. 184, 191–192 (1964); *Loving* v. *Virginia*, 388 U. S. 1, 9 (1967); *Bolling* v. *Sharpe*, 347 U. S. 497, 499 (1954).

[7] *McCready* v. *Virginia*, 94 U. S. 391 (1876); *Patsone* v. *Pennsylvania*, 232 U. S. 138 (1914).

[8] *Hauenstein* v. *Lynham*, 100 U. S. 483 (1879); *Blythe* v. *Hinckley*, 180 U. S. 333 (1901).

[9] *Terrace* v. *Thompson*, 263 U. S. 197 (1923); *Porterfield* v. *Webb*, 263 U. S. 225 (1923); *Webb* v. *O'Brien*, 263 U. S. 313 (1923); *Frick* v. *Webb*, 263 U. S. 326 (1923); but see *Oyama* v. *California*, 332 U. S. 633 (1948).

[10] *E. g.*, *Passenger Cases*, 7 How, 283, 492 (1849): *Crandall* v. *Nevada*, 6 Wall. 35, 48–49 (1868); *Twining* v. *New Jersey*, 211 U. S. 78, 97 (1908); *Edwards* v. *California*, 314 U. S. 160, 178–181 (DOUGLAS, J., concurring), 183–185 (Jackon, J., concurring) (1941); *Shapiro* v. *Thompson*, 394 U. S., at 629; *Oregon* v. *Mitchell*, 400 U. S. 112, 285 (opinion of STEWART, J.) (1970).

[11] Pursuant to his rulemaking power under the Social Security Act, 42 U.S.C. § 1302, the Secretary of Health, Education, and Welfare adopted the following regulations, upon which Arizona also relies:

"3720. *Requirements for State Plan*

"A State plan under titles I, X, XIV, and XVI may not impose, as a condition of eligibility, any citizenship requirement which excludes any citizen of the United States."

"3730. *Interpretation of Requirement*

"State plans need not contain a citizenship requirement. The purpose of IV–3720 is to ensure that where a requirement is imposed, an otherwise eligible citizen of the United States, regardless of how (by birth or naturalization) or when citizenship was obtained, shall not be disqualified from receiving aid or assistance under titles I, X, XIV, and XVI.

"Where there is an eligibility requirement applicable to noncitizens, State plans may, as an alternative to excluding all noncitizens, provide for qualifying noncitizens, otherwise eligible, who have resided in the United States for a specific number of years." HEW Handbook of Public Assistance Administration, Part IV.

[12] H. R. Rep. No. 1300, 81st Cong., 1st Sess., 53, 153–154; S. Rep. No. 1669, 81st Cong., 1st

Sess.; H R. Rep. No. 2771, 81st Cong., 1st Sess, 118–119 (Conference Report)

[13] H. R. Rep. No. 615, 74th Cong., 1st Sess., 18; S. Rep. No. 628, 74th Cong., 1st Sess., 29.

[14] We have no occasion to decide whether Congress, in the exercise of the immigration and naturalization power, could itself enact a statute imposing on aliens a uniform nationwide residency requirement as a condition of federally funded welfare benefits.

CARLESON AGAINST REMILLARD

(Supreme Court of the United States, Appeal from the United States District Court for the Northern District of California)

SYLLABUS

No. 70–250. Argued April 10, 1972—Decided June 7, 1972

This is a class action for injunctive and declaratory relief by a child and mother whose husband is away from home on military duty, challenging the validity of California's Department of Social Welfare Regulation EAS § 42–350.11, pursuant to which they had been denied Aid to Families With Dependent Children (AFDC) benefits. Though California incorporates in its AFDC eligibility provisions the "continued absence" concept of the Social Security Act, under which a dependent child "deprived of parental support . . . by reason of [a parent's] continued absence from the home," is deemed eligible for AFDC benefits, EAS § 42–350.11 excludes absence because of military service from the definition of "continued absence." The District Court granted the relief sought. *Held:* Section 402(a)(10) of the Social Security Act imposes on each State participating in the AFDC program the requirement that benefits "shall be furnished with reasonable promptness to all eligible individuals." Under the Act the eligibility criterion of "continued absence" of a parent from the home means that the parent may be absent for any reason. Consequently, that criterion applies to one who is absent by reason of military service, and California's definition is invalid under the Supremacy Clause. Pp. 2–6.

325 F. Supp. 1272, affirmed.

DOUGLAS, J., delivered the opinion for a unanimous Court. BURGER, C. J., filed a concurring opinion.

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

Appellees are mother and child. The husband enlisted in the United States Army and served in Vietnam. The mother applied for AFDC benefits at a time when the amount of the monthly allotment she received by virtue of her husband's military service was less than her "need" as computed by the California agency and less than the monthly AFDC grant an adult with one child receives in California. She was denied relief. Although the Social Security Act, 42 U. S. C. § 301–1394, grants aid to families with "dependent children," and includes in the term "dependent child" one "who has been deprived of parental support or care by reason of . . . continued absence from the home." 42 U. S. C. § 606(a), California construed "continued absence" as not including military absence. It is unquestioned that her child is in fact "needy."

When the husband's allotment was stopped, appellee again applied for AFDC benefits. She again was denied the benefits, this time because California had adopted a regulation[1] which specifically prohibited the payment of AFDC benefits to needy families where the absence of a parent was due to military service.

This action is a class action seeking a declaration of the invalidity of the regulation and an injunction restraining its enforcement on the ground that it conflicts with the Social Security Act and denies appellees the Fourteenth Amendment rights of due process and equal protection.

A three-judge District Court was convened and by a divided vote granted the relief sought. 325 F. Supp. 1272. The case is here by appeal. 28 U. S. C. §§ 1253, 2101(b). We noted probable jurisdiction, 404 U. S. ——.

Section 402(a)(10) of the Social Security Act, 42 U. S. C. § 602(a)(10), places on each State participating in the AFDC program the requirement that "aid to families with dependent children shall be furnished with reasonable promptness to all eligible individuals." "Eligibility," so defined, must be measured by federal standards. *King* v. *Smith*, 392 U. S. 309. There, we were faced with an Alabama regulation which defined a mother's paramour as a "parent" for § 606(a)(1) purposes, thus permitting the State to deny AFDC benefits to needy dependent children on the theory that there was no parent who was continually absent from the home. We held that Congress had defined "parent" as a breadwinner who was legally obligated to support his children, and that Alabama was precluded from altering that federal standard. The importance of our holding was stressed in *Townsend* v. *Swank*, 404 U. S. 282, 286:

". . . *King* v. *Smith* establishes that, at least in the absence of congressional authorization for the exclusion clearly evidenced from the Social Security Act or its legislative history, a state eligibility standard that excludes persons eligible for assistance under federal AFDC standards violates the Social Security Act and is therefore invalid under the Supremacy Clause." (Emphasis supplied.)

In *Townsend*, we also expressly disapproved the HEW policy which permitted States to vary eligibility requirements from the federal standards without express or clearly implied congressional authorization. 404 U.S., at 286.

Townsend involved § 406(a)(2)(B) of the Act, 42 U. S. C. § 606(a)(2)(B), which includes in the definition of "dependent children" those "under the age of 21 and (as determined by the State in accordance with standards prescribed by the Secretary) a student regularly attending a school, college, or university, or regularly attending a course of vocational or technical training designed to fit him for gainful employment." Illinois had defined AFDC eligible dependent children to include 18–20-year-old high school or vocational school children but not children of the same age group attending college. We held that § 606(a)(2)(B) precluded that classification because it varied from the federal standard for needy dependent children. Involved in the present controversy is another eligibility criterion for federal matching funds set forth in the Act, namely the "continued absence" of a parent from the home. If California's definition conflicts with the federal criterion then it, too, is invalid under the Supremacy Clause.

HEW's regulations for federal matching funds provide[2] that:

"Continued absence of a parent from the home constitutes the reason for deprivation of parental support or care when the parent is out of the home, the nature of the absence is such as either to interrupt or to terminate the parent's functioning as a provider of maintenance, physical care, or guidance for the child, and the known or indefinite duration of the absence precludes counting on the parent's performance of his function in planning for the present support or care of the child. If these conditions exist, the parent may be absent for any reason, and he may have left only recently or some time previously."

The Solicitor General advises us that although HEW reads the term "continued absence" to permit the payment of federal matching funds to families where the parental absence is due to military service, it has approved state plans under which families in this category are not eligible for AFDC benefits.[3] HEW has included "service in the armed forces or other military service" as an example of a situation falling under the above definition of "continued absence." HEW Handbook of Public Assistance Administration, Part IV, § 3422.2.

Our difficulty with that position is that "continued absence from the home" accurately describes a parent on active military duty. The House Report speaks of children "in families lacking a father's support," H.R. Rep. No. 615, 74th Cong., 1st Sess., 10, and the Senate Report refers to "children in families which have been deprived of a father's support." S. Rep. No. 628, 74th Cong., 1st Sess., 12. While the Senate Report noted that "these are principally families with female heads who are widowed, divorced, or deserted," *id.*, at 12, it was not stated nor implied that eligibility by virtue of a parent's "continued absence" was limited to cases of divorce or desertion.

We agree that "continued absence" connotes, as HEW says, that "the parent may be absent for any reason." We search the Act in vain, moreover, for any authority to make "continued absence" into an accordion-like concept, applicable to some parents because of "continued absence" but not to others.

The presence of the parent in the home who has the legal obligation to support is the key to the AFDC program, *King* v. *Smith*, *supra*, at 327; *Lewis* v. *Martin*, 397 U.S. 552, 559. Congress looked to "work relief" programs and "the revival of private industry" to help the parent find the work needed to support the family. S. Rep. No. 628, *supra*, at 17, and the AFDC program was designed to meet a need unmet by depression-era programs aimed at providing work for breadwinners. *King* v. *Smith*, *supra*, at 328. That need was the protection of children in homes without such a breadwinner. *Ibid.* It is clear that "military orphans" are in this category, for, as stated by the Supreme Court of Washington, a man in the military service.

"[H]as little control over his family's economic destiny. He has no labor union or other agency to look to as a means of persuading his employer to pay him a living wage. He is without access to collective bargaining or any negotiating forum or other means of economic persuasion, or even the informal but concerted support of his fellow employees. He cannot quit his job and seek a better paying one. . . . [T]here is no action he could lawfully take to make his earnings adequate while putting in full time on his job. His was a kind of involuntary employment where legally he could do virtually nothing to improve the economic welfare of his family." *Kennedy* v. *Dept. of Public Assistance*, 79 Wash. 2d 728, 732, 733.

Stoddard v. *Fisher*, 330 F. Supp. 566, held a Maine regulation invalid under the Supremacy Clause which denied AFDC aid where the father was continually absent because of his military service. Judge Coffin said:

"We cannot help but note the irony of a result which would deny assistance to the family of a man who finds that family disqualified from receiving AFDC on the ground that he has removed himself from the possibility of receiving public work relief by voluntarily undertaking, for inadequate compensation, the defense of his country." *Id.*, 571, n. 8.

We cannot assume here, anymore than we could in *King* v. *Smith*, *supra*, that while Congress "intended to provide programs for the economic security and protection of *all children*," it also "intended arbitrarily to leave one class of destitute children entirely without meaningful protection." 392 U.S., at 330. We are especially confident Congress could not have designed an Act leaving uncared for an entire class who became "needy children" because their father was in the Armed Services defending their country.

We hold that there is no congressional au-

Footnote at end of article.

thorization for States to exclude these so-called military orphans from AFDC benefits. Accordingly we affirm the judgment of the three-judge court.

Affirmed.

FOOTNOTES

[1] Calif. Dept. Soc. Welfare Reg. EAS 42-350.11 provides:

"When one parent is physically absent from the home on a temporary basis. Examples are visits, trips made in connection with current or prospective employment, active duty in the Armed Services."

[2] 45 CFR § 233.90(c)(1)(iii).

[3] The present record reveals that 22 States and the District of Columbia do furnish AFDC benefits to needy families of servicemen, while 19 States and Puerto Rico do not.

By Mr. TOWER:

S. 4031. A bill to amend the Internal Revenue Code of 1954 to encourage higher education, and particularly the private funding thereof, by authorizing a deduction from gross income of reasonable amounts contributed to a qualified higher education fund established by the taxpayer for the purpose of funding the higher education of his dependents. Referred to the Committee on Finance.

Mr. TOWER. Mr. President, today, I am pleased to introduce the Higher Education Funding Act.

For some time now, I have been very concerned over the rising costs of post-secondary education in the United States. I supported the Higher Education Act of 1972 and have also introduced legislation to provide for a tax credit toward the cost of a higher education.

After careful study, however, I have concluded that the Higher Education Funding Act deserves consideration by the Senate. It represents a method similar to my tax credit proposal to ease the increasing burden of the cost of education in the United States. The merits of this proposal should be considered during any future congressional consideration of this problem.

The intent of the Higher Education Funding Act is to provide incentives to families to mobilize and accumulate their own resources to meet the rising costs of education. This would be accomplished by permitting parent-taxpayers to deduct from gross income, any funds contributed to a qualified funding plan established for the benefit of their children's future education. There is precedent for this method since the legislation itself is modeled after the Keough Act which allows employed persons to set aside a portion of their income toward their retirement on a tax-deductible basis.

Mr. President, the Higher Education Funding Act represents a positive means by which members of the private sector can be given an opportunity to help resolve a national problem. This measure is, in some ways preferable to a direct Government subsidy program since it would entail a smaller Federal dollar investment and would lack many, if not most, of the bureaucratic problems which naturally accompany the establishment of most such programs.

At this time, I ask unanimous consent that the full text of this measure be printed in the RECORD.

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

S. 4031

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

SECTION 1. SHORT TITLE

This Act may be cited as the "Higher Education Funding Act of 1972."

SEC. 2. ALLOWANCE OF DEDUCTION

(a) GENERAL RULE.—Part VII of subchapter B of Chapter 1 of the Internal Revenue Code of 1954 (relating to deductions for individuals) is amended by redesignating section 218 as section 219, and by inserting immediately after section 217 the following new section:

"SEC. 218. DEDUCTION FOR CONTRIBUTIONS TO QUALIFIED HIGHER EDUCATION FUND.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction amounts determined under subsection (b), which are contributed to a qualified higher education fund described in subsection (c).

"(b) AMOUNT DEDUCTIBLE.—The amount allowable as a deduction under subsection (a) shall be limited to contributions to a qualified fund having as its beneficiary an individual described in section 151(e)(1)(B) (relating to additional exemption for dependents) and shall not exceed the lesser of—

"(1) The product of $500 times the number of qualified beneficiaries.

"(2) Ten percent of the taxpayer's adjusted gross income for the taxable year (determined without regard to this section), or

"(3) $2,500.

For purposes of the preceding sentence, dependents of the taxpayer shall include only those who are living at the end of the taxable year.

"(c) QUALIFIED HIGHER EDUCATION FUND.—

"(1) GENERAL RULE.—For purposes of this section, a qualified higher education fund is a fund established pursuant to a written plan described in paragraph (2), but only if the fund meets the requirements of paragraph (3).

"(2) PLAN.—A plan referred to in paragraph (1) is a plan established by the taxpayer—

"(A) solely for the purpose of defraying the cost of room, board, and tuition at an institution of higher education of one or more eligible beneficiaries,

"(B) which provides that no distribution shall be made by the fund (except upon termination thereof) other than to, or on behalf of, eligible beneficiaries for the purpose specified in subparagraph (A),

"(C) which provides that upon termination of the fund all assets of the funds shall be distributed to the taxpayer or to his estate,

"(D) which prohibits contributions to the fund in excess of amounts deductible under subsection (a), and

"(E) under which the taxpayer consents to the income tax treatment upon termination of the fund provided in subsection (e)(2).

For purposes of this section, costs of room and board shall not include the cost of furnishing such items in the taxpayer's household.

"(3) FUND.—A fund meets the requirements of this paragraph only if—

"(A) it constitutes a custodial account described in section 401(f) (without regard to paragraph (1)(A) thereof), or

"(B) it is a trust.

For purposes of subparagraph (A) the reference in section 401(g) to a trust described in 401(a) shall be deemed to be a reference to a trust to which this section applies. In the case of a trust referred to in subparagraph (B) the trustee must be a bank, but a person other than a bank may be granted, under the trust instrument, the power to control the investment of the trust funds either by directing investments (including reinvestments, disposals, and exchanges) or by disapproving proposed investments (including reinvestments, disposals, and exchanges). The preceding sentence shall not apply to the extent provided by regulations prescribed by the Secretary or his delegate to a trust which uses annuity, endowment, or life insurance contracts of a life insurance company exclusively as the funding media of the trust, if the life insurance company supplies annually such information about trust transactions as the Secretary or his delegate shall by forms or regulations prescribe. For purposes of this section, the term 'bank' shall have the meaning ascribed to it by the last sentence of section 401(d)(1).

"(d) DEFINITIONS.—

"(1) ELIGIBLE BENEFICIARY.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B), for purposes of this section the term 'eligible beneficiary' means a person having the relationship to the taxpayer or his spouse specified in paragraph (1), (2), (3), or (6) of section 152(a). Such a person shall cease to be an eligible beneficiary—

"(i) if payments by the fund to him, or on his behalf, for the purposes specified in subsection (c)(2)(A) do not commence within 5 years after the date on which such person was graduated or separated from secondary school, or

"(ii) after the expiration of 10 years from the date of such graduation or separation.

"(B) SPECIAL RULE.—If on any day the fund ceases to have an eligible beneficiary who is a child (within the meaning of section 151(e)(3)) of the taxpayer or his spouse, no person shall be an eligible beneficiary for purposes of this section unless—

"(i) distributions by the fund to, or on behalf of, such person for the purposes specified in subsection (c)(2)(A) had begun before such day, or

"(ii) the taxpayer designates such person as a beneficiary of the fund by notice in writing to the Secretary or his delegate within the period of 120 days after such day in accordance with regulations prescribed by the Secretary or his delegate.

An eligible beneficiary designated pursuant to clause (ii) means a person having the relationship to the taxpayer or his spouse specified in paragraph (1), (2), (3), or (6) of section 152(a) determined without reference to the support test described in paragraph (a) of section 152.

"A person who is an eligible beneficiary by reason of a designation pursuant to clause (ii) shall cease to be an eligible beneficiary not later than 10 years after the day on which such designation is made.

"(2) INSTITUTION OF HIGHER EDUCATION.—For purposes of this section, the term 'institution of higher education' means an educational institution (as defined in section 151(e)(4))—

"(A) which regularly offers education at a level above the twelfth grade;

"(B) contributions to or for the use of which constitute charitable contributions within the meaning of section 170(c);

"(C) which is legally authorized to provide and does provide a program of post-seoondary education; and

"(D) which is accredited by a nationally recognized accrediting agency or association listed by the United States Commissioner of Education.

"(e) TERMINATION OF FUND.—

"(1) EVENTS CAUSING TERMINATION OF FUND.—A qualified higher education fund shall terminate if—

"(A) a contribution is made to the fund in excess of the amount allowable as a deduction under subsection (a);

"(B) a distribution is made by the fund other than to, or on behalf of, an eligible beneficiary for the purposes specified in subsection (c) (2) (A);

"(C) subject to paragraphs (B) (ii) of subsection (d) (1) of this section, the plan ceases to have an eligible beneficiary; or

"(D) in the absence of a testamentary disposition to the contrary, upon the death of the taxpayer.

"(2) INCOME TAX TREATMENT UPON TERMINATION.—

"(A) Upon termination of a fund under paragraph (1) (A) because of an excess contribution, the taxpayer shall include in his gross income for his taxable year during which such contribution is made an amount equal to twice the value of the assets of the fund on the day on which such contribution is made.

"(B) Upon termination of a fund under paragraph (1) (B), the taxpayer shall include in his gross income for the taxable year during which the terminating distribution occurs an amount equal to twice the value of the assets of the fund immediately before such distribution.

"(C) Upon termination of a fund because of the happening of the event specified in paragraph (1) (C) or (D), an amount equal to the value of the assets upon termination, reduced by any portion of that amount which is attributable to the proceeds of life insurance contracts which are excluded from gross income by section 101 (a), shall be included in gross income of the taxpayer or his estate for the taxable year during which the termination occurs. The limitation of tax provided in subsection (n) of section 72 shall apply with respect to the amount included in gross income under the preceding sentence as if such amount were an amount received to which that subsection applies.

"(f) INCOME TAX TREATMENT OF CREATOR OF A QUALIFIED HIGHER EDUCATION FUND.—Except as provided in subsection (e) (2), no amount shall be included in the gross income of a taxpayer who establishes a qualified higher education fund because of any income realized by the fund or because of any payment by the fund to, or on behalf of, an eligible beneficiary for the purposes specified in subsection (c) (2) (A)."

(g) RELATED AMENDMENTS.—

(1) AMENDMENT OF SECTION 62.—Section 62 of such code (relating to definition of adjusted gross income) is amended by adding after paragraph (8) the following new paragraph:

"(9) QUALIFIED HIGHER EDUCATION FUND.—The deduction allowed by section 218."

(2) AMENDMENT OF SECTION 501.—Section 501(a) of such code (relating to exemption from tax on corporations, certain trusts, etc.) is amended by striking out "401(a)" and inserting in lieu thereof "401(a), or a qualified higher education fund described in section 218(c)".

(h) TECHNICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such code is amended by striking out the item referring to section 218 and inserting in lieu thereof:

"Sec. 218. Deduction for contributions to qualified higher education fund.
"Sec. 219. Cross references."

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall be effective for taxable years beginning after the date of enactment of this Act.

By Mr. TOWER:

S. 4032. A bill to amend the Outer Continental Shelf Lands Acts by providing authority for the issuance of permits to construct, operate, and maintain port and terminal facilities. Referred to the Committee on Interior and Insular Affairs.

Mr. TOWER. Mr. President, I have repeatedly warned that the United States is presently facing a dangerous energy crisis. Many times before I have discussed the causes, dimensions, and remedies for this crisis. I will not reiterate these aspects of the crisis today.

I would point out, however, that even if all appropriate remedies were instituted today, the national energy crisis would continue to become more severe with the concomitant threats to our national security and economic prosperity. This is so because of the long leadtime needed to provide additional supplies of energy from new sources.

There is one aspect of the energy crisis on which I would like to focus my attention at this time, and that is the urgent need to construct the terminal facilities to receive the greatly increasing quantities of imported petroleum and petroleum products to meet our burgeoning energy demands.

To place this in perspective, in 1970 we consumed about 15 million barrels of crude oil per day which satisfied approximately 40 percent of our energy requirements. Approximately one-fourth of this amount was imported in the form of crude oil, fuel oil, and other petroleum products. Of this amount, about 75 percent—or 2.6 million barrels per day—was imported by tanker. It has been reliably estimated that by 1980, imports of crude petroleum and petroleum products will treble to about 10.3 million barrels per day with approximately 87 percent—or 9 million barrels per day—being brought in by tanker. By 1985, these imports are expected to quadruple the 1970 level to approximately 14.4 million barrels per day with about 90 percent—or 12.5 million barrels per day—being delivered to our shores by tanker.

Thus, waterborne imports of crude oil and products are expected to increase dramatically in just 12 years if our projected energy demands are to be met.

The prospect of greatly increased waterborne imports into the United States adds a new dimension to U.S. petroleum logistics, particularly with respect to tank ships and the terminal facilities to accommodate them.

According to a recent appraisal by the National Petroleum Council, an official advisory body to the Department of the Interior, the optimal-sized tanker in international petroleum trade during the next 12 years may range from 300,000 to 400,000 DWT in long-haul trades. DWT is an acronym for "dead weight tons" and represents the weight of the vessel when fully loaded. By the end of 1970, there were more than 150 tankers above 200,000 DWT in service while more than 250 vessels above 200,000 DWT were on order or under construction.

For general crude oil movements, a new size range is 250,000 to 300,000 DWT and there are now two tankers of 477,000 DWT on order. Tankers in excess of 1 million DWT are envisioned.

Vessels of 300,000 DWT or over require water at least 72 feet in depth. At the present time, there are no ports or other offloading facilities in the United States which are capable of handling vessels of this size. And yet, a fleet of 367 tankers of 250,000 DWT has been estimated as the requirement to accommodate our incremental waterborne petroleum import needs until 1985.

Clearly, then, there is an urgent need for the United States to begin construction of the facilities to handle these giant tankers. If such facilities are not promptly begun, it should be obvious that a substantial portion of our energy requirement will not be met.

There are several locations and types of facilities presently being considered. The buoyed, offshore type is one of the more favored types, because neither a channel nor a harbor needs to be dredged or maintained. The facility is anchored or buoyed in position in water of the desired depth.

In order to obtain the necessary depth of water, this type of facility may have to be located several miles offshore. For example, the requisite water depth on offshore Texas varies from 17 miles near Brownsville to over 30 miles near Galveston.

Should such a facility be built in waters off the Texas coast, as I believe one should, the facility would be located in waters under the jurisdiction of the Federal Government. Texas jurisdiction extends offshore only three leagues, or 10.5 miles.

A question has been raised regarding the authority of the Department of the Interior to approve the construction of terminal facilities on Federal lands administered by it under the Outer Continental Shelf Act. In order to eliminate this doubt, I am introducing a bill today which would grant to the Department of Interior the power to authorize the construction of appropriate offshore terminal facilities. This bill would not relieve the Department of the Interior of the obligation of complying with all existing laws concerning environmental questions. However, it would make it certain that the Government does have the authority to approve, and regulate, this endeavor. Such an offshore terminal, or "superport," is of extreme importance to the State of Texas. I shall do all that I can to see that, when such a port is built, it will be built in Texas.

In view of the urgent need for these facilities, I strongly urge that consideration be given to this measure in the near future.

I ask unanimous consent that the text of this measure be printed at this point in the RECORD.

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

S. 4032

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 "Outer Continental Shelf Ports and Facilities Amendments of 1972".

SEC. 2. Section 5(c) of the Outer Continental Shelf Lands Act (67 Stat. 464; 43 U.S.C. 1334(c)) is amended by striking the words "produced from said submerged lands in the vicinity of the pipeline".

SEC. 3. Section 5 of the Outer Continental Shelf Lands Act is amended by adding at the

end thereof the following new subsection (d):

"(d) Permits for the construction, operation and maintenance of port and terminal facilities on the submerged lands of the Outer Continental Shelf may be granted by the Secretary under such regulations and upon such conditions as may be prescribed by the Secretary: *Provided, however,* that in the issuance of any permit and the promulgation of such regulations and conditions, the Secretary shall—

(1) take into account the need for such port or terminal facility as a means of supplying the energy needs of the Nation;

(2) consider the environmental impact of any such port or terminal facility;

(3) consider the availability of alternative sites and methods of construction;

(4) consider the availability of alternative sites and methods of construction;

(5) provide for such public hearings as he deems necessary to assure thorough consideration of the factors herein identified.

By Mr. MONDALE:

S. 4035. A bill to amend the Public Health Service Act to provide assistance for kidney transplantation, hemodialysis and related facilities and services needed for comprehensive treatment of patients suffering from chronic renal disease. Referred to the Committee on Labor and Public Welfare.

KIDNEY TRANSPLANT ACT

Mr. MONDALE. Mr. President, today I am introducing the Kidney Transplant Act of 1972. This legislation seeks to alleviate the problem of chronic kidney disease in the United States by providing for a comprehensive treatment program with special emphasis upon the use of kidney transplantation. The legislation provides a coordinated approach to the problem which I think will, for the first time, enable us to provide adequately for the victims of kidney disease. Unlike any bills now before the Congress, it puts maximum emphasis on transplantation, rather than on dialysis. The principal features of the bill include, first, assistance to individuals:

Grants would be made by the Secretary of Health, Education, and Welfare to States to assist in the care and treatment of persons suffering from chronic renal diseases;

Each State would have to provide appropriate assistance to all residents who are suffering from chronic renal disease;

One hundred percent of the costs of care—including transportation—would be covered, less any amounts available from public or private insurance or assistance and any amounts which can reasonably be paid by the patient;

Fee schedules for transportation and hemodialysis would be provided; and

Payments would be made available for the care and transportation of living donors.

Second, the bill authorizes the Secretary to make grants to public or nonprofit entities to establish renal failure centers which would:

Provide a comprehensive range of services to kidney disease patients, including kidney transplantation facilities and a hemodialysis program which covers home as well as center dialysis;

Be affiliated with university medical centers; and

Have a capacity to carry out a minimum of 50 transplants per year and to maintain at least 20 patients at any one time on dialysis.

Third, grants could also be made for:

Construction of facilities for short-term organ preservation and regional tissue typing;

Public and professional information, education and training to increase the supply of cadaver kidneys;

Development of logistical systems for collecting, preserving, and transporting donor organs;

Extended care facilities for transplantation recipients; and

Planning, development, and operation of professional training programs in transplantation, dialysis, renal center management, and related fields.

I have stressed transplantation in this legislation because it is the most effective means we have of treating chronic kidney disease. Although hemodialysis also has a definite place in the treatment of chronic renal failure, it can no longer be considered the preferred long-term treatment. Approximately 55,000 persons die each year in the United States of kidney disease. Of these, 7,000 to 10,000 are regarded as "ideal" or suitable for transplants or dialysis. Dr. John Najarian, professor and chairman of the Department of Surgery at the University of Minnesota, and one of the most outstanding kidney transplant surgeons in the world, has said—

I can categorically state that all ideal patients should be transplanted.

Dr. Najarian's confidence is founded on the impressive results being achieved at the University of Minnesota. Their "success rate" for transplants—after 4 years—is in the 70 percent range for cadaver donors and in the 90 percent range for closely related, live donors.

Several cogent reasons for the emphasis on transplants were given by Dr. Benjamin Burton, of the National Institutes of Health, in the December 1971 issue of the Annals of Internal Medicine, where he said:

Maintenance dialysis alone, without transplantation, would at best be a dismal solution for irreversible kidney failure because of the need for continued, repetitive treatments for the life of the patient, because of the not infrequent failure to restore the patient to physiologic life, and—last but not least—because of its high and continuous cost.

Unfortunately, other kidney disease legislation enacted in the past, or introduced in the 92d Congress, has not sufficiently recognized these points. To date, we have tended to place too much emphasis upon hemodialysis as a treatment for kidney disease. Where transplantation has been considered, the complex systems needed to make it a feasible approach—nationally—have not been provided for in the legislation. I have tried to correct this with the Kidney Transplant Act of 1972.

Techniques to control severe kidney disease—both kidney transplantation and chronic hemodialysis—continue to improve, and this is especially true of transplantation. Therefore, each year, larger numbers of patients with severe kidney disease will be considered valid candidates for these procedures. For example, Dr. Najarian is already engaged in experimental work transplanting kidneys into diabetic patients, a group which heretofore had not been considered a good risk for transplantation. Dr. Najarian's work is described in a February 18, 1972 Medical World News article.

A number of social and economic problems, such as counseling and transportation need to be met. An excellent overview of the societal problems associated with kidney transplantation is provided in an article by Roberta G. Simmons and Richard L. Simmons of the University of Minnesota in the summer, 1971 issue of Social Problems. They discuss the factors involved in the selection of patients for transplantation and what elements in the health care delivery system prevent all persons who need a transplant from receiving one.

Of even greater eventual importance than research on improved forms of therapy is the research needed to understand the causes of the diseases which lead to end-stage renal failure so we can learn to prevent them. Preventive medicine, of course, is the ultimate goal of all medical research. Useful as treatment methods are, they do not contribute to the improved health of mankind as dramatically as does the prevention of disease. Furthermore, preventive medicine is relatively inexpensive. The value of preventive medicine is discussed in a thoughtful article by Lewis Thomas, M.D., which appeared in the December 9, 1971, issue of the New England Journal of Medicine.

The costs associated with the life-prolonging techniques of transplantation and hemodialysis vary according to individual needs and the institution at which the procedures are carried out, but in all cases these forms of treatment are very expensive. Initially, the costs involved in a kidney transplant are approximately $15,000 if there are no unusual complications, and up to $1,000 per year, thereafter, to cover the costs of examinations, drugs, and so forth. On the average, however, treatment subsequent to transplant would probably cost far less.

On the other hand, chronic hemodialysis is far more expensive: hospital dialysis costs $35,000 to $40,000 per year; dialysis in an ambulatory care facility generally runs between $14,000 and $20,000 or more per year; and home dialysis runs between $12,000 and $20,000 the first year—for purchase of equipment, training, and so forth—and $4,000 to $6,000 per year after that.

On the basis of these comparative costs, it can be seen that transplantation is more economical by a factor of five or 10 times, depending on the number of years that the patient lives. There are, however, even greater advantages than mere dollar savings. Transplantation offers the patient a dramatically more successful chance of recovery. Patients with kidney transplants live relatively normal lives, with full restoration of bodily functions. Those undergoing hemodialysis must be "plugged" into

their artificial kidney for 8 hours, three times a week, and often have significant physiological limitations.

My legislation would also lead to lower and less variable costs for these procedures, through the encouragement of improvements in techniques and through economies of scale. That is one reason for stipulation that the renal failure centers must have a capacity to carry out a minimum of 50 transplants per year and maintain at least 20 patients at any one time on dialysis. Fee schedules will also be provided to insure that costs are kept as low as possible.

A special problem that must be faced in kidney transplantation—and other types of organ transplantation—is the pressing need for a larger supply of donor organs. In some cases, patients in need of a kidney have a close relative who can donate one of his kidneys, but often this is not feasible and a cadaver kidney must then be found.

With continuing improvements in transplant technology, we should be able to reduce very substantially reliance on living donors. This would eliminate the twin risks to the live donor—first, from the surgery itself and, second, from the possibility that he might 1 day have his remaining kidney damaged.

Unfortunately, cadaver kidneys are not often available and many people who need a transplant must wait long, uncomfortable months before a suitable donor can be found. Consequently, we must insure an increased supply of these kidneys by encouraging people to sign organ donor cards and improving systems for collecting, preserving, and distributing these donated organs.

Some regional programs in organ procurement, preservation, and tissue typing have already been initiated. For example, there is a program in the New York City area which was recently described in an article in the Journal of the American Medical Association, February 21, 1972.

This article illustrates what can be done to improve the supply of donor kidneys and also describes the problems now faced in obtaining donor organs. My bill would do much to alleviate this frustrating and tragic situation. In my proposal, grants may be made for the construction of facilities for short term organ preservation and regional tissue typing which would increase the length of time potential donor kidneys could be preserved and improve the facilities for matching donor organs with recipients.

I have discussed some of the problems faced in the treatment of kidney disease to emphasize the importance of the Kidney Transplant Act of 1972. I am glad that action is imminent to expand support for kidney disease treatment under the vocational rehabilitation program. It, however, deals only in a fractional manner with the total problem. The act I propose today is a comprehensive plan, covering all aspects of the enormously complex situation we face in the treatment of chronic kidney disease. I urge swift consideration and passage of this important bill so that kidney disease control can progress in a coordinated way. We must put an end to the tragic spectacle of thousands of people dying every year simply because services and funds for offering proven methods of treatment for their disease are not available.

Mr. President, I ask unanimous consent that the bill and the articles to which I referred be printed in the RECORD.

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

S. 4035

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 "Kidney Transplant Act of 1972".

SEC. 2. The Public Health Service Act is amended by inserting after title X the following:

"TITLE XI—CARE AND TREATMENT OF CHRONIC RENAL DISEASE

"GRANTS FOR ASSISTING IN THE CARE AND TREATMENT OF CHRONIC RENAL DISEASE

"SEC. 1101(a) The Secretary may make grants to States and, with the approval of State health authority, to political subdivisions or instrumentalities of the States under this subsection for the purpose of assisting in the care and treatment of persons suffering from chronic renal disease.

"(b) Payments under this section may be made in advance on the basis of estimates or by way or reimbursement, with necessary adjustments on account of underpayments, or overpayments, in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of this section.

"STATE PLANS

"SEC. 1102. (a) Any State which applies for a grant under section 1101 shall submit with its application a plan for the approval of the Secretary. Such plan or modification thereof shall be approved only if such plan—

"(1) provides for assistance to all persons residing within such State who are suffering from chronic renal disease and meet treatment criteria established by the renal failure center at which the patient is to be treated;

"(2) provides for the payment of 100 per centum of the costs of transplantation, hemodialysis or other techniques and of related services for the care of the chronically ill renal patient, less the amounts paid by public agencies or by public or private health insurance and less any amounts which can reasonably be paid by the patient, as determined pursuant to regulations.

"(3) gives adequate assurances that such State will devote adequate funds to the administration and enforcement of such plan;

"(4) provides for coordination of services rendered under this program and other state administered programs including aid to the medically indigent under Title XIX of the Social Security Act, and the Vocational Rehabilitation Act;

"(5) provides fee schedules for transplantation, hemodialysis and related procedures;

"(6) provides for payments for the costs of care of living donors less the amounts paid by public agencies or by public or private health insurance; and

"(7) provides that the State agency will make such reports to the Secretary in such form and containing such information as the Secretary shall from time to time require.

"(b) For the purposes of this section, the term "costs" includes, but is not limited to, physicians' services, hospitalization, drugs, transportation, mental health services and any necessary expenses of relatives required to accompany patients or donors.

"SUPPORT OF RENAL FAILURE CENTERS

"SEC. 1103. (a) The Secretary may make grants to public or private non-profit entities for the establishment, construction, and operation of renal failure centers which will provide, or arrange for, complete renal transplantation facilities, hemodialysis, and home hemodialysis.

"(b) Each renal failure center shall be affiliated with a university medical center and shall have the capability to provide a minimum of 50 transplants per year and to maintain a minimum of 20 patients on dialysis for long term treatment or in preparation for home dialysis or while awaiting transplantation or evaluation.

"GRANTS FOR TRANSPORTATION FACILITIES

"SEC. 1104. (a) The Secretary may make grants to public and private nonprofit entities for the construction or improvement of facilities and the operation of systems, including public and professional information and training programs, for the collection and short term preservation of organs, regional tissue typing, hemodialysis, and extended care facilities for transplant patients and donors."

SEC. 3. (a) Part D of title VII of the Public Health Service Act is amended by redesignating section 769B as section 769C and by adding immediately after section 769A the following new section:

"GRANTS FOR TRAINING IN THE CURE AND TREATMENT OF CHRONIC RENAL DISEASE

"SEC. 769B. (a) The Secretary may make grants to any public or private non-profit entity—

"(1) to plan, develop, operate, or assist in an approved professional training program in the fields of transplantation, dialysis nephrology, and management of renal failure centers with regard to chronic renal disease, including the related medical, social and administrative problems; and

"(2) to provide for fellowships and training grants to professional personnel to participate in kidney disease programs."

(b) (1) Section 769C, as redesignated by this Act, is amended by striking "and 769A, and 769B".

(2) Subsection (c) of such section is amended by striking "or 769A" and inserting in lieu thereof "769A, or 769B."

SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

PLANNING FOR THE FUTURE IN CHRONIC KIDNEY DISEASE

During the last decade and a half, two dramatic therapies for irreversible kidney failure have come to maturity: hemodialysis with artificial kidneys and renal transplanation. Both were experimental at first and are not yet regarded as full optimal methods, but they are probably here to stay. During 1970 in the United States approximately, 1,100 new patients were placed on chronic intermittent dialysis (1) and over 900 renal transplant operations were carried out (2). Thus the clandestine experimentation in occupied Holland during World War II by Dr. William Kolff and the heroic surgical undertaking with twins in Boston in 1953 by Dr. John Merrill have led to their broad use in care of end stage kidney disease.

Dialysis and transplantation are not competitive but mutually supportive and dependent. The uninformed speculations of earlier years as to "which will win out in the long run" only showed a lack of comprehension of their potential. The availability of a much-needed supportive and substitute treatment like dialysis indeed made it possible to develop and improve renal transplantation to its present level. Even when we are able to deal more successfully with the rejection phenomenon (which

still prevent renal transplants from becoming a routine procedure with *predictable* outcome in individual cases), dialysis will be needed. It will still support patients with kidney failure until a suitable donor or cadaver organ can be obtained, restore them to physicologic near-normalcy in preparation for surgery support the newly grafted organ in case of need, and serve as the safety net if the graft is ultimately unsuccessful.

Maintenance dialysis alone, without transplantation, would at best be a dismal solution for irreversible kidney failure because of the need for continued, repetitive treatments for the life of the patient, because of the not infrequent failure to restore the patient to physiologic life, and—last but not least—because of its high and continuous cost. Ever since 1967, when attempts were made to explore the national problem of kidney disease (3) and to draft specific plans for a countrywide solution to irreversible kidney failure (4), it has been obvious that the potentials of dialysis and transplantation could not be considered independently. Their roles must be closely intertwined if cost-effective use of these highly expensive therapies is to be obtained.

Two recent papers in the *British Medical Journal* are highly germane to this urgent problem. The first by Branch and associates (5), deals with the incidence of uremia and the requirements for maintenance hemodialysis in Britain, where an attempt has been made in recent years to provide dialysis or transplantation, or both, for all patients, except the oldest, under the National Health Service.

These workers conducted a painstaking survey for uremic patients, of all practitioners of a district in a mixed urban and rural area of South Wales, as well as in this district's one large hospital. They found that, during the 3-year period of survey, among the uremic patients presenting themselves 14 were suitable candidates for treatment by maintenance dialysis or renal transplantation. This is a rate of about 39 persons per million per year under the age of 60 (and 28 per million per year under 50). It is of interest that in the United States the number of patients suitable for dialysis is about 38 million per population per year.

The second paper, by Farrow, Fisher, and Johnson (6), describes an elegant mathematical model that they developed to assist in planning the requirements of a combined dialysis and transplantation center. This model can be used to predict the ideal number of patients (for cost-efficient use of facilities) in the dialysis unit, in the associated ward, and at home on dialysis—all in conjunction with an active effort in renal transplantation. This model can be adapted for units of different size and can be primed with data from one unit or with pooled data from an entire country. This paper describes a particularly elegant and valid statistical method that is also a rational, integrated plan for treatment of chronic renal failure via a combination of dialysis and transplantation: it is highly recommended reading.

A similar scheme was recently proposed independently at the Symposium on the Current Status of Artificial Organs for Clinical Transplantation sponsored by the Transplantation Society (New York University Medical Center, 9–10 September 1971 (7). During this symposium Dr. Belding Scribner, of the University of Washington, who had ushered in the era of prolonged maintenance dialysis in 1960, proposed a new broad and logical picture for dealing with irreversible kidney failure. A salient feature of his "plan for life" beyond the point when irreversible renal failure is about to become symptomatic is the avoidance of any approach that might interfere with utlimately successful transplantation. Dialysis is an essential component in this scheme. The patient is not allowed to deteriorate into uremia before resort to dialysis or transplantation. He is taught to dialyze himself at home before his status becomes critical; he is never transfused with blood (to cut the risk of eventual immune reactions after transplantation); he is placed on home dialysis pending the finding of a suitable donor organ and its transplantation. Once there are indications of graft rejection, the failing organ is removed early (rather than endangering the patient with heroic attempts at immunosuppression), and the patient is returned to home dialysis to wait for another matched donor organ.

In most of its features this "plan for life" is consistent with the model proposed independently by Dr. Farrow's group in Britain. The features of both plans must be considered carefully and sympathetically by any group in the United States that will undertake to plan, on a regional or larger scale, for a rational, effective, and economically feasible scheme for the saving of lives of patients with progressive, irreversible renal failure. (BENJAMIN T. BURTON, PH.D., *National Institute of Arthritis and Metabolic Diseases, National Institutes of Health, Bethesda, Md.**)

REFERENCES

1. National Dialysis Registry of the Artificial Kidney—Chronic Uremia Program of the National Institue of Arthritis and Metabolic Diseases, National Institutes of Health, Bethesda, Md. 20014.

2. National Institutes of Health Organ Transplant Registry, American College of Surgeons, 55 E. Erie St., Chicago, Ill. 60611

3. Burton BT (editor): Kidney disease program analysis. A report to the Surgeon General. Publication No. 1745, U.S. Public Health Service, Washington, D.C., 1967

4. Gottschalk CW (editor): Report of the Committee on Chronic Kidney Disease. A report to the Bureau of the Budget. U.S. Government Printing Office, Washington, D.C. 1967

5. Branch RA, Clark GW, Cochrane AL, et al: Incidence of uraemia and requirements for maintenance haemodialysis. *Br. Med. J.* 1:249–254, 1971

6. Farrow SC, Fisher DJ, Johnson DB: Statistical approach to planning an integrated haemodialysis/transplantation programme. *Br Med J* 2:671–676, 1971

7. Rapaport FT (editor): Symposium on the current status of artificial organs for clinical transplantation. *Transplantation Proc* 3: in press, December 1971

[From Medical World News, Feb. 18, 1972]

KIDNEYS FOR DIABETICS

A diabetic patient *can* get a new kidney—and may gain years of life with it. This is the conclusion of Dr. John S. Najarian, chief of surgery at the University of Minnesota, and his colleague, professor of medicine Frederick C. Goetz. Quietly, over the past few years, the team has been lining up donors—many of them relatives—and transplanting kidneys in juvenile-onset diabetics whose own kidneys have been ravaged by the vascular lesions characteristic of the disease.

Previously, doctors have hesitated to do this transplant because of the diabetic's healing problems, not to mention scarring and the patient's generally debilitated state. Says Dr. Goetz: "It was Dr. Najarian's rationale that whatever the evidence in animals, there is no proof in humans that the lesions would necessarily return in the new organ, and if they should, no reason to think that they would accelerate beyond the normal course—taking five, perhaps ten years to do their damage."

Thus, Dr. Goetz told the recent meeting of the Diabetes Association of Greater Cleveland meeting in that city, a total of 21 diabetic patients in or approaching terminal uremia have now received new kidneys. And sixteen of them have survived longer than six months. Five of the 16 "successes" have now survived for more than two years—to Dr. Goetz, a "short-term" achievement. Ten lead essential normal lives, reported the internist, while two are still "seriously handicapped," and the remaining four are somewhere in between.

Using serum creatinine measurements as a physiologic index of success, the Minnesota team determined that 12 of the 16 surviving patients now have essentially normal levels—from 0.6 mg% to 1.5 mg%. Three patients have slightly elevated levels, ranging up to 2 mg%, and one has a level of 5 mg%, indicating a "chronic immunity reaction."

Wound healing was no great problem in the series, and no special medications were used to promote it, says Dr. Goetz. As for the basic disease state, the postoperative patient needed "moderately or sharply more" insulin, but otherwise was unchanged. Of course, immunosuppressants were administered to protect the transplant.

The Cleveland discussants weren't the first to ask the obvious question: If a kidney can "take" in a diabetic patient, why does it almost always fail when grafted along with the pancreas and attached duodenum? There is no clear answer to the question, says Dr. Goetz.

The 11 so-called double transplants he and surgeon Richard C. Lillehei have done may have been handicapped by the use of cadaver organs. But if pancreas function is a measure of success, so were these transplants. Enzyme content was normal in patients in the series. But the fact that he didn't need exogenous insulin was no consolation to the longest-lived recipient. A year after the transplant he went into a severe depression and failed to take his immunosuppressants. In a fortnight he was dead.

As for the rest of the 11 double-transplant cases, only two patients lived six months and five were dead in less than a month. Five died following sepsis plus kidney complications; one from sepsis alone; one from renal complications alone; and one each from acute necrosis of kidney and duodenal graft, duodenal perforation and sepsis, pulmonary embolism, and ruptured aneurysm of the iliac artery.

In each case, uremia had been controlled postoperatively with hemodialysis. All patients were on immunosuppressants. Those with complicating retinal disease were no worse after surgery. And out of the six patients who survived a month or more, three converted from the childhood to the adult form of the disease.

The Minnesota researchers have recently turned their attention to retinopathy because next to the kidney, they regard it as the most serious disease problem. Two pancreatic transplant cases have shed light on this pathology. Both were young women with a creatinine clearance of 30 ml or more a minute, rapidly advancing eye changes, and some evidence of kidney damage. After transplant, one patient complained of pain over the transplant area in the first week. The pancreas was removed and the graft was found to have impaired vasculature. But there was no sign of tissue rejection.

The second graft was also removed and found impaired. And the eye problems of both patients continue—though with no further deterioration. If one could achieve a long enough survival with the pancreas transplant, and the retinopathy were curbed, the operation could be pronounced beneficial. "So we continue our work," says Dr. Goetz. One final problem: Immune rejection is not an all-or-nothing process. The duodenum may suffer from necrosis and the kid-

---

* The views expressed in this note are the author's own. No official support or endorsement by the National Institutes of Health is intended or should be inferred.

ney may be rejected, while the pancreas remains immune.

[From Social Problems, Summer 1971]

ORGAN-TRANSPLANTATION: A SOCIETAL PROBLEM

(By Roberto G. Simmons and Richard L. Simmons, University of Minnesota)

As a new medical technology, organ-transplantation has created unanticipated adjustment problems for the government, the general public, medical organization, and the patient and his family. This paper attempts to specify some of these problems with a focus on kidney transplantation. Several mechanisms seem to prevent suitable patients dying from kidney disease from being treated at a transplant or dialysis center. Lags in communication between local and university physicians, limitation in number of transplant centers, severe national financial shortages prevent many patients from being treated. Arbitrary factors such as state of origin or socioeconomic status restrict many patients from being able to receive financial help or themselves afford these expensive therapies. Normative uncertainties related to the donorship of organs also increase the stress of this therapy for physicians, patients, and their families.

Technological advances in medicine, as in other fields, often outstrip the resources and social organization necessary for their optimal use. Organ transplantation is clearly a prototype, and a typical example of this "cultural lag," as originally formulated by Ogburn (1922). Changes have occurred in the "material culture," i.e., in technology, but appropriate modifications in the social structure and in public attitudes have failed to keep pace.

Consequently, as a major new medical technology, transplantation may solve important health problems, but in turn it creates unanticipated adjustment problems for the government, the general public, medical organization, and the patient and his family. The purpose of this report is to analyze these "adjustment problems," to identify the elements of the "cultural lag" and to describe the social consequences of transplantation.

The analysis will focus on kidney transplantation, and the related technological advances of hemodialysis,[1] since renal transplantation is the only type of organ transplantation that has moved from the realm of experimentation to therapeutics; that is, it is the only type that can be considered a viable cure. According to Kidney Transplant Registry statistics (1969), 81 percent of those patients who have received a kidney from a living brother or sister have survived two years post-transplant with functioning kidneys. "Two years" is the arbitrarily designated period beyond which the patient is felt to be "cured," with a good chance for a normal life-expectancy.

Many of the stresses that may be associated with large scale heart, lung, and liver transplants in the future can be predicted now by a study of kidney transplantation. Some of the problems to be discussed will be unique to transplantation (e.g., the utilization of the organ donor resource); while others are relevant to any technological advance in medicine (e.g., lags in communication within the medical world, shortage of social funds, and normative ambiguities both in the larger society and within medicine itself).

CONSEQUENCES OF TRANSPLANTATION FOR THE SOCIETY

Modern technological advances in medicine have significant consequences for the organization of medical care and its availability to the public. Therapies like organ transplantation, open-heart surgery, and cancer chemotherapy move medicine one step further toward bureaucratization, organization, and specialization that is characteristic of almost every sphere in modern industrial society, particularly those influenced by technological advances. Medicine is becoming more of a specialized team operation and less of a relationship between an individual family doctor and patient. The private family physician often is replaced by enormous hospital complexes, group practices, specialty clinics, bureaucracies of nurses, technicians, and highly qualified specialists (Rosenblatt and Suchman, 1964).

To the metropolitan, working-class patient who is accustomed to visiting hospital clinics, treatment in a kidney transplant, or cancer chemotherapy center may be just another step in the customary pattern. To the middle-class or small-town patient who is used to more personal contact with a family practitioner, however, the mode of treatment may seem very new. He is accustomed to being referred to individual specialists for specific ailments, but here he is referred to a hospital and a large, somewhat impersonal and constantly shifting medical team. Table 1 shows the organization of the renal transplant team at the University of Minnesota. The patient in the hospital may be under the care of six or seven physicians at once and be aided by a variety of special nurses, technicians, and therapists. The central therapeutic event, the transplantation operation itself, requires 12 people—two operating teams, one for the donor and one for the recipient.

After discharge the successful transplant patient returns to the hospital for tests and visits a clinic which is attended at the University of Minnesota by a surgeon, the surgical house staff, a nurse who coordinates the inpatient and outpatient care, her assistant, the clinic nurse, a psychiatrist, a social worker, and a dietician and her assistant.

Reinhard (1970) indicates that heart transplant teams may be even larger. For one particular heart transplant performed at the Texas Heart Institute, Reinhard estimated that over a five-day period 141 persons were involved in one official capacity or another; 21 were physicians.

In addition to the personnel, special facilities, laboratories, and pharmaceutical supplies are also needed. For renal transplantation, the artificial kidney (dialysis) machines are the most obvious and the most expensive of these special equipment needs.

Only relatively large hospitals can support so many personnel and special facilities. Transplantation, therefore, like other advanced medical technologies, tends to concentrate in a number of large centers throughout the country. Large cities and university areas are more likely to have such centers than are smaller cities and towns. This restriction of transplant centers is extraordinarily important when the availability of medical resources to patients is considered. What type of patients are likely to be cared for there? How do patients from various social strata and from communities all over the United States flow to these few centers? How does the individual uremic patient come to be treated at one of these transplant centers?

Lag in medical organization and communication

The optimal flow of patients to the centers of transplantation seems to be affected by a communication barrier between these centers and local referring physicians, as well as by a scarcity of facilities. It was estimated in 1967 that some 50,000 patients a year die of uremia, 7,000 to 8,000 of which were considered ideally suited for hemodialysis or renal transplantation (The Cost of Life, 1968; Gottschalk, 1967). However, due to lack of facilities and resources, treatment was available for only 1,000 new patients and 750 previous dialysis patients in 1967.

Therefore, many patients must die of a potentially curable disease. These statistics suggest that an overload of applicants is forcing kidney transplant centers to reject many candidates. There is also some evidence, however, that the flow of suitable patients to some centers is blocked at certain points. In Minnesota, for example, despite the fact that many patients with primary renal disease continue to die, who would respond to dialysis or transplantation, the renal failure centers are not over-crowded with applications. Medically eligible candidates are not being denied treatment because of shortages of facilities. Surgeons at another center report that they have virtually no applicants from one entire area of the state they service.

Referring physicians are apparently not sending all possible candidates to renal failure centers. The reasons for this have not been systematically investigated, but several channels of speculation are open. Without question, the technological potential seems to have outstripped the communication networks in medicine, as well as the resources. (See Coleman, Menzel, and Katz's study (1959) of the social processes affecting physician's adoption of a new drug.)

The diagnosis of uremia has traditionally evoked a feeling of hopelessness in most physicians. Palliative treatment was all physicians had to offer until recently, and such attitudes are not easily cast off. In addition, it is likely that many physicians are unaware of (a) the success of kidney transplanation and dialysis, (b) the categories of patients who can benefit, (c) the presence of the nearest center, and (d) the fact that some centers are not overcrowded. Even if the physician is aware of the therapeutic success of the procedures, he may be afraid the patient will be denied treatment. He may believe that the patient is too old, or that children cannot be dialyzed, or that the sacrifices in travel and expense are too great for the family.

The centralization of these specialized resources may act as a further deterrent to the referral process. It is always difficult for physicians to refer patients to persons and hospitals where they have no personal acquaintances among the professional staff. Most physicians have developed ingrained patterns of referral which are seldom varied. For most medical problems, the physician's local mutual referral network is adequate (Freidson, 1963). Most specialists can be found within a reasonable distance to participate in this network. On the other hand, the physicians within the centralized university center form their own networks and do not usually refer patients to local non-university doctors (Kendall, 1965). University physicians tend not to participate in local medical society activities. Thus, the local doctor, even within easy distance of the large medical center, may be unacquainted with many university physicians. As distance from the university center increases, personal contacts naturally decrease. Paradoxically then, it appears that there are not enough facilities for all uremic patients, yet in some areas of the country there is under-utilization of such facilities because the patient and his doctor are effectively unaware of the availability.

The effect of a patient's class background upon his chances to be referred for transplantation is another point for investigation. It has been shown that people from the lower class utilize medical services less than middle or upper class members (Rosenblatt and

[1] Hemodialysis refers to the purification of a kidney patient's blood by means of an artificial kidney machine. The kidney patient is "hooked-up" to a dialysis machine by means of a semi-permanent shunt, or U-shaped tube, one end of which is inserted into a vein and the other into an artery in his arm or leg. Approximately twice a week, for a period of from seven to 15 hours each time, the patient's blood is cycled through the machine, where it is purified, and then returned to his body.

Suchman, 1964). Yet, if the lower class patient seeks medical care in a large city, he is likely to attend the large hospital clinic or veteran's hospital where referral to a transplantation center is probable. Perhaps investigation would show that it is the lower class patient from outside of the metropolis, from the small towns and cities, who will be the last to benefit from this type of medical advance.

In summary, social factors governing the dissemination of accurate information concerning medical innovation, and social factors affecting the interrelationships between centralized medical centers and referring physicians, would appear to play a large role in whether a patient will live or die.

At present, in the United States, the mobilization of the cadaver donor resource is also restricted by many of the same factors that prevent a uremic patient from being referred to a transplant center. Lags in medical organization and communication affect the availability of organs for transplantation, since a high percentage of such organs must come from cadavers. The role of the local referring physician is again crucial. The family physician cares for a high percentage of potential cadaver donors. It is usually he who first approaches the family with the suggestion of donation. However, the possibility of donation may not occur to him. Secondly, he may not have enough of an acquaintanceship with a transplant center for referral to be psychologically easy. In addition, he may find it difficult to approach the family. In some centers, the dying patient must be transferred to the transplant center in order to ensure rapid use of the organs after death is pronounced. Particularly if the distance is great, the physician may be unwilling to subject the grieving family to long-distance travel. The fact that transplant centers are limited in number means that many potential donors will be excluded because of the distance.

In other centers, the transplant service sends a team to the local hospital to remove the organ and rapidly transport it back to the transplant center. In such situations, the local physicians and hospital authorities must be willing to undergo considerable inconvenience. The frequently over-taxed community doctor must await the transplant surgeons and then help them mobilize the hospital facilities. The hospital must be willing to clean and set up a surgical suite, reserve some personnel to help, and sometimes disrupt schedules and rules to satisfy the necessary procedures and time pressures. Future technological advances in organ preservation and organ banks may alleviate some of the difficulties, particularly the problems of time pressure and donor travel.

Although the organizational links between the transplant centers and the local medical communities are problematic, new regional organizations among many different transplant centers in several states are emerging (Bethesda Conference Report, 1968; Crosbie, 1970; Pierce, 1970; Sadler, 1970; Schmeck, 1970). Computers and teletype terminals are used in these regional organ-procurement centers to decide which potential transplant recipient in the region is best matched to a new cadaver donor. The organ may then be transported by automobile, special flight, or truck to the required transplant service, or one of the patients may be moved.

It appears relatively easy for transplant programs, that are already highly innovative, to solve their problems by establishing new, efficient, technologically complex organizational links much more difficult for organizational links to be forged between the more innovative transplant programs and the less innovative, highly entrenched local medical communities. This lag in communications and organization limits the number of uremic patients who arrive at the transplant centers, and also the number of cadaver organs available for their treatment.

Lag in allocation of financial resources

The best known and most significant way the society lags behind the technological potential of transportation involves the allocation of adequate financial support. The report of the Committee on Chronic Kidney Disease to the Bureau of the Budget in September of 1967 recommended an expenditure of $800 million to $1 billion for the first six years (1969–75) for training, facilities, and care of kidney patients (Gottschalk, 1967), with the goal of treating all indicated patients.

This is the estimated price of treating terminal kidney disease. If transplantation of other organs also achieves success, these costs will skyrocket. For example, if heart transplant technology improves enough to treat 22,000 patients annually, the cost could easily increase to $220 million a year (Ad hoc task force, 1969). As additional medical technologies develop, the government will be increasingly confronted with a fundamental decision: is it possible for this society to allocate major sums of money to saving lives of the previously incurable?

Funds are needed not only to train more personnel and set up more centers, but to support existing facilities. Dialysis at a hospital center costs approximately $14,000 a year; home dialysis requires $10,000 to $12,000 the first year when equipment is purchased, and about $4,000 yearly after that (Bethesda Conference Report, 1968; Frye, 1969). The cost of a kidney transplant averages about $13,300, plus $200 to $1,000 in yearly follow-up costs (Gottschalk, 1967); and the cost of a heart transplant averages $18,700. However, with complications, charges can run as high as $100,000 for any organ transplant (Reinhard, 1970).

At present, without a comprehensive national program, the collection of such funds can cause major difficulties for governmental agencies, hospital, and patient. Most patients cannot afford to pay for such treatment, particularly after years of chronic illness. Some of the cost for renal transplantation is paid by federal research grants to the institution, but research funds will be withdrawn as the procedure becomes a therapeutic reality. Insurance pays some of the transplant cost, but the Arthur D. Little Report (1969) estimates conservatively that approximately only eight to ten percent of the American population is adequately covered by insurance for transplantation. Table 2 lists other sources of funding for heart and kidney transplants and for dialysis. However, these present sources cannot begin to cover the actual need.

Patients in some states can turn to government agencies for major help in paying their bills under Title 19 of Medicaid (Kidney Disease Services, 1969), but, many states have interpreted Title 19 in such a way that dialysis and transplant patients are excluded completely or almost completely. Even if Medicaid is available in the home state, the cost of transplantation can threaten whatever financial security a patient has. In order to qualify for Medicaid in Minnesota, for example, a patient has to pass a minimum means test. His earnings must be below the poverty level (less than $2200 a year plus $500 for each child). The lower-middle and middle-class patients would be expected to suffer most from such requirements.

The tendency for transplant centers to be concentrated in relatively few medical facilities has many important, unanticipated consequences. As in the case of the University of Minnesota, the limited number of transplant centers that exist must service many surrounding states. Yet these hospitals cannot afford to continually absorb the costs of patients from states with less liberal interpretation of Title 19. The losses from unpaid bills on the transplant service can be a severe financial strain for the hospital. Such transplant services are now being forced to reject all out-of-state applicants except those who can afford treatment.

Thus, unless national financial planning keeps pace with the available technology, patients will be denied treatment on arbitrary bases, such as their state of origin or their financial status. These geographical discrepancies are further widened by the fact that there are eight states that have set aside funds to pay for residents' transplantation and dialysis expenses (Little, 1969). It appears much better to be suffering from terminal kidney disease in Illinois, than in Idaho or Wyoming, where few public funds seem available.

The goal here is not to review all the present sources of transplantation funding. Instead, it is an attempt to illustrate how technological potential has outstripped the allocation of financial resources with the result that the patients may be denied treatment for arbitrary geographical and social reasons, while hospitals, patients, and local agencies are subject to great financial strain. Most of the extant dialysis and transplantation facilities have been financed largely by federal research funds, yet it unlikely they will be used to the equal benefit of all citizens. If financial shortages persist, kidney patients who are able to pay for treatment will have an increasing advantage. It would be an oversimplification, however, to perceive a middle-class bias on the part of physicians as the major cause of this situation. Although class bias may exist, the organizational and societal pressures will be much more powerful factors in the overselection of patients able to pay.

The concentration of new medical technologies in a few large hospital complexes appears to penalize those patients who are geographically removed from such centers. It has also been suggested that local physicians may be less likely to refer such patients and that funding is frequently more difficult to obtain for them.

Whether society can and should reallocate the large sums of money necessary to support organ transplantation, in the face of many other needs, is a question of value-priorities. A clear ordering of societal priorities has not emerged inside or outside the government; therefore, the extent to which this new technology will be supported is still problematic. In actuality, there is some conflict, both within the medical world and in the larger society over the policy of funding organ transplantation. Some physicians object to enormous sums being spent on transplantation to the jeopardy of other health needs, particularly the basic health needs and adequate nutrition of the poor (Allgower and Gruber, 1970; Fox, 1970; Norman 1969).

The low success-rate and high cost of heart transplantation has made this area particularly subject to attack both by prestigious medical leaders and the new medical left (Fox, 1970; Wright, I. S., 1969). Others argue that this society could afford to pay for all of its medical needs, if social and health problems were given a higher priority, relative to defense needs, than is now the case. The problems of funding organ transplantation must be seen in the larger context of a general scarcity of resources in medicine; a shortage of physicians, particularly outside the urban areas; rapidly rising hospital costs and patient bills; and discussion of national health insurance and reorganization of medical care.

Lags in the normative and legal system

As a result of organ transplantation, new situations have arisen both within the medical world and in the larger society for which there are no clear norms or rules. There is a gap between the technological advance and the extant formal laws and informal norms

governing its application. In some cases the existing regulations and customs inhibit the full development of transplantation potential. In many areas, there is considerable uncertainty and conflict over the proper course of action.

PATIENT SELECTION

In the medical sphere the selection of patients for dialysis and transplantation demonstrates this normative uncertainty. Once the patient passes the hurdle of the referring physician and arrives at the transplant or dialysis center, he still must be accepted for treatment. In those areas where the communication gap between university and local physicians is closing faster than the resource gap, the number of referred patients frequently exceeds the tolerable load. How is the crucial decision made: who will live and who will die?

Physicians have few established norms to help them decide how to reject patients for life-saving treatment (Schreiner and Maher, 1965:551). As members of the transplant team from Duke University formulated the problem:

"Thus far, the available literature has contained little more than . . . general philosophical statements regarding problems and experiences surrounding the selection of donors and recipients for renal transplantation. . . . Although we believe that our own approach to the problem has been consistent with the general philosophy . . . we anticipate that some experienced physicians may not agree with the manner in which such a philosophy was applied in each patient. Indeed, in a number of situations, we found that we were often uncertain ourselves as to the correctness of our decision" (Hayes and Grunnells, 1969).

One attempt to create such norms was the establishment of an anonymous lay board to select patients for the new dialysis procedure (Alexander, 1962). Such boards, designed in part to select persons whose lives have the most social value, would be expected to reject the underemployed, the worker whose job is "less important," the person who has few family ties or obligations, the man with a history of deviance of any sort (Schreiner, 1966). However, most of these boards have been discontinued letting the burden of selection fall onto the doctors themselves (Abram, 1969; Katz and Procter, 1969).

Many centers have set up "universalistic" medical criteria, i.e., standards that apply to all, regardless of social background. The aim may be to choose those patients who are expected to have the least complicated medical course, patients within certain age limits, or patients with specific disease constellations, or only patients with living related donors.

However, many programs appear to introduce less universalistic criteria into the selection process. Psychological and social variables have been stressed, it is predicted that lower-class patients will be at a disadvantage. There are many points at which a lower-class person can be blocked from treatment. As mentioned earlier, he is less likely to seek treatment. If the lower-class person does not attend a major hospital clinic but visits a local physician, he may be less likely to be referred to a transplant center, due either to the doctor's unconscious class bias or to his fear that the costs will be too great. If the patient originates from the "wrong" state, the costs may actually be too high.

In addition, once such a patient arrives at the transplant or dialysis center, his chance might be affected by the physician's unconscious bias toward more middle-class, "respectable" patients, toward patients more like the doctor himself. Hollingshead and Redlich (1958) have indicated such a middle-class bias in the psychiatrists' treatment of mentally-ill patients, as has Sudnow (1967) in the attention given by medical personnel to dying patients.

Aside from unconscious bias, certain conscious factors should reinforce the trend toward the over-selection of middle-class patients. Particularly in the choice of dialysis patients, a great emphasis has been placed on reserving treatment for patients intelligent and stable enough to cooperate with the treatment (Stickel, 1966; Livingston, March, 1970). In a survey of 87 dialysis centers, Katz and Proctor (1969) indicate that 97 percent of the centers believe willingness to cooperate with the treatment in an important criterion for selection, and 82 percent usually use intelligence as an indicator for such cooperation (Table 3). There is less agreement on the necessity for a psychiatric evaluation of the patient, or on the importance of the patient's "social worth" or his financial resources, although many centers utilize such criteria (Abram, 1968). Three-quarters of the centers regard likelihood of vocational rehabilitation to be important (Table 3). It is reasonable to assure that more highly educated middle-class patients are more likely to exhibit this high intelligence and to be seen as able to be vocationally rehabilitated.

In fact, Katz and Procter's (1969) survey of current dialysis centers shows that 91 percent of dialysis patients are white, 45 percent have at least one year of college education (in comparison to only 18 percent of the general U.S. adult population) and 60 percent of the patients had incomes (before dialysis) at, or above, the U. S. median family income. Crane's (1969) preliminary data on heart transplantation indicate a slightly bias in the direction of middle-class patients also.

There is significant discomfort and uncertainty, however, over the use of psychological and sociological variables for selection (Abram, 1968 and 1969). Given the fact that psychiatric prediction is difficult and that uremia can cause both reversable intellectual impairment and episodic psychotic behavior, it is unclear whether the psychiatrist can predict the reaction of a severely ill patient to medical therapy accurately enough to refuse him life-saving treatment.

If the shortage of places becomes more severe as patients are increasingly referred for transplantation, such social factors might be expected to play an increasing, though controversial, role in the selection process.

SOCIETAL NORMS CONCERNING CADAVER ORGANS

The patient's opportunity to receive a transplanted organ is limited not only by the scarcity of personnel, hospital beds, and financial support. Transplantation also requires the unique resource of human organs. For the kidney transplant, a significant proportion of these will be provided by relatives. However, there is still a shortage of cadaver kidneys; patients may wait for years on dialysis. If transplantation of other organs proves successful, the need will be enormous (Ad Hoc task force, 1969; Bethesda Conference Report, 1968).

The unprecedented need for this type of resource has created another situation in which appropriate medical and social norms are lacking, and laws are absent. When can a potential donor be defined as dead? What protections are there for the powerless? What are the physician's ethical responsibilities? Under what conditions can a person donate his body? Should a family agree to donate the organs of a dying member?

It is possible that in the future, organ donation will become customary. Norms will emerge such that the family and physician of a dying patient feel a social obligation to consider this donation. At the present, a favorable attitude based seems to exist in certain population segments, from such norms might eventually develop.

A Gallup poll taken in January, 1968, indicated 70 percent of the adult American population claims to be willing to donate an organ upon death. The higher the subject's education, the more willing he was to donate. Little difference was found between members of the Catholic, Protestant, and Jewish religions. The more negative attitudes of the less educated correspond with research on the attitudes of blue collar and white collar persons toward medicine. Blue collar subjects in New York City were less knowledgeable about illness, less likely to take preventative medical precautions, less acceptant of the sick role, and more important, more skeptical about the efficacy of medical care (Rosenblatt and Suchman, 1964).

Many articles have been written detailing the ethical dangers of transplantation. One major concern has been that the poor and powerful will be exploited as donors for more advantaged citizens (Kass, 1968). Fear of undue pressure to donate and less good medical care of the dying patient has also been expressed. Whether the lower classes share this concern is not known, but the fear that one's threatened death will be met by pleasure rather than vigorous treatment by physicians has been treated humorously in the popular culture. One of the humorous buttons worn reads "Drive Carefully. Dr. Barnard is waiting."

Underlying ambivalence toward donation undoubtedly exists, along with the general positive attitudes of 70 percent of the population. Gallup has projected this 70 percent into 80 million persons, a vast source of potential donors. However, a basic positive attitude, while necessary, is not sufficient to ensure adequate donation or conveyance of potential organs to the location where needed. First of all, in a few states, an individual does not have the legal right to will his organs to medicine (Ersek, *et al.*, 1969; Sadler *et al.*, 1969). In these states, and in cases where the person has not previously expressed an opinion about donation, donation depends on the willingness of the next of kin to give the organs at a moment of grief. Since the organs of elderly patients are not useful, the death of a potential donor is almost always a sudden tragedy for the family, as in the case of a relatively young person who has become the victim of an accident. It is during this highly emotional time that the decision to donate must be made. It is probably much more difficult for the family of a dying patient to donate organs for transplantation, than for a healthy individual to will his own body parts.

The legal limitation to donating one's own body is one limitation that is being rapidly erased. In only one year, 42 states have enacted the uniform Anatomical Gift Act which allows persons to will their organs for transplantation merely by signing a wallet-sized card with two witnesses (Sadler, *et al.*, 1970; Schmeck, 1970). These cards have actually elicited considerable interest. *Modern Medicine*, a magazine which is sent to 210,000 physicians, received requests for 190,000 donor cards from physician and medical socities after an issue publicized the uniform donor card. There is a considerable difference however, in the motivation necessary to actually sign this card and that required simply to express a positive attitude on a Gallup poll. It is not known how many potential donors actually will sign the cards and carry the wallet identification necessary to inform medical personnel of their willingness.

More important, even if a number of persons carry these cards, there will still be great logistical problems in identifying such donors and in contacting a transplant center rapidly enough (Wolstenholme, 1966). The next of kin will probably still have to inform the local physicians of the dying patient's wishes; the local physicians and hospitals will have to be motivated to identify donors and to expend effort in setting the process in motion.

A more rational and rapid way to tap the potential source of organs would appear to be a widespread change in the law which would permit the state, at least in certain cases, to remove organs without family permission (Castel, 1968; Duckeminier and Sanders, 1968; Wolstenholme, 1966). Israel, France, and Sweden have had similar laws (Crosbie, 1970; Wright, I. S., 1969). In Virginia, in cases falling within his jurisdiction, the medical examiner can give permission for the use of organs for transplantation without the consent of the kin or prior consent of the individual, if there is not enough time to notify the kin, and if the family has no known objection (Pierce, 1970). Unclaimed bodies are particularly likely to be considered under this law. Although some organized resistance to extending this type of law might develop (Crosbie, 1970; Wright, I. S., 1969), the general positive attitudes toward organ donation might permit ultimate passage in many states.

Thus, advances in medical technology are constrained not only by the failure of medical communication and resources to keep pace, but also by the laws formulated in earlier situations (Castel, 1968). Other societies also are facing these legal problems. Cortesini in 1966 notes the constraint against donors created by a 1940 Italian law prohibiting removal of any organ from a living person that would permanently diminish his physical integrity (Wolstenholme, 1966).

MEDICAL NORMS CONCERNING POTENTIAL DONORS

Medical Norms Concerning Cadaver Donors—Because of the widespread ethical concern about the treatment of the dying donor, new medical norms have emerged, and most centers have drawn careful guidelines. The physicians have expressed both the overwhelming need to protect the dying patient and the obligation to the prospective recipient not to ruin unnecessarily the relevant organ. Early definitions of death, which depend on the heart's cessation, threatened to encumber transplant technology (Stickel, 1966). Under the leadership of Beecher at Harvard Medical School, new definitions of brain death have been advanced in order that the circulatory system of the body can be maintained until the time of transplantation (Moore, *et al.*, 1968; New Dimensions, 1969).

Although many physicians seem less bothered by the problem of identifying irreversible brain death than are laymen (Crosbie, 1970), there are still wide differences of opinion among doctors as to what precautions are justified and important. This is an area of great normative uncertainty (Hamburger and Crosnier, 1968; Vaux, 1969; Visscher, 1970). Some physicians do not use the electroencephalogram (EEG) routinely and some physicians believe the EEG should be flat for three or four hours; while others insist on 24 to 48 hours (Savage, 1969; Silverman, *et al.*, 1969). In some centers the heart and lung machine must be turned off after death is declared; in others, these machines are discontinued only after the organ is removed (New Dimensions, 1969; Silverman, *et al.*, 1969).

To avoid conflict of interest, it has generally been agreed that the prospective donor should be cared for by a group other than the transplant surgeons, and that the transplant team cannot be involved in the declaration of death (Merrill, 1968). The situation, however, is a more complex one than is often recognized. No one questions the fact that a donor's own chance for life must be protected, and the transplant team should not be allowed to hasten the process of death. However, should the neurologists and transplant team be allowed to consult each other before the donor's death concerning the treatment that will benefit the organ to be donated?

If the fluid balance of the patient is neglected, as occurs sometimes with hopeless patients, the patient will die with a useless kidney. Should the transplant team be allowed to question this type of inadequate therapy? Usually what is good for the kidney will be good for the patient (Stickel, 1966). Whatever the benefits, however, that might accrue to the dying donor himself, some discomfort and uncertainty has been expressed concerning the institution of any therapy designed primarily to benefit the needed organ (Stickel, 1966).

In much of the discussion of this problem, the larger context has been ignored. The question is not simply when should a perspective donor be declared dead, but how long should any apparently hopeless patient be treated by extraordinary means? Transplantation has alerted the society to an already existing problem, and this may be the reason physicians seem to be less disturbed by the issue than are outsiders who are less aware of existing practices. Patients whose brains are destroyed have routinely died in the past, not because their bodies could not be kept alive for a longer period but because extraordinary care was not instituted (Brim, 1970).

In fact, frequently the unconscious brain-damaged donor is kept alive longer, rather than less long, because of transplantation. If the hopeless patient had not been selected as a donor, some of the extraordinary treatment would have been discontinued: (a) the respirator machine would have been turned off, (b) corrective fluids and blood transfusions would not have been used, and (c) cardiac massage would not be utilized if the heart stopped. For the cadaver donor, all of these extraordinary measures persist until brain death can be declared, sometimes prolonging the comatose "life" for two to three days.

Medical Norms Concerning Living Unrelated Donors—One method of alleviating the kidney shortage and avoiding of the cadaver problems would be to utilized unrelated volunteers. However, the lack of clear norms governing such a situation has discouraged many centers from utilizing this source.

Penal volunteers were used at one time at one center as unrelated kidney donors (Crosbie, 1970). The practice was discontinued on the grounds that "the use of penal volunteers, however equitably handled in a local situation, would inevitably lead to abuse if accepted as a reasonable precedent and applied broadly" (Starzl, 1966).

Most other centers have refrained from using unrelated living donors due to ethical considerations of this type and to the failure of such kidneys, up to now, to function any better than cadaver kidneys. However, the University of California Hospitals in San Francisco have used and studied living unrelated volunteers (Sadler, 1969). In one year three public appeals for volunteer donors generated calls from 200 persons; 22 became serious volunteers and 17 were considered to be without psychological or social problems.

Seventeen additional donors a year is not an inconsiderable number for a transplant program. However, at the moment, many transplant surgeons are unsure whether it is ethical to subject an unrelated person to a nephrectomy and the small risk to his life and health involved. Fellner and Schwartz (1970) believe that the medical profession has an undue distrust of the motives of such potential donors.

If living unrelated donors are used more widely, the issue of whether they are to be paid will become a significant one. Hamburger, President of the Transplantation Society, recently sent a letter to the French Ministry of Health urging an international convention that would forbid the purchase and sale of organs. He notes the danger of black mail, of unfair advantage of the poor and the captive, and of coercion in nations where personal liberties are not protected. However, the reaction to this letter at the First International Symposium on the Socio-Medical Aspects of Organ Transplantation at Houston, Texas, March, 1970, indicates that this area is also one of normative uncertainty. Many strong opinions were voiced on both sides of the question. One clergyman noted that in the American culture "he who pays, gets" and indicated that no stance should be taken on this issue (also see Savage, 1969).

In contrast, other members of the Symposium noted that most transplant facilities have been heavily supported with public funds. If scarce places on these programs are filled by persons who can afford to purchase an organ, there will be even less opportunity for the poor to secure treatment, even though they have contributed to the taxes that support the program. The prices for organs are likely to involve thousands of dollars. If there is an opportunity to secure such high prices, voluntary donations of organs both from relatives and cadaver families might be expected to dry up.

The issue would be completely different if the model of blood donation were imitated, and if the government, hospital, or insurance company paid for the organ instead of the individual (Stickel, 1966). However, given the current shortage of funds to pay patients' bills and to expand transplant programs, it appears unlikely that sizeable amounts of money could be allocated to organ purchase in the near future.

Medical Norms Concerning Related Donors—There is also considerable uncertainty and controversy among physicians regarding the use of related donors. The attitude of the staff towards the ethics of donation, and the physician's own role in this area seems to vary from institution to institution. In one institution, the policy has been to discourage living donors. At that center, it is considered unethical to allow the sacrifice of a normal organ with the jeopardy of a normal life (McGeown, 1968). The danger of family "blackmail" and involuntary consent on the part of the donor have been emphasized (Brewer, 1970; United Nations, 1970).

Other centers try to restrict their patients to those with living related donors because they wish to devote the limited resources of equipment, money, and personnel to the cases that have the best prognosis. Such centers are aware of the Kidney Transplant Registry statistics (1969) showing that 81 percent of patients with sibling donors survive two years post transplant with functioning kidneys, in comparison to only 40 percent of the patients with cadaver kidneys. Still other institutions accept patients regardless of their donor source, and expend either more or less effort in obtaining a family donor. If no donor can be found, a cadaver is then used.

The Minnesota kidney transplant program falls in this category, placing great emphasis on securing related donors if possible.

In those programs where related donors are used, the transplant surgeon may find himself in a difficult position; asking a relative to donate a kidney is stressful for the doctor and virtually unparalleled in his experience. In a fundamental sense the situation is contrary to medical norms and role-expectations. *Primum non nocere*, "first of all, do no harm," is a traditional medical norm. The doctor's task is to help cure patients. Yet in this situation, he must ask a person to assume a surgical risk and to undergo a major operation with no physical benefit for himself. Although no deaths or major complications have been reported because of organ donation, and the statistical risk is small, physicians fully recognize that as more donors are used, such problems will occur. The

risk of the operation to the patient's life has been calculated to be 0.05 percent and the long-term risk 0.07 percent (Hamburger and Crosnier, 1968).

While attempting to influence a potential donor, the doctor is placed in an ethical or role conflict between his obligation to the donor and his commitment to save the life of his patients. Although the dilemma has been widely discussed (Hamburger and Crosnier, 1968; Wolstenholme, 1966; Stickel, 1966), no clear norms have emerged to guide the doctor, except for the necessity of "informed consent." It is agreed that the prospective donor must be informed about the degree of risk and the inconveniences that will occur. There is no consensus, however, concerning the degree of effort a doctor should exert to secure a family donor, nor about the method he should use (Hamburger and Crosnier, 1968).

Some centers have routinized the selection procedure and institutionalized psychiatric review boards to reject any prospective donor whose ambivalence and anxiety appear too great, and whose volunteering is considered more the result of family pressure than individual desire (Hamburger and Crosnier, 1968; Stickel, 1966). In some programs, the policy has been to make it difficult for the donor to volunteer. In such programs, a given member of the team tries to talk him out of donation (Pierce, 1970) or the donor is not accepted until he has asked to donate many times (Korsch, oral communication. March 1970).

The Minnesota service does not force family members to beg to donate; nor has the onus of intervention been removed from the nonpsychiatric physicians and surgeons responsible for patient care. They are the ones who must advance the idea of family donation and explain both the need and the risks.

At such a center, where a large number of both cadaver and related kidneys are transplanted, there appear to be strong structural pressures on the doctor to resolve the conflict in favor of the recipient and to press hard for a family donor. The surgeons and nephrologists are likely to have had much more contact with the patient than with the donor before any decision is made, and they expect this differential contact to persist. Because of their greater exposure to the patient, they are likely to be extremely motivated to save his life. In addition, the doctor is constantly reminded by his own experience that the recipient will do twice as well with a related kidney as with a cadaver kidney. Almost all of his patients with related kidneys do well, and more than half of the cadaver recipients return sooner or later with irreversible kidney rejection. The small risk to the donor appears less real to the physician, especially if there have been no problems on his own service.

Despite any strong bias in favor of the recipient, direct solicitation of a prospective donor can be extremely uncomfortable. The physician is conscious of the norm against exerting undue pressure but has no clear normative guidelines. What is undue pressure in a specific case? If the potential donor expresses doubts, at what point should the doctor respond by informing him he should not donate?

Merton (1957) suggests that one mechanism for resolving role-conflict is to abridge the role-set, to cut off role-relations with one of the conflicting parties. Such a mechanism has developed at this center. The role-relationship between the doctor and the potential donor has not been eliminated, but contact is kept to a minimum during the decision-making period.

This pattern, as it has emerged allows the physician to urge donation by family members, while enabling him to avoid direct confrontation with potential ambivalent donors. The doctors inform the adult potential recipient (and perhaps the spouse) of the great need to secure a biologically related donor to increase the chances of functional survival. In this way the doctors communicate the statistical urgency of the problem without applying direct pressure on the donor. This task is left to the recipient himself. This tactic appears to alleviate some of the physician's discomfort about his ethical role. However, it may place the patient in an uncomfortable position since he has to request his family to save his life. The degree of stress on the patient in this situation remains to be investigated.

However, this emergent pattern has not been formally institutionalized. Therefore, the doctors' role differs somewhat from case to case, partially due to their own uncertainty about the correct course and to situational differences. The physician may come into contact with a prospective donor who is visiting the patient, or a family may request a consultation.

If a family member consents to be a donor, the procedure followed by most centers appears to be more uniform and routinized. Blood and tissue typing will be carried out to determine compatibility with the recipient. The donor will also receive a thorough medical work-up to assure that his kidneys are normal and that his general health is adequate for donation. He will also be informed about the nature of the operative risk and discomforts. If at this time he decides he does not wish to donate, the doctors at most centers will give him a medical excuse to avoid embarrassment in facing the recipient (Hamburger and Crosnier, 1968).

According to current studies (Fellner and Marshall, 1968, 1970; Eisendrath, 1969), the family donor often experiences feelings of greater self-esteem and, in fact, may think of himself as something of a hero. If kidney donation enhances the donors self-esteem, then some of the ethical problems about the morality of taking from one individual to give to another might be less urgent. On the other hand, Simmons *et al.* (1970) indicate that the donor decision-making process is a significant stress for the families involved, and in particular for the nondonor—the relative who could donate but does not volunteer to do so. Conflict between family members is noted, although some of these conflicts appear resolved once the transplantation is successful.

ORGANIZATIONAL RESPONSES TO AMBIGUITY

The ethical and normative uncertainties raised by transplantation and donation have generated an unusual amount of organizational activity (Page, 1970; United Nations, 1970). On the national level, hearings on the issues have been held in Congress (Schmeck, 1969); Senator Walter Mondale (1968) has proposed establishing a Commission on Health, Science and Society to consider the ethical, social and financial implications of transplantation. Within the medical world international and national symposia on transplantation have been held (Bethesda Conference Report, 1968; Wolstenholme, 1966; Silverman, *et al.*, 1969), and many blue-ribbon panels have been set up to establish ethical guidelines for physicians within existing specialty organizations (Shelly, 1968; Silverman *et al.*, 1969; Wright, I.S., 1969; Corday, 1970; Frye, 1969).

The effect and efficacy of such organizationally-set guidelines is unknown. The extent to which they inhibit inadvisable procedures on the one hand, or technological advance on the other hand, remains to be investigated. Whether or not they will be institutionalized is also an open question. In general, despite all the groups which have met, most of the difficult ethical problems related to organ transplantation remain unsettled.

SUMMARY

In summary, it appears that the organization of societal and medical resources, the communication patterns between university and local physicians, the state laws, and the medical and societal norms lag behind the technological potential of transplantation. The limitation in number of transplant centers creates a special problem of moving potential patients, donors, and organs from outlying communities to these centers. The economically disadvantaged patient from such an outlying community would appear to be the one who suffers most from the shortage of facilities and resources and from the communication gaps within medicine. He is probably the least likely to receive dialysis or transplant treatment.

Some of these problems of "cultural lag" could be solved by more technological advances. Improved tissue-typing and methods of long-term storage of organs could mitigate the cadaver organ shortage and allow all organs to be put to the most efficient use. Implantable artificial organs could eliminate the entire donor problem.

In the interim, patients are being denied needed treatment because of scarce resources; and physicians are experiencing uncertainty as a result of the lack of clear norms and regulations. Whether the society can affect changes in the needed areas within a short period of time, in the face of many other compelling demands, remains to be seen. In the future, more and more expensive technological advances in medicine can be expected. Whether the society can respond effectively to these opportunities is an open question.

TABLE 1.—*Personnel of a Transplant Center**

Director Transplantation Center (surgeon).

Administrative Assistant: (Nurse), Secretary.

Director Transplantation (surgeon): 1 surgical fellow, 1 full time resident, 2 full time interns, 2 part time surgical staff, 4 part time residents.

Director Hemodialysis (Nephrologist): 1 Assistant Director, Head nurse, 6 nurses, 3 technicians.

Nursing Service.

Head nurse: 12–16 nurses and practical nurses.

Special Laboratories.

Histocompatibility Testing: Director, 3 technicians.

Anti-Lymphocyte Globulin Manufacture and quality control: 1 physician, 3 technicians.

Assigned Consultants: Psychiatrist, Social Worker, Dietician, Pediatrician, Neurologist, Otolaryngologist, Orthopedist, Ophthalmologist.

Consultant Services: Nuclear Medicine, Diagnostic Radiology, Radiotherapy, Pharmacy, Vocational Rehabilitation, Physical Medicine, Occupational therapy, Blood Bank, Hematology, Microbiology, Laboratory Medicine.

TABLE 2A.—*Public Sources of Funding for Dialysis and Kidney Transplantation*

National Institute of Health Research Grants to Medical Centers.

U.S. Public Health Service Grants and Contracts to Medical Centers.

Title 19 Medicaid.

Title 18 Medicare.

Vocational Rehabilitation Program.

Regional Medical Program.

Special State Legislation for financial support of renal patients.

State Crippled Children's Services.

Public Law 89–749 (Section 314 d and e)—

---

* University of Minnesota Clinical Transplantation Center (chart excludes personnel engaged primarily in research).

Support given directly to kidney disease programs.

Veterans' Administration Hospital Funds and Benefits—primarily for veterans and family.

Table adapted from Kidney Disease Services, Facilities, and Programs in the United States, Washington, D.C., United States Government Printing Office (Public Health Service Publication No. 1942, May), 1969.

TABLE 2B.—*Sources of Payment: For Cardiac Transplant Patients*

(36 cases)

Source of Funds*	Amount	Per cent
NIH	$238.281	36.3
Private Hospital Insurance	93,873	14.3
Blue Cross-Blue Shield	49,164	7.4
Medicaid	29,476	4.4
Hospital and/or Private Philanthropy	214,993	32.6
Patient or Family	7,672	1.1
Other	25,614	3.9
Total	659,073	100.0

*The distribution of funds is based on information collected as of February, 1969.

Table adapted from: Ad hoc task force on cardiac replacement, National Heart Institute, Washington, D.C. United States Government Printing Office, 1969.

TABLE 3.—*Importance of Selection Criteria Used by 87 Hemodialysis Centers*

(Percent of centers believing the Criterion to be important and using such a criterion frequently.)

Medical Suitability (good prognosis with dialysis), 97.

Absence of Disabling Disease (other than that of renal origin), 95.

Age, 82.

Sex, 3.

Willingness to Cooperate in Dialysis Regimen, 96.

Intelligence (as related to understanding treatment), 82.

Psychiatric Evaluation, 55.

Social Welfare Evaluation of Patient and his Family, 44.

Patient: Judged Congenial, Likeable by Staff, 22.

Social Welfare Burden of Patient's Dependents if not Selected, 25.

Patient's Demonstrated "Social Worth", 32.

Patient's Future Social Contribution, 42.

Likelihood of Vocational Rehabilitation, 74.

Financial Resources for Patient's Treatment, 36.

Research Potential of Patient for Staff, 15.

Primacy of Application for Vacancy Available in Facility, 54.

Table adapted from A. Katz and D. Procter: "Social Psychological characteristics of patients receiving hemodialysis treatment for chronic renal failure: Report of questionnaire survey of dialysis centers and patients during 1967," Washington, D.C., United States Government Printing Office, (July), 1969.

REFERENCES

Abram, H. S. 1969. "The psychiatrist, the treatment of chronic renal failure, and the prolongation of life: II." American Journal of Psychiatry 126: 157.

Abrams, H. S. and W. Wadlington. 1968. "Selection of patients for artificial and transplanted organs." Annals of Internal Medicine 69: 615.

Ad hoc force on cardiac replacement. 1969. National Heart Institute. Washington, D.C., United States Government Printing Office.

Alexander, S. 1962. "They decide who lives, who dies." Life 53 (November 9): 102.

Allgower, M. and U. F. Gruber. 1970. "Ethical problems of organ transplantation." Progress in Surgery 8: 1.

Bethesda Conference Report. 1968. "Cardiac and other organ transplantation in the setting of transplant science as a national effort." American Journal of Cardiology 22: 896.

Brewer, S. P. 1970. "Donors of organs seen as victims." New York Times (April 19): 36.

Brim, O. G., H. E. Freeman, S. Levine, and N. A. Scotch. 1970. The Dying Patient. Russell Sage Foundation, New York.

Castel, J. G. 1968. "Legal aspects of human organ transplantation in Canada." Canadian Medical Association Journal 99: 533.

Coleman, J. H. Menzel, and E. Katz. 1959. "Social processes in physicians' adoption of a new drug." The Journal of Chronic Diseases 9: 1.

Corday, E. 1970. "Definition of death: A double standard." Medical Tribune 11: 13.

"The Cost of Life." 1968. (Editorial) Journal of the Americal Medical Association 204: 923.

Crane, Diana and Daryl Matthews. 1969. "Heart Transplant Operations: Diffusion of a Medical Innovation." Paper presented at the 64th annual meeting of the American Sociological Association, San Francisco, California, September 4, 1969.

Crosbie, S. 1970. "The administrator in the organ replacement program." In proceedings of the First International Symposium on Organ Transplantation in Human Beings, Hanover: Sandoz Pharmaceuticals, to be published.

Duckeminer, J., Jr. and D. Sanders 1968. "Organ Transplantation: A proposal for routine salvaging of cadaver organs." New England Journal of Medicine 279: 413.

Eisendrath, R. M. 1969. "The role of grief and fear in the death of kidney transplant patients." American Journal of Psychiatry 126: 381.

Ersek, R., E. Cutting, S. Chou, R. J. Tierney, J. S. Najarian, and R. C. Lillehei. "Procurement of transplantable tissues." Minnesota Medicine 52: 183.

Fellner, C. H. and J. R. Marshall. 1968 "Twelve kidney donors." Journal of the American Medical Association 206: 2703.

1970. "Kidney donors: The myth of informed consent." American Journal of Psychiatry 126: 1245.

Fox, R. C. 1970. "A sociological perspective on organ transplantation and hemodialysis." Annals of the New York Academy of Sciences 169: 406.

Freidson, E. 1963. "The organization of medical practice." In H. Freeman, S. Levine, and G. Reeder, (eds.), Handbook of Medical Sociology, Englewood Cliffs: Prentice-Hall: 299.

Frye, W. W. 1969. "The national transplant information center." ("Current Opinion", guest editorial). Medical Tribune 10(No. 92): 19.

Gottschalk, C. W. 1969. Report of the Committee on Chronic Kidney Disease to the Bureau of the Budget (September).

Hamburger, J. and J. Crosnier, 1968. "Moral and ethical problems in transplantation." In F. Rapaport, and J. Dauset, (eds.), Human Transplantation, New York: Grune and Stratton: 37.

Hayes, C. and J. C. Gunnells 1969. "Selection of recipients and donors for renal transplantation." Internal Medicine 123: 521.

Hollingshead, A. B. and F. C. Redlich 1958. Social Class and Mental Illness. New York: John Wiley and Sons, Inc.

Kass, L. R. 1968. "A caveat on transplants." The Washington Post (January 14): B1.

Katz, A. and D. Procter. 1969. "Social psychological characteristics of patients receiving hemodialysis treatment from chronic renal failure: Report of questionnaire survey of dialysis centers and patients during 1967." Washington, D.C., United States Government Printing Office (July).

Kendall, P. L. 1965. "The relationship between medical educators and medical practitioners." Journal of Health and Human Behavior 6: 79.

Kidney Disease Services, Facilities, and Programs in the United States. 1969. Washington, D.C., United States Government Printing Office (Public Health Service Publication No. 1942, May).

Little, A. D., Incorporated. 1969. "Financial coverage for victims of end-stage renal failure." Report (April 21).

Livingston, G. 1970. Discussant at the First International Symposium on the Socio-Medical Aspects of Organ Transplantation (March).

McGeown, M. G. 1968. "Ethics for the use of live donors in kidney transplantation." American Heart Journal 75: 711.

Merrill, J. P. 1968. "Medical management of the transplant patient." In R. T. Rapaport, and J. D. Dausset (eds.), Human Transplantation, New York: Grune and Stratton: 55.

Merton, R. K. 1957. Social Theory and Social Structure. Glencoe: Free Press.

Mondale, W. 1968. Introduction of joint resolution to establish a commission on health, science and society. Congressional Record 114 (No. 33: 2622).

Moore, F. D., G. E. Burch, D. E. Harken, H. J. C. Swan, J. E. Murray and C. W. Lillehei, "Cardiac and other organ transplantation: In the setting of transplant science as a national effort." Journal of the American Medical Association 206: 2489.

New dimensions in legal and ethical concepts for human research. 1969. Sciences 9: 10.

Norman, J. 1969. "Medicine in the ghetto." New England Journal of Medicine 281: 1271.

Ogburn, W. F. 1922. Social Change, New York: Viking Press.

Page, I. H. 1969. "The ethics of heart transplantation: A personal view." Journal of the American Medical Association 207: 109.

Pierce, G. A. 1970. "The administrator in an organ replacement program." In proceedings of the First International Symposium on Organ Transplantation in Human Beings, Hanover: Sandoz Pharmaceuticals, to be published.

Reinhard, H. C. 1970. "The administrative aspects of organ transplantation." In proceedings of the First International Symposium on Organ Transplantation in Human Beings, Hanover: Sandoz Pharmaceuticals, to be published.

Rosenblatt, D. and E. Suchman. 1964. "Blue collar attitudes and information toward health and illness." In A. Shostak, and W. Gomberg, (eds.), Blue Collar World, Englewood Cliffs: Prentice-Hall: 324.

Sadler, A. M., Jr., B. L. Sadler, and G. E. Schreiner. 1969. "A uniform card for organ and tissue donation." Modern Medicine 37: 20.

Sadler, A. M., Jr., B. L. Sadler, and E. B. Stason. 1970. "Transplantation and the law: Progress toward uniformity." New England Journal of Medicine 282: 717.

Sadler, H. H., Leslie Davidson, Charles Carroll, and Samuel Kountz. 1971. "Psychiatric aspects of organ transplantation." Seminars in Psychiatry. 3: 86.

Savage, J. 1969. "Organ transplantation with an incompetent donor: Kentucky resolves the dilemma of Strunk vs. Strunk." Kentucky Law Journal 53: 129.

Schmeck, H. M., Jr. 1970. "Forty-two states ease laws on transplants." New York Times (April 13): 30.

Schmeck, H. M., Jr. 1969. "Transplantation of organs and attitudes: The public's attitude toward clinical transplantation." Transplantation Proceedings 1: 670.

Schreiner, G. E. 1966. "Problems of ethics in relation to haemodialysis and transplantation." In G. E. W. Wolstenholme, and M. O'Connor, (eds.), Ethics in Medical Progress: With Special Reference to Transplantation (Ciba Foundation Symposium), Boston: Little, Brown and Co.: 126.

Schreiner, G. E., and J. F. Maher 1965. Hemodialysis for chronic renal failure. The medical, moral and ethical, and socio-eco-

nomic problems," Annals of Internal Medicine 62: 551.

Shelley, E. G. 1968. "Ethical guidelines for organ transplantation." Journal of the American Medical Association 205: 341.

Silverman, D., M. G. Saunders, R. S. Schwab, and R. L. Masland. 1969. "Cerebral death and the electroencephalogram. Report of the ad hoc committee of the American Electroencephalographic Society on EEG criteria for determination of cerebral death." Journal of the American Medical Association 209: 1505.

Simmons, R. G., K. Hickey, C. Kjellstrand, and R. L. Simmons 1971. "Family tension in the search for a kidney donor." Journal of the American Medical Association 215: 909.

Starzl, T. E. 1966. In discussion on J. E. Murray: "Organ Transplantation: The practical possibilities." In Wolstenholme, G. E. W., and M. O'Connor, (eds.), Ethics in Medical Progress: With Special Reference to Transplantation (Ciba Foundation Symposium), Boston: Little, Brown and Co.: 76.

Stickel, D. L. 1966. "Ethical and moral aspects of plantation." Monographs in the Surgical Sciences 3: 267.

Sudnow, D. 1967. Passing On, The Social Organization of Dying, Englewood, Cliffs: Prentice Hall, Inc., 1967.

United Nation Economic and Social Council. 1970. Commission on Human Rights, Twenty-sixth session, Item 18 of the provisional agenda, E/CN.4/1028/Add.2 (March 19).

Vaux, K. 1969. "A year of heart transplants. An ethical valuation." Postgraduate Medicine 45: 201.

Visscher, M. B. 1970. "Assisting Survival." Minnesota Medicine 53: 626.

Wolstenholme, G. E. W., and M. O'Connor (eds.) 1966. Ethics in Medical Progress, Boston, Little, Brown and Company.

Wright, I. S. 1969. "A new challenge to ethical codes: Heart transplant." Journal of Religion and Health 8: 226.

Notes of a Biology-Watcher—The Technology of Medicine

(By Lewis Thomas, M.D.)

Technology assessment has become a routine exercise for the scientific enterprises on which the country is obliged to spend vast sums for its needs. Brainy committees are continually evaluating the effectiveness and cost of doing various things in space, defense, energy, transportation and the like, to give advice about prudent investments for the future.

Somehow medicine, for all the 60-odd billion dollars that it is said to cost the nation, has not yet come in for much of this analytical treatment. It seems taken for granted that the technology of medicine simply exists, take it or leave it, and the only major technologic problem in which policy-makers are interested is how to deliver today's kind of health care, with equity, to all the people.

When, as is bound to happen sooner or later, the analysts get around to the technology of medicine itself, they will have to face the problem of measuring the relative cost and effectiveness of all the things that are done in the management of disease. They make their living at this kind of thing, and I wish them well, but I imagine they will have a bewildering time. For one thing, our methods of managing disease are constantly changing—partly under the influence of new bits of information brought in from all corners of biologic science. At the same time, a great many things are done that are not so closely related to science, some not related at all.

In fact, there are three quite different levels of technology in medicine, so unlike each other as to seem altogether different undertakings. Practitioners of medicine and the analysts will be in trouble if they are not kept separate.

1. First of all, there is a large body of what might be termed "nontechnology," impossible to measure in terms of its capacity to alter either the natural course of disease or its eventual outcome. A great deal of money is spent on this. It is valued highly by the professionals as well as the patients. It consists of what is sometimes called "supportive therapy." It tides patients over through diseases that are not, by and large, undertsood. It is what is meant by the phrases "caring for" and "standing by." It is indispensable. It is not, however, a technology in any real sense, since it does not involve measures directed at the underlying mechanism of disease.

It includes the large part of any good doctor's time that is taken up with simply providing reassurance, explaining to patients who fear that they have contracted one or another lethal disease that they are, in fact, quite healthy.

It is what physicians used to be engaged in at the bedside of patients with diphtheria, meningitis, poliomyelitis, lobar pneumonia and all the rest of the infectious diseases which have since come under control.

It is what physicians must now do for patients with intractable cancer, severe rheumatoid arthritis, multiple sclerosis, stroke and advanced cirrhosis. One can think of at least 20 major diseases that require this kind of supportive medical care because of the absence of an effective technology. I would include a large amount of what is called mental disease, and most varieties of cancer, in this category.

The cost of this nontechnology is very high, and getting higher all the time. It requires not only a great deal of time but also very hard effort and skill on the part of physicians; only the very best of doctors are good at coping with this kind of defeat. It also involves long periods of hospitalization, lots of nursing, lots of involvement of nonmedical professionals in and out of the hospital. It represents, in short, a substantial segment of today's expenditures for health.

2. At the next level up is a kind of technology best termed "halfway technology." This represents the kinds of things that must be done after the fact, in efforts to compensate for the incapacitating effects of certain diseases whose course one is unable to do very much about. It is a technology deisgned to make up for disease, or to postpone death.

The outstanding examples in recent years are the transplantations of hearts, kidneys, livers and other organs, and the equally spectacular inventions of artificial organs. In the public mind, this kind of technology has come to seem like the equivalent of the high technologies of the physical sciences. The media tend to present each new procedure as though it represented a breakthrough and therapeutic triumph, instead of the makeshift that it really is.

In fact, this level of technology is, by its nature at the same time highly sophisticated and profoundly primitive. It is the kind of thing that one must continue to do until there is a genuine understanding of the mechanisms involved in disease. In chronic glomerulonephritis, for example, a much clearer insight will be needed into the events leading to the destruction of glomeruli by the immunologic reactants that now appear to govern this disease, before one will know how to intervene intelligently to prevent the process, or turn it round. But when this level of understanding has been reached, the technology of kidney replacement will not be much needed, and should no longer pose the huge problems of logistics, cost and ethics that it poses today.

An extremely complex and costly technology for the management of coronary heart disease has evolved, involving specialized ambulances and hospital units, all kinds of electronic gadgetry and whole platoons of new professional personnel, to deal with the end results of coronary thrombosis. Almost everything offered today for the treatment of heart disease is at this level of technology, with the transplanted and artificial hearts as ultimate examples. When enough has been learned to know what really goes wrong in heart disease, one ought to be in a position to figure out ways to prevent or reverse the process, and when this happens the current elaborate technology will probably be set to one side.

Much of what is done in the treatment of cancer, by surgery, irradiation and chemotherapy, represents halfway technology, in the sense that these measures are directed at the existence of already established cancer cells, but not at the mechanisms by which cells become neoplastic.

It is a characteristic of this kind of technology that it costs an enormous amount of money and requires a continuing expansion of hospital facilities. There is no end to the need for new, highly trained people to run the enterprise. And there is really no way out of this, at the present state of knowledge. If the installation of specialized coronary-care units can result in the extension of life for only a few patients with coronary disease (and there is no question that this technology is effective in a few cases), it seems to me an inevitable fact of life that as many of these as can be will be put together, and as much money as can be found will be spent. I do not see that anyone has much choice in this. The only thing that can move medicine away from this level of technology is new information, and the only imaginable source of this information is research.

3. The third type of technology is the kind that is so effective that it seems to attract the least public notice; it has come to be taken for granted. This is the genuinely decisive technology of modern medicine, exemplified best by modern methods for immunization against diphtheria, pertussis and the chilhood virus diseases, and the contemporary use of antibiotics and chemotherapy for bacterial infections. The capacity to deal effectively with syphilis and tuberculosis represents a milestone in human endeavor, even though full use of this potential has not yet been made. And there are, of course, other examples: the treatment of endocrinologic disorders with appropriate hormones, the prevention of hemolytic disease of the newborn, the treatment and prevention of various nutritional disorders and perhaps just around the corner the management of Parkinsonism and sickle-cell anemia. There are other examples, and everyone will have his favorite candidates for the list, but the truth is that there are nothing like as many as the public has been led to believe.

The point to be made about this kind of technology—the real high technology of medicine—is that it comes as the result of a genuine understanding of disease mechanisms, and when it becomes available, it is relatively inexpensive, relatively simple, and relatively easy to deliver.

Offhand, I cannot think of any important human disease for which medicine possesses the capacity to prevent or cure outright where the cost of the technology is itself a major problem. The price is never as high as the cost of managing the same diseases during the earlier stages of no-technology or halfway technology. If a case of typhoid fever had to be managed today by the best methods of 1935, it would run to a staggering expense. At, say, around 50 days of hospitalization, requiring the most demanding kind of nursing care, with the obsessive con-

---

Footnote at end of article.

cern for details of diet that characterized the therapy of that time, with daily laboratory monitoring and, on occasion, surgical intervention for abdominal catastrophe, I should think $10,000 would be a conservative estimate for the illness, as contrasted with today's cost of a bottle of chloramphenicol and a day or two of fever. The halfway technology that was evolving for poliomyelitis in the early 1950's, just before the emergence of the basic research that made the vaccine possible, provides another illustration of the point. Do you remember Sister Kenney, and the cost of these institutes for rehabilitation, with all those ceremonially applied hot fomentations, and the debates about whether the affected limbs should be totally immobilized or kept in passive motion as frequently as possible, and the masses of statistically tormented data mobilized to support one view or the other? It is the cost of that kind of technology, and its relative effectiveness, that must be compared with the cost and effectiveness of the vaccine.

Pulmonary tuberculosis had similar episodes in its history. There was a sudden enthusiasm for the surgical removal of infected lung tissue in the early 1950's, and elaborate plans were being made for new and expensive installations for major pulmonary surgery in tuberculosis hospitals, and then INH and streptomycin came along and the hospitals themselves were closed up.

It is when physicians are bogged down by their incomplete technologies, by the innumerable things they are obliged to do in medicine when they lack a clear understanding of disease mechanisms, that the deficiencies of the health-care system are most conspicuous. If I were a policy-maker, interested in saving money for health care over the long haul, I would regard it as an act of high prudence to give high priority to a lot more basic research in biologic science. This is the only way to get the full mileage that biology owes to the science of medicine, even though it seems, as used to be said in the days when the phrase still had some meaning, like asking for the moon.

THE PRESERVATION OF HUMAN CADAVER KIDNEYS FOR TRANSPLANTATION

(By Robert E. McCabe, Jr., M.D., and Hugh F. Fitzpatrick, M.D.)

(NOTE.—Figures and tables referred to are not printed in the RECORD.)

Since the institution of the first regional program in hemodialysis in 1960,[1] an increasing number of patients have been accepted for treatment throughout the United States. In the New York metropolitan area, approximately 700 patients are currently under treatment at 30 dialysis centers. Many of these patients are candidates for a renal allograft and have a relative willing and able to donate a kidney; more than 200, however, are less fortunate and are currently awaiting a cadaver transplant.

With such a large number of patients on the cadaver waiting list, it is not unusual for an individual to undergo twice-weekly hemodialysis for one to two years before a kidney becomes available. In considering mortality statistics, with more than 100,000 deaths per year in New York City, such an acute shortage of salvageable organs seemed inconsistent with the potential supply, especially when short-term kidney banking is now a clinical reality.[2-4]

Since we had proven capability in successful preservation of human kidneys,[5] and did not yet have a formal transplant program, it seemed appropriate for us to publicize the urgent need for viable organs and to alert the medical profession in the methods and results of organ procurement, preservation, and transplantation. Such a program has required centralized tissue typing, training of adequate technical staff in renal preservation to take call on a 24-hour basis, and close cooperation between multiple dialysis units and the transplant centers.

We have encouraged tissue typing of an expanding recipient pool from multiple dialysis units at the New York Blood Center on peripheral leucocytes collected from defibrinated blood by the microdroplet technique of Terasaki.[6] The ABO and HL–A phenotypes are stored in a computer. After the donor's ABO and HL–A phenotypes are entered, the computer has been programmed to print out all matches from identical through three major mismatches. We have also encouraged each dialysis unit to send a monthly collected specimen of serum to the blood center for the cross match. All potential recipients with a positive cross match to a potential donor have been automatically excluded from consideration for transplantation.

The preservation system (Fig. 1) is a Belzer organ-perfusion apparatus, consisting of a membrane oxygenator, pulsatile pump, two perfusion chambers, filter, and heat exchanger. The perfusate, maintained at 8 C, consists of type-specific cryoprecipitated plasma to which penicillin, hydrocortisone, dextrose, insulin, manitol, and magnesium sulfate are added according to the method of Belzer. The pH is maintained at 7.4 by regulation of carbon dioxide flow into the membrane. All kidneys are placed on the unit at a pulse rate of 60 beats per minute and a systolic pressure of 60 mm Hg. More than 300 human kidneys have been preserved with this system for a maximum of 50 hours throughout the United States. This is adequate time to complete the tissue typing, including the cross match and to permit preoperative preparation of the recipients. Transplant operations may therefore be performed semielectively, simultaneously, in sequence, at multiple institutions.

We have elected, in this congested area, to transport the kidneys to the preservation laboratory by police car or helicopter rather than attempt to remove the preservation unit to the donor hospital, as practiced in other smaller metropolitan areas. A transport box (Fig. 2) was thus devised after the method of Terasaki and consists of a presterilized one-half gallon wide-mouth polypropylene container, two prepackaged and sterilized intestinal bags and a styrofoam box filled with ice. In this manner cold flushed kidneys can be transported in a sterile container from the donor hospital to both the preservation laboratory and to the recipient hospital. Although warm ischemic time is most critical and must be kept less than 90 minutes, cold ischemic time is far less critical and may well approximate 12 to 24 hours.[7 8] This is adequate time for transporting kidneys over widely separated geographic areas.

When we hear of a potential kidney donation, the preservation laboratory is alerted and makes the necessary arrangements for tissue typing of the donor at the blood center usually from peripheral leukocytes but on occasion from an antigen prepared from a lymph node or from spleen or kidney biopsy in the absence of peripheral blood. The Belzer perfusate and the preservation unit are set up by the technical staff, while the harvesting surgeons supervise donor maintenance in cooperation with the staff of the donor hospital until death has been pronounced.

Special care is used during donor nephrectomy to handle the ureter gently, to preserve adequate periureteral fat, and to protect the kidney[9] from vascular injury in case of an anomaly. In all cases attempts are made to convert a double artery or vein into a single vessel by taking a cuff of the appropriate vessel.

After harvesting, the kidneys are transported in ice to the preservation laboratory for banking and testing. If flow is less than 50 ml/min at a systotolic pressure of 60 mm Hg, if pH falls, or perfusate serum glutamic loacetic transaminase or lactic dehydrogenase levels rise, preservation is considered inadequate, and the kidneys are discarded. Such pretransplant physiological evaluation of the kidneys has proven very important in allograft survival rates.[9]

During the past year, we have been fortunate enough to harvest 30 kidneys from ten different hospitals in three adjacent states (Table) through close cooperation between the astute staff at the donor hospitals and the preservation laboratory. All were patients who had sustained irreversible brain damage from head trauma, subarachnoid hemorrhage, hypoxia with cardiac arrest, or a cerebrovascular accident. Consent for organ donation was obtained in advance of cardiac arrest from the nearest relative and from the local medical examiner when indicated. During the agonal state vigorous rehydration with blood, plasma, and saline solution was encouraged. Phenoxybenzamine hydrochloride, 100 mg., and heparin sodium, 10,000 units, were administered before donor nephrectomy to reduce the effects of warm and cold ischemia.

Of these 30 kidneys, only 20 were deemed satisfactory for subsequent transplantation. Recipients from five different hospitals were selected primarily on the basis of tissue typing but secondarily on urgent need and duration on the waiting list. Those patients who had previously rejected a kidney from a related living donor were given special priority when other parameters were equal.

Ten kidneys were not used because there was not an appropriately matched rceipient[3] or preservation was considered inadequate.[3] Of these eight, three were deemed unsuitable for transplantation because of vascular anomalies in association with poor flow on the preservation system. Of the 30 kidneys, nine had such arterial or venous anomalies, but no double ureters were encountered.

An excellent preservation resulted in nine cases, in that there was prompt function following revascularization and post transplant dialysis was not necessary; an additional eight were considered good with delayed restoration of renal function after a brief period of acute renal failure. Two were classified as fair results because of complications related either to preservation or to reimplantation and rejection. One kidney failed to function and revealed a fulminating cortical necrosis at transplant nephrectomy; one additional transplant was rejected within one month for a short-term graft survival rate of 84%. Of the 20 patients to receive transplants, three have died from long-term complications of surgery, two with a functioning allograft. Sixteen recipient, or 80%, currently have a functioning allograft, the longest for nine months. Since the period of risk in these patients is two years, it is too early to predict long-term graft survival. Such a high graft-survival rate has been possible because of physiologic evaluation of graft viability while with the preservation unit, as well as improved techniques in tissue typing and recipient selection. Such excellent results also attest to the medical and surgical expertise of the recipient transplant teams.

In reviewing our first year's results we have been heartened by the unique cooperation shown by so many institutions; yet we have been equally disappointed and frustrated on numerous occasions when viable organs were lost by delay or inability to obtain consent from the nearest relative or reluctance by the responsible physician to push intravenous fluids or to declare the patient dead, even though the patient was areflexic, maintained with a respirator, and had a flat electroencephalogram.

Consequently, we have established stringent criteria for organ donation (Table 2).

Footnotes at end of article.

These are the following:

(1) Consent from family and medical examiner (if indicated).

(2) No known preexisting kidney disease, hypertension, or malignancy (except for a brain tumor).

(3) Serum creatinine level less than 3 mg/100 ml on the day of death.

(4) Warm ischemic time (from cardiac arrest to removal of kidneys) less than 90 minutes.

(5) Satisfactory flow on the perfusion system without a rising perfusion pressure, falling pH, rising enzymes.

(6) An appropriate recipient selected primarily on the basis of tissue typing.

Although we have salvaged four out of ten kidneys when cardiac arrest occurred before arrival of the surgical team at the Donor Hospital, we feel the yield is not worthy of the effort and now discourage organ donations when we must await cardiac arrest. It is readily apparent that many of our medical colleagues have of necessity redefined "death" in order to provide us with viable organs. Our criteria for neurological death, namely, (1) apnea for three minutes while off respirator in presence of normal arterial Po_2 and Pco_2, (2) areflexia, including cold calorics, and (3) flat electroencephalogram at maximum gain for 24 hours, have now been widely accepted not only by most internists and neurologists in our area but by hospital administrators as well. We will not accept kidney donation from such a patient, however, until at least two internists, neurologists, or anesthesiologists have pronounced neurological or brain "death."

We also encourage optimal donor maintenance by rehydration with plasma and saline solution in order to push the central venous pressure above 10 cm of water. Because of splanchnic pooling so often associated with neurological death, 500 to 1,000 ml of plasma and 1 to 3 liters of saline solution or lactated Ringers solution may be required before there is an acceptable cardiac output. After such hydration, most potential donors can be weaned from all vasopressor substances. Urinary output can usually be maintained above 100 ml/hr throughout the agonal state by infusing furosemide, 40 mg and manitol, 25 gm. Such donor maintenance assures us of viable organs, with good flow on the preservation system, and a posttransplant operative course free of acute renal failure that might mask an unsuspected rejection crisis.

Most internists have one or more patients in their practices with terminal renal disease. They are vaguely aware of the potentials of cadaver transplantation and are showing increasing interest in organ procurement, as is the general public. It is these dedicated physicians, with a vested interest in their patient's welfare, who have provided us most contacts for organ donation. To provide kidneys to the large number of people now awaiting a transplant is time consuming to any busy practitioner. There is no question, however, that the rewards justify the effort. To ask for an autopsy is expected; to ask for organ donation, which is a "sterile autopsy," should be an equal customary procedure, accepted by public and physicians alike in the active promotion of medical science. In view of current techniques in organ procurement and immunosuppressive therapy we feel it is more humane and far more economic to provide these many patients a cadaver transplant rather than maintain them with long-term hemodialysis.

Although the acute shortage of salvageable organs persists, we have established workable methods and procedures during the first year of our program, have made valuable contacts with multiple institutions, and have succeeded in promoting a cooperative effort in organ procurement on a regional basis. As a result of our initial experience, we anticipate and are encouraging a regional approach to organ procurement coordinated through the New York Blood Center and sponsored by the New York Metropolitan Regional Medical Program. By broader utilization of existing facilities, and with widespread community and professional support, an increasing number of kidneys are being made available to the organ pool. In the near future we consequently anticipate a substantial reduction in the duration a dialysis patient must await a cadaver transplant.

NONPROPRIETARY AND TRADE NAMES OF DRUGS

Phenoxybenzamine hydrochloride—*Dibenzyline.*

Furosemide—*Lasix.*

Dr. Albert Rubin, Rogosin Laboratories, New York Cornell Medical Center, and Dr. Marilena Fotino, Director of the Leucocyte Laboratory of the New York Blood Center, cooperated in this program.

REFERENCES

1. Scribner BH, Buri R, Caner J. Hegstram R. Brunell JM: The treatment of chronic uremia by means of intermittent hemodialysis: A preliminary report *Trans Amer Soc Artif Organs* 6:114–121, 1960.

2. Belzer FO, Kountz SL: Preservation and transplantation of human cadaver kidneys: A two year experience. *Ann Surg* 172:394–403, 1970.

3. Kiser WS, Magnuson MO, McLaughlin TC, et al: Preservation of human cadaver kidneys for transplantation. *J Urol* 105: 779–783, 1971.

4. Tenaka N. Stevens LE, Terasaki PI: Storage and Transport of 83 human kidneys by simple hypothermia. *Transplantation,* to be published.

5. McCabe RE, Washio H, Wise G, et al: Successful twenty-four hour preservation and simultaneous transplantation of two human cadaver kidneys. *New York J Med* 71: 2065–2068, 1971.

6. Terasaki RI, McClelland JD: Microdroplet assay of human serum cytotoxins. *Nature* 204:998–1000, 1964.

7. Collins GM, Bravo-Shugarman M, Terasaki PI: Kidney preservation for transportation. *Lancet* 1:1219–1222, 1969.

8. Eilert JB, Eggert DE, Derlacki DJ, et al: Kidney graft storage after surface cooling. *Arch Surg* 102:197–198, 1971.

9. McCabe RE, Eiper S: Physiologic evaluation of the cadaver renal allograft. *Bull NY Acad Med* 47:1229–1230, 1971.

By Mr. MAGNUSON (by request):

S. 4036. A bill to amend the act to authorize appropriations for the fiscal year 1973 for certain maritime programs of the Department of Commerce. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend the act to authorize appropriations for the fiscal year 1973 for certain maritime programs of the Department of Commerce, and ask unanimous consent that the letter of transmittal and statement of purposes and provisions be printed in the RECORD with the text of the bill.

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

S. 4036

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Act of August 22, 1972 (86 Stat. 617; P.L. 92–402) is amended by striking out of paragraph (a) thereof the figure $280,000,000 and inserting in lieu thereof the figure $455,000,000.

WASHINGTON, D.C.,
September 13, 1972.

Hon. SPIRO T. AGNEW,
President of the Senate,
U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed are four copies of a draft bill, "To amend the Act to authorize appropriations for the fiscal year 1973 for certain maritime programs of the Department of Commerce." together with a statement of purposes and need in support thereof.

The Office of Management and Budget advises that enactment of this legislation would be in accord with the program of the President.

Sincerely,

PETER G. PETERSON,
Secretary of Commerce.

STATEMENT OF THE PURPOSES AND PROVISIONS OF THE DRAFT BILL TO AMEND THE ACT TO AUTHORIZE APPROPRIATIONS FOR THE FISCAL YEAR 1973 FOR CERTAIN MARITIME PROGRAMS OF THE DEPARTMENT OF COMMERCE

Section 209 of the Merchant Marine Act, 1936, provides that after December 31, 1967, there are authorized to be appropriated for certain maritime activities only such sums as Congress may specifically authorize by law.

The bill the Department of Commerce requested to have introduced, and which was introduced and enacted as P.L. 92–402, authorized appropriations for the fiscal year 1973 for these activities. One of these activities is the, "acquisition, construction, or reconstruction of vessels and construction-differential subsidy and cost of national defense features incident to the construction, reconstruction, or reconditioning of ships." The amount the Department requested for this purpose was $250,000,000. The amount authorized by Congress in P.L. 92–402 was $280,000,000, of which $30,000,000 is for the purchase of modern or reconstructed United States-flag vessels. For the reasons hereinafter given, our request for the ship construction program understated our needs for funds in fiscal 1973 by $175,00,000. At the time we made our authorization request it was expected that the ship construction program for fiscal 1972 would use up all available funds and that supplemental funding might be required for fiscal 1973 in the estimated amount of $175,000,000. As the attached table shows, we are awarded contracts in fiscal 1972 which will be funded out of 1972 and prior years' appropriations to the extent of $279,465,000, and which will be funded out of fiscal 1973 appropriations to the extent of $96.1 million. This used up all but $16.8 million of 1972 and prior years' appropriations. Assuming the appropriations authorized by P.L. 92–402 are made, this will leave only $170.7 million available for ship construction from the fiscal 1973 and prior years' appropriations.

The signing of contracts for 16 ships on June 30, 1972, has begun a new period of substantial American shipbuilding activity. To adequately support this activity it is necessary that our authorization for ship construction in fiscal 1973 be increased by $175,000,000. This would give us $425 million (not including the $30 million for the purchase of ships) plus $16.8 million carryover, which totals $441.8 million.

We anticipate that this $441.8 million would permit us to fund ships and contract for ships in accordance with anticipated demand.

DEPARTMENT OF COMMERCE, MARITIME ADMINISTRATION, SHIP CONSTRUCTION

[In thousands of dollars]

	Number of ships	Funded 1972	Number of ships	Funded 1973
Carryover to fiscal year 1972		66,578		
Appropriated, fiscal year 1972		229,687		
Total available, 1972		296,265		
Carryover to fiscal year 1973				16,800
Authorization request 1973				250,000
Total available, 1973				266,800
1972 Contracts:				
AML (conversion)	1	4,000		
Lykes (conversion)	4	6,000		
Margate (tankers)	3	23,800		
Central Gulf (LASH)	2	23,800		
States SS (roll-on roll-off)	3 (2)	33,300	(1)	17,000
Maritime Fruit—B.T. (tankers)	3	94,300		
Aeron (tankers)	3 (1)	12,100	(2)	24,300
Langfitt (seatrain)	1	19,900		
Tyler and Polk (seatrain)	2 (1)	27,100	(1)	27,900
Sea Service (takers)	4 (1)	8,600	(3)	26,900
Total				96,100
Trade-ins (seatrain)		17,500		
Adjustments prior year contracts		5,665		
Reserve for cancellation, changes and extras		3,400		
Total		279,465		
Carryover balances		16,800		[1] 170,700

[1] Available for new contracts. Includes estimated $19,200,000 reserved for cancellation, changes, and extras.

By Mr. MAGNUSON:

S. 4037. A bill to amend the Sockeye Salmon Fisheries Act of 1947 to authorize the restoration and extension of the sockeye and pink salmon stocks of the Fraser River system, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce a bill to amend the Sockeye Salmon Fisheries Act of 1947 to authorize the restoration and extension of the sockeye and pink salmon stocks of the Fraser River system, and for other purposes.

Under a treaty, the United States and Canada jointly manage the sockeye and pink salmon runs of the Fraser River. Although the Fraser River system is located entirely within Canada, a large number of its sockeye and pink salmon migrate through U.S. waters where they can be caught by U.S. fishermen.

The runs were almost extinguished in the 1930's because rock slides caused by railroad construction blocked the river, and the fish could not get up to their spawning grounds. The United States and Canada entered negotiations which resulted in a treaty under which fish passage facilities were constructed to get the fish over the block at Hell's Gate Canyon. Since then, the runs have gradually increased until the average sockeye salmon catch by both nations amounts to about 2,402,954 fish, and the average annual catch of pinks totals 4,118,978 fish. The fish are divided as equally possible between the two nations.

The management is in the hands of the International Pacific Salmon Fisheries Commission, composed of three Canadian and three U.S. Commissioners.

In recent years, the Commission has sought to increase salmon production on the Fraser system by the use of artificial spawning channels. The two Governments shared the construction costs of the Commission and its staff. The channels have proven fantastically successful.

As a consequence, the Commission and its staff have in the past couple of years developed a 16-year—four sockeye cycles—program to increase sockeye and pink salmon production. Nine sockeye channels and three pink channels are planned. The total cost is estimated at $14 million. The U.S. share would be $7 million.

When completed, the projects would contribute fish worth over $14.6 million per year at fishermen prices, or $30.8 million at market prices. In other words, they would produce each year what the total of the projects cost.

Canadian fishery representatives are urging that the Canadian Government provide the entire $14 million in construction costs so that the Canadian fishermen could claim the entire program production of salmon. It would be catastrophic to U.S. fishermen and economy for this to happen. The United States cannot afford to let this happen.

The U.S. State Department and the Congress have rarely, if ever, provided each year as much as Canada has been willing to contribute for Commission operating and construction costs. Canada will always appropriate its 50 percent share of costs. The United States then comes up with a lesser amount, and Canada then cuts back its contribution to match. It has been a most embarrassing experience for U.S. Commissioners and U.S. fishermen.

By the time the construction program is completed, the projects will have produced about $72 million worth of fish at 1971 fishermen prices. The projects will have paid for themselves five times.

Thereafter, they will annually produce $14 million at 1971 prices. There is no guesswork in these projections. The several channels we have had in operation produced beyond our expectations and have proven that our planned program will work.

By Mr. FONG:

S.J. Res. 270. A joint resolution to establish a National Commission on Social Security. Referred to the Committee on Finance.

ESTABLISHMENT OF NEW INDEPENDENT BIPARTISAN NATIONAL SOCIAL SECURITY COMMISSION

Mr. FONG. Mr. President, today I am introducing a Joint Resolution which will establish an independent National Social Security Commission.

The National Social Security Commission will have a continuing responsibility to study, investigate, and review the Federal Old-Age, Survivors, and Disability Insurance program and the Health Insurance programs which operate under authority of the Social Security Act.

The constant review of the social security system which will be carried on by the Commission will include: First, the fiscal status of the trust funds; second, the adequacy, scope, and conditions of qualification for benefits; third, the impact of social security on other elements in the economic security of American citizens in both the public and private sectors; fourth, quality of administration; and fifth, any substantial inequities which may exist under the programs.

At present the Social Security Act provides for such an overview—on an intermittent basis—by the Advisory Council on Social Security. My Resolution would substitute the full-time National Social Security Commission for the latter.

To rely for such important studies on an advisory council, which holds a limited number of meetings during 1 year out of 4, as is now the case, in my judgment is unfair to the American people, the Congress, and the President.

Social security is big business. In many respects it is the biggest business operation in America. There is no citizen who is not affected directly or indirectly in its financing. Over 90 percent of the people are covered as beneficiaries or potential beneficiaries.

Billions and billions of dollars are involved. The economic security of tens of millions of American citizens is dependent on social security, and its integrity. The degree of equity which prevails in the system, or is absent from it, is of serious consequence to every American.

A constant watchdog operation, independent of its administrators, is needed if the interests of the people are to be safeguarded—not a part-time, intermittent overview, but a full-time surveillance which is carried out every day. This is the intent and purpose of the National Social Security Commission which would be created by my resolution.

This National Social Security Commission will first serve the people. But it will also be of immeasurable assistance to the President, the Congress, and, indeed, the Secretary of Health, Education, and Welfare, in their several and collective efforts to make the social security system of maximum benefit to the people.

The importance of the Commission's work, as set forth in the resolution, is

underscored by the manner of appointment of its nine members, and the provision that the Commission shall be bipartisan.

The Commission Chairman and four members will be appointed, on bipartisan basis, by the President with the advice and consent of the Senate. Two members each, no more than one from a single political party, will be appointed by the President Pro Tempore of the Senate and the Speaker of the House.

Members of the Commission shall be individuals of recognized standing and distinction who have demonstrated capacity to discharge the great responsibility which the resolution places upon it.

The Commission membership unquestionably should include men or women recognized as authorities in the fields of actuarial science, economics, and other disciplines.

While the language of the resolution is relatively simple, considerable effort has gone into its development. I am grateful to the many persons who have made valuable suggestions related to its provisions.

A recommendation for creation of this independent, bipartisan National Social Security Commission was made earlier in the year by Republican members of the Special Committee on Aging as part of the latter's annual report to the Senate. It has been most gratifying since then to receive expressions of support for the idea by a number of Democratic Senators.

It is late in the final session of the 92d Congress. Because of time limits and heavy workloads, I recognize the virtual impossibility of enactment of this resolution before adjournment. Certainly I do not want hasty consideration of such an important proposal—no more than I favor hurried, precipitate action on any social security measure without careful study and review by appropriate committees, and interested parties outside of Congress.

It is in the spirit of inviting such review that I now introduce Senate Joint Resolution 270 to establish the National Social Security Commission. I would be most grateful for any suggestions by Members of the Congress, or others, for improvements in its language. When adopted, I want this legislation to be the best possible.

It is my intention to reintroduce this resolution as a first order of business when the 93d Congress convenes in January. At that time I shall solicit cosponsors.

It is my hope that there will, at that time, be many Senators of both sides of the aisle who will be sponsors. The need is bipartisan. The solution, I am sure from comments I have received, will also be bipartisan.

Because of its far-reaching impact, Mr. President, I ask unanimous consent for insertion of the text of Senate Joint Resolution 270 at this point in the RECORD.

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

S.J. RES. 270

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is hereby established a commission to be known as the National Commission on Social Security (hereinafter referred to as the "Commission").

(b) (1) The Commission shall consist of—

(A) five members to be appointed by the President, by and with the advice and consent of the Senate, one of which members shall, at the time of appointment, be designated as Chairman of the Commission;

(B) two members to be appointed by the Speaker of the House of Representatives; and

(C) two members to be appointed by the President pro tempore of the Senate.

(2) At no time shall more than three of the members appointed by the President, one of the members appointed by the Speaker of the House of Representatives, or one of the members appointed by the President pro tempore of the Senate, be members of the same political party.

(3) The membership of the Commission shall consist of individuals who are of recognized standing and distinction and who possess demonstrated capacity to discharge the duties imposed on the Commission. No individual who is otherwise an officer or full-time employee of the United States shall serve as a member of the Commission.

(4) The Chairman of the Commission shall designate a member of the Commission to act as Vice Chairman of the Commission.

(5) A majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

(6) Members of the Commission shall be appointed for a term of 4 years.

(7) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as that herein provided for the appointment of the member first appointed to the vacant position.

(c) Members of the Commission shall receive $138.00 per diem while engaged in the actual performance of the duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(d) The Commission shall meet at the call of a majority of the members of the Commission; except that meetings of the Commission shall be held not less frequently than once in each calendar month which begins after a majority of the authorized membership of the Commission has first been appointed.

SEC. 2. (a) It shall be the duty and function of the Commission to conduct a continuing study, investigation, and review of—

(1) the Federal old-age, survivors, and disability insurance program established by title II of the Social Security Act; and

(2) the health insurance programs established by title XVIII of such Act.

(b) Such study, investigation, and review of such programs shall include (but not be limited to)—

(1) the fiscal status of the trust funds established for the financing of such programs and the adequacy of such trust funds to meet the immediate and long-range financing needs of such programs;

(2) the scope of coverage, the adequacy of benefits, and the conditions of qualification for benefits, provided by such programs;

(3) the impact of such programs on, and their relation to, public assistance programs, non-governmental pension and insurance programs, other governmental retirement and annuity programs, medical service, delivery systems, and national employment practices;

(4) the quality of the administration of such programs;

(5) Any inequities (whether attributable to provisions of law relating to the establishment and operation of such programs, to rules and regulations promulgated in connection with the administration of such programs, or to administrative practices and procedures employed in the carrying out of such programs) which affect substantial numbers of individuals who are insured under such programs.

SEC. 3. The Commission shall submit an annual report of its study, investigation, and review, of programs (referred to in section 2), together with its recommendations with respect to such programs, to the President and to the Congress. In addition, the Commission shall, at such times as it deems appropriate, submit to the Secretary of Health, Education, and Welfare, reports on, and recommendations with respect to, such programs.

SEC. 4. (a) The Commission shall appoint an Executive Director of the Commission who shall be compensated at a rate fixed by the Commission, but which shall not exceed the rate established for level V of the Executive Schedule by title 5, United States Code.

(b) In addition to the Executive Director, the Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

SEC. 5. In carrying out its duties under this Joint Resolution, the Commission, or any duly authorized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters with respect to which it has a responsibility under this Joint Resolution, as the Commission or such committee may deem advisable. The Chairman of the Commission or any member authorized by him may administer oaths or affirmations to witnesses appearing before the Commission or before any committee thereof.

SEC. 6. The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to enable it to carry out its duties under this Joint Resolution. Upon request of the Chairman of the Commission, any such department or agency shall furnish such information to the Commission.

SEC. 7. The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

SEC. 8. There are hereby authorized to be appropriated such sums as may be necessary to carry out the preceding provisions of this Joint Resolution.

SEC. 9. It shall be the duty of the Health Insurance Benefits Advisory Council (established by section 1867 of the Social Security Act) and of the Advisory Council on Medical Assistance (established by section 1906 of such Act), respectively, to provide timely notice to the Commission of any meeting thereof, and the Chairman of the Commission (or his delegate) shall be entitled to attend any such meeting.

SEC. 10. Section 706 of the Social Security Act (relating to appointment of Advisory Council on Social Security) is hereby repealed.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 3988

At the request of Mr. MONDALE, the Senator from Michigan (Mr. HART) was added as a cosponsor of S. 3988, a bill to establish a temporary Commission on National Security.

S. 4001

Mr. AIKEN. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Maine (Mrs. SMITH) be added as a cosponsor of S. 4001, the social security bill, which was introduced by Senator MANSFIELD and myself and now has about 78 cosponsors.

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

ADDITIONAL COSPONSORS OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 97

Mr. THURMOND. Mr. President, I ask unanimous consent that the names of the following Senators be added as cosponsors to Concurrent Resolution 97, which was introduced by me on September 19, 1972, concerning prisoners of war and missing in action, and which resolution is on the calendar as No. 1162: The Senator from Oregon (Mr. HATFIELD), the Senator from Tennessee (Mr. BROCK), the Senator from Wyoming (Mr. MCGEE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Alabama (Mr. ALLEN), the Senator from Delaware (Mr. BOGGS), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. FANNIN), the Senator from Washington (Mr. MAGNUSON), the Senator from Florida (Mr. CHILES), the Senator from Utah (Mr. BENNETT), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Utah (Mr. Moss), the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from New Hampshire (Mr. COTTON), the Senator from Connecticut (Mr. WEICKER), the Senator from Deleware (Mr. ROTH), the Senator from Wyoming (Mr. HANSEN), the Senator from Alaska (Mr. STEVENS), the Senator from Kentucky (Mr. COOPER), the Senator from Colorado (Mr. DOMINICK), the Senator from Georgia (Mr. TALMADGE), the Senator from Nevada (Mr. CANNON), the Senator from Nevada (Mr. BIBLE), the Senator from Colorado (Mr. ALLOTT), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Rhode Island (Mr. PELL), the Senator from North Dakota (Mr. BURDICK), the Senator from Michigan (Mr. GRIFFIN), the Senator from Iowa (Mr. MILLER), the Senator from Maryland (Mr. MATHIAS), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Alabama (Mr. SPARKMAN), the Senator from Kentucky (Mr. COOK), the Senator from Nebraska (Mr. HRUSKA), the Senator from Idaho (Mr. JORDAN), the Senator from Oregon (Mr. PACKWOOD), the Senator from Arizona (Mr. GOLDWATER), the Senator from Texas (Mr. BENTSEN), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Georgia (Mr. GAMBRELL), the Senator from Maryland (Mr. BEALL), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Oklahoma (Mr. BELLMON), the Senator from Florida (Mr. GURNEY), the Senator from Tennessee (Mr. BAKER), the Senator from Texas (Mr. TOWER), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Illinois (Mr. PERCY), the Senator from Hawaii (Mr. FONG), the Senator from New York (Mr. JAVITS), and the Senator from California (Mr. CRANSTON).

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

Mr. THURMOND. Mr. President, I also ask unanimous consent that those names appear in the next printing and I presume that will be done.

The PRESIDING OFFICER. Without objection it is so ordered.

NATIONAL HOUSING GOALS—AMENDMENT

AMENDMENT NO. 1575

(Ordered to be printed and referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. BROCK. Mr. President, I rise to offer an amendment to my bill, S. 3373, on behalf of myself and Senators BENNETT, DOLE, DOMINICK, FANNIN, TAFT, and TOWER.

S. 3373 is aimed at ending restrictive work rule and outmoded building code bars to the use of new or improved building products and methods. On June 20 through 23, 1972, the Subcommittee on Housing and Urban Affairs held hearings on this bill.

My reasons for advocating this type of legislation are summarized in my statement submitted to the subcommittee at its hearings:

I believe it is an absolute tragedy that Congress has allowed a situation to develop where housing is priced out of the reach of many American families—most notably those in the middle and lower income groups. When housing costs rise from 10 percent to 15 percent a year, there is no way that we in Washington can increase subsidies to keep pace with those costs. To the contrary, our past willingness to do so has contributed to our problems. The very fact that the Housing and Urban Development Act of 1972, which was reported out by this Subcommittee and recently passed the Senate, raised the federal subsidy to an amount that would cover families with earnings of $11,000, indicates something is fundamentally wrong in the industry. That is why I fought for these hearings—to try to find some way to cut the ever-spiraling increase in construction costs.

What emerged from the hearings was clear evidence that union product boycotts continue to exist and that such boycotts contribute significantly to the cost of home construction.

For instance, one witness appearing on behalf of the U.S. Chamber of Commerce testified that, in a Western State, the Painters' and Decorators' Union refused to allow the use of prefinished cabinets and doors that would cost 50 percent less than painting those same cabinets and doors on the construction site.

Another witness representing the National Woodwork Association, Inc., pointed out that in the Chicago area jobsite made roof truss systems for a medium priced house—$30,000 to $35,000—costs $355 more than using factory made trusses. Still, unions prevent the employment of this industrialized product.

We were told by a representative of the consulting engineers how his engineering firm had specified a certain type of high-pressure supply ductwork, manufactured by any one of three companies, for an air-conditioning and heating system in a St. Paul bank building. The local of the Sheet Metal Workers of America demanded that the ductwork, instead of being purchased, be fabricated on the jobsite, claiming this was work its members had traditionally performed. The union made its claim in spite of the fact that the contractor never had fabricated such ductwork and that there were no facilities in the area capable of the required milling. As this witness pointed out:

In effect, we were being told that we could not specify the type of duct work we felt was best suited for this project, even though the client was relying upon us to assure the subsequent satisfactory operation of his facility.

Congressman BOB WILSON, of California, reported that in his State members of the Sheet Metal Workers Union refuse to allow prefabricated sheet metal products on the jobsite unless they bear union labels. Even if the factory-built product is manufactured in a plant organized by members of the union, the local will object if the plant is out of its immediate area. As a result, these products must be made at the jobsite at a substantial increase in cost.

David Kornreich, attorney for the Florida East Coast Sheet Metal Contractors Association, listed numerous examples to employ prebuilt sheet metal products. Mr. Kornreich's statement is so illustrative of union intransigence, that I ask unanimous consent that his statement be printed in full immediately following the text of my amendment.

At least one union representative testified that my bill is antilabor. I believe Representative BEN BLACKBURN, of Georgia clearly responded to this charge in his statement before the subcommittee when he said:

Certainly it cannot be said that our bills are anti-labor since most industrialized housing projects are produced in union organized plants. When one considers that a significant part of the residential housing industry is non-union, the mass production of industrialized housing projects will actually increase the number of union jobs.

Now to my amendment. All too often we are told that the congressional hearing process is meaningless. To the contrary, the subcommittee hearings on S. 3373 resulted in the amendment I am offering today.

As a matter of background, S. 3373 allows a person prevented from employing a new product or a new construction technique to have a court set aside the union workrule or code provision that restricts its use. The bill contains an exception that would allow the restriction to stand if it is necessary to assure "safe and healthful working or living conditions." I am convinced that any legislative remedy must include this type of protection. S. 3373 also includes a presumption that the new product or

technique meets these safety and health requirements if it complies with the standards of a nationally recognized standard setting or testing agency designated by HUD.

Most of the objections to my bill centered around this presumption. Several witnesses felt that allowing HUD to designate the testing or standard setting agencies in some way would be tantamount to HUD establishing national building standards. Another questioned the validity of a standard set by such agencies, pointing out that the Federal Trade Commission currently is investigating them.

In order to overcome these objections, I am introducing this amendment to S. 3373 which retains the health and safety exception, but eliminates the presumption. The new provision is a different approach by placing the burden of proof on the person invoking the exception. It requires that he show by a preponderance of the evidence that the restraint is necessary to assure safe and healthful working or living conditions and that the new product fails to provide this assurance. I believe this is a definite improvement as it avoids the recurring questions of national standards, qualified testing and standard setting agencies and HUD involvement. On the latter point, HUD has no responsibilities or rights under S. 3373 as amended. The coverage of the bill merely is limited to "any program administered by the Secretary of Housing and Urban Development." The remedy lies with an individual who is aggrieved.

Mr. President, I ask unanimous consent that the text of my amendment be printed at this point in the RECORD followed by Mr. Kornreich's statement.

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

AMENDMENT No. 1575

On page 2, line 2, strike all of the phrase starting with the word "except" through the word "conditions" in line 12, insert a colon after the word "activity" on page 2, line 2 and add the following:

Provided, That nothing contained in this paragraph (a) shall be construed to make unlawful any such provision, requirement, practice or restraint if it is shown by a preponderance of the evidence (1) that such provision, requirement, practice or restraint is necessary to assure safe and healthful working or living conditions and (2) that such technique, method, material or product fails to assure such safe and healthful working or living conditions.

STATEMENT OF DAVID V. KORNREICH

I am David V. Kornreich, a member of the Miami, Florida law firm of Muller & Mintz, which represents the Florida East Coast Sheet Metal Contractors Association (FECSMCA) and the Associated General Contractors—South Florida Chapter (AGC) in labor-management relations matters.

The FECSMCA is a trade association representing twenty-six (26) construction contractors engaged in the fabrication and installation of residential, commercial, institutional, and industrial warm-air heating, cooling, ventilating and air handling systems; architectural sheet metal and roofing; industrial sheet metal; air pollution control and specialty fabrication. All of the members of the FECSMCA have labor agreements with Local Union No 223, Sheet Metal Workers International Association and various other building trades unions affiliated with the AFL–CIO.

The AGC-South Florida Chapter is a trade association representing more than sixty (60) construction firms primarily engaged in the residential, commercial, and institutional general contracting business. Most, if not all, of the work performed by the members of the AGC is done under labor agreements between AGC and the various building trades unions and/or labor agreements between the specialty subcontractors employed by the individual AGC members (e.g., the sheet metal contractors) and a particular building trades union (e.g., Sheet Metal Workers Union).

The members of both FECSMCA and AGC perform most of their construction work in South Florida, one of the nation's largest and fastest growing residential, commercial, and institutional construction markets. Many of these firms have been and are currently engaged in single family, townhouse, garden-type, and high-rise residential construction under programs administered by the U.S. Department of Housing and Urban Development as well as construction of airport, medical, educational, and other facilities involving programs administered by other federal agencies.

On behalf of FECSMCA and AGC, we would like to take this opportunity to present our comments in support of S. 3373—a bill to promote the utilization of improved technology and federally assisted housing projects and to increase productivity in order to meet our national housing goals, and for other purposes.

Based on their vast experience in the heavily unionized South Florida construction industry, the members of the Associations feel that there is a critical need for legislation to curtail the extremely prevalent restrictive work rules and practices adopted and enforced by various building trades unions in our area. Time and time again, contractors have bid and undertaken large projects, including federally assisted residential housing, only to find that the building trades unions have imposed so many restrictions on purchase of prefabricated products and utilization of labor-saving methods that the project simply could not be delivered at the contract price, or, for that matter, any reasonable price. In those circumstances, the contractor, if he is to continue on the job and comply with the job schedule, must himself absorb the cost of complying with the unions' demands or pass such costs on to the developer. Even if the contractor adopts the former course of action, you can be sure that the next time he bids a similar job, he will make certain that he projects his costs to take into account both the previously experienced restrictive work practices and any other similar problems, which *may* cause him financial problems and/or delay the job. Needless to say, the contractor's bitter experience results in higher costs to the government, the taxpayers, and the ultimate consumer (e.g., homeowner or apartment renter) on the next federally assisted project.

We have all heard and read of the building trades unions claims that restrictive work practices and restraints on use of improved and less costly products and materials are nonexistent. We have also heard the building trades unions argue that even if such practices and restraints do exist, they occur only infrequently and are more than offset by their members increased productivity.

For proof that the aforementioned restrictive work practices and restraints are widespread—even commonplace—rather than infrequent, we have only to look at one segment of the South Florida construction industry—the sheet metal trade. In this regard, the members of FECSMCA and various other sheet metal contractors signatory to the standard labor agreement with Sheet Metal Workers Union Local No. 223 are on almost a daily basis subject to union restraints on the use of materials and products, which would substantially lower construction costs. These restraints take the form of work stoppages, slowdowns, grievances, fines, and threats against any contractor purchasing or utilizing a product of which the Union does not approve. On occasion, after delivery to the job site, a particular product not approved by the Union will "mysteriously" be damaged beyond repair.

Although the acts are too numeorus to mention, we should like the distinguished Subcommittee to be aware of the following problems, which are representative of those experienced on a regular basis:

1. On a three hundred unit federally assisted high-rise project in Miami, the mechanical contractor, acting pursuant to the engineer's instructions and in accordance with the federally approved specifications, purchased some ninety (90) exhaust fans for installation in bathrooms, which did not have outside windows. (Local code required that such fans be installed in each bathroom where was no outside window.) The exhaust fans, which were manufactured by a nationally recognized company, came equipped with two wall caps—one connecting to the fan unit itself and the other to be installed in the exterior wall of the building to permit exhaust to the ouside.

In accordance wih normal union craft practice, the mechanical contractor assigned the installation of the exhaust fans and the companion wall caps to his sheet metal subcontractor. Thereafter, the representatives of the Sheet Metal Workers Local Union refused to permit their members to install the fans and the wall caps. According to the Union, the fans could not be installed because they were not union made. With respect to the wall caps, the Union contended that even if the wall caps were union made in a production plant, they would still not be acceptable inasmuch as they would have to be fabricated by the sheet metal contractor's own workers, who earned construction wages. As a result of the Union's action in refusing to permit the installation of these purchased items, the carpenters, plasterers, and other crafts were unable to coordinate their activities with the Sheet Metal Workers and, as a result, they completed their work on the bathrooms and the exterior wall of the building without making any provision for the accommodation of the wall caps.

In order to get the job completed, the mechanical contractor was forced to incur the additional cost of bringing in a crew of employees, who would not otherwise have been present on the job, to install the fans. The wall caps, which had been purchased at $2.00 per unit, had to be replaced by wall caps fabricated by the sheet metal contractor's employees. These replacement wall caps cost the sheet metal contractor $7.000 per unit. Inasmuch as the bathroom has been completed without provision for the installation of the wall caps, the sheet metal contractor was compelled to utilize the very same Sheet Metal Workers, who were involved in the refusal to install the purchased wall fans, to drill the necessary outlet holes in the exterior wall, resurface and repaint the exterior wall, and clean up the resulting debris. Although the purchase and installation of the original fans and wall caps would have cost less than $3,000.000, those costs were tripled as a result of the Union's action. Further, while the Sheet Metal Workers profited from their wrongs, the completion and occupancy of the building was delayed.

2. Another problem, which has occurred on both federally assisted residential and institutional projects, involves the purchase of fire dampers for installation in duct work. For safety reasons, building codes, federal regulations, and engineers' specifica-

tions often require that fire dampers on federally assisted high-rise and hospital projects adhere to certain rigid fabrication standards and successfully pass "fire tests" conducted by nationally recognized testing agencies (e.g., Underwriters' Laboratories). Traditionally, fire dampers, when specified, were purchased by the sheet metal contractor from a manufacturer who had the equipment necessary to mass produce a relatively low-cost fire damper complying with both local and federal standards. The Sheet Metal Workers Local Union in South Florida, however, decided that such practice was unacceptable, although, somewhat ironically, most of the manufacturers of the purchased fire dampers had labor agreements with sister local unions affiliated with the Sheet Metal Workers International Association (i.e., so-called "blue label" shops). According to the Sheet Metal Workers Union in South Florida, its members will be permitted to install only fire dampers fabricated by the local contractors at local construction Sheet Metal Worker wage rates, which presently are $10.00 per hour. (These rates are at least 100% higher than those paid by fire damper manufacturers to their employees represented by affiliates of the same International Union.)

Some contractors, who insist on utilizing the purchased fire dampers, claim that the Union members are installing them "very slowly." Other contractors have been served with formal grievances wherein the Union claims lost wages and benefits as a result of purchase of fire dampers. In one recent case, a local contractor, realizing full well that some form of harassment was forthcoming if he purchased fire dampers from manufacturers, decided to fabricate these items in his own shop at local construction Sheet Metal wage rates. According to this contractor, the net result of this decision was an increase of 25 to 33% in fire damper costs—an increased cost, which he appropriately reflected in his bid on the project. Significantly, the aforementioned increased costs do not reflect the fact that this contractor (as well as other local contractors) have had to spend thousands of dollars to purchase machinery to fabricate fire dampers and other items in order to comply with the Union's demands.

Another contractor was confronted with a similar fire damper problem on a high-rise project and was advised by the Union that the Union members would install the fire dampers, if they each received an extra $10.00. Not having the necessary equipment to fabricate fire dampers himself and being unwilling to comply with the Union's outrageous demands, this contractor began shopping around for another local contractor with the equipment necessary to fabricate the necessary fire dampers (at construction wage rates). Much to his dismay, the harried contractor learned that it would cost him almost double the purchase price to buy the fire dampers from a local shop paying construction rates (i.e., a so-called "yellow label" shop). Thus, each of the Sheet Metal Workers received a $10.00 "bonus" for installing the previously purchased fire dampers.

3. Grills were normally purchased by sheet metal contractors from a local manufacturer whose employees were represented by a union unaffiliated with Sheet Metal Workers International Association. The Sheet Metal Workers Local Union took the position that local contractors could not purchase grills from a manufacturer whose plant was organized by an "inferior" union and that all grills must be purchased from a manufacturer having a collective bargaining agreement with an affiliate of the Sheet Metal Workers International Association. A number of local contractors decided to ignore the Union's demands inasmuch as the local manufacturer was delivering a quality, reasonably priced product without causing job delays. To purchase grills from companies "approved" by the Sheet Metal Workers Local Union would have cost an additional 10% in purchase price, but more significantly, delivery time would have been extended from a few days for the local manufacturer to four to six weeks for the "approved" manufacturers.

One contractor, who decided to continue doing business with the local manufacturer after the Union registered its objections, arrived at one of his residential projects one morning only to find that dozens of locally manufactured grills had been smashed beyond repair. Not only was the Union unsympathetic to the contractor's plight, but instead the Union representatives immediately demanded that the contractor pay penalties ranging from $150.00 to $300.00 for purchasing grills manufactured by the "wrong" union on this and similar projects.

What followed was a virtual reign of terror of threats, grievances, work stoppages, and demands for monetary penalties directed against the sheet metal contractors and malicious damage to stored and installed grills manufactured by the local company. The end result was that the local contractors could no longer afford to buy grills from the local manufacturer *at any price*.

4. One contractor, in estimating a small garden-type apartment building, determined that the air conditioning system would require only a small amount of duct work and that, therefore, costs on the job would be much lower if rigid fiberglass pipe could be used instead of metal duct. The contractor felt that the Union should have no objection to this substitution on a "residential" job. Unfortunately, the contractor was in error. The Union quickly took the position that this small apartment building was not a "residential" job and that the use of rigid fiberglass pipe deprived Union members of work and was, therefore, impermissible. In addition to refusing to permit the men to install the pipe, the Union filed charges against the contractor alleging violation of the labor agreement and seeking monetary penalties. The charges were eventually heard by a grievance panel which included a representative of the International Union. While concluding that the contractor had committed a technical violation of the labor agreement by purchasing rigid fiberglass pipe, the panel decided the Local Union's position was somewhat unreasonable and that the contractor should be permitted to complete some seven or eight small apartment projects for which fiberglass pipe had already been purchased. According to the contractor, the President of the Sheet Metal Workers International Association advised the Local Union that the contractor should be permitted to complete his existing jobs without restriction.

Quoting the contractor: "I took a bath on those next seven or eight jobs; never have I seen sheet metal workers work slower . . ."

5. A local roofing contractor, having a labor agreement with the Roofers Union, undertook to perform roofing work on a high-rise complex. In his thirty years in the roofing business in the Miami area, the contractor had always purchased roofing sheet metal items, including stucco stops, gravel stops, and assorted flashings, from local distributors and had installed these items on job sites utilizing his normal complement of Union roofers. When the roofing contractor began his high-rise project, the Sheet Metal Workers Local Union decided that the roofing company was going to fabricate its own stops and flashings rather than purchase them from a local distributor and that these stops and flashings would be installed only by Sheet Metal Workers. When the Union determined that the roofing contractor was taking a hard-nosed attitude, it commenced a harassment campaign consisting of threats of work stoppages, demands for monetary penalties, and grievances seeking assorted damages. At one point, the roofing contractor complied with the Union's demands for payment of a monetary penalty for purchasing non-union sheet metal roofing materials.

The highlight of the Union's harassment campaign occurred when a Union business agent advised the roofing contractor that if he did not capitulate to the Union's demands, the Union would file "more and more grievances and more and more charges" and would attempt to put him out of business as it had done with other companies, including the roofing contractor's brother-in-law.

Faced with the equally unpalatable alternatives of either purchasing sheet metal fabrication equipment and hiring Union sheet metal workers or purchasing the materials in dispute from a construction sheet metal shop at twice the normal price, the roofing contractor decided to resist the Union's demands and seek relief through the procedures of the National Labor Relations Board. (Under current principles of labor law, private parties cannot proceed directly to court to obtain injunctive relief against a labor organization in a case of this nature.) For some unexplained reason, the Board, although agreeing with the roofing contractor's position, took many months before it sought and obtained injunctive relief. Even then, the injunctive relief applied only to the Union's threats of work stoppages and did not restrict the Union from filing harassment grievances seeking damages against the roofing contractor in the amount of the difference between the purchase price of his roofing sheet metal materials from his normal supplier and the cost of producing the same materials in a Union sheet metal shop paying construction wages. Inasmuch as the roofing contractor purchased substantial volume of such products and the application of the aforementioned formula would more than double his material costs, he capitulated to the Union's demands, purchased sheet metal fabrication equipment, and hired Sheet Metal Workers. Ironically, the Labor Board over a year later, decided that the Union's harassment grievances were just as unlawful as its threats to picket and engage in work stoppages. (The decision of the Board appears in 196 NLRB No. 12) Unfortunately, even if the Union elects to comply with the Board's decision and permit the roofing contractor to resume purchasing rather than fabricating the subject sheet metal products, the contractor has already suffered a year of substantially increased costs as a result of the unavailability of a private right of enforcement, including injunctive relief, without the involvement of a federal agency.

6. At about the same time as the aforementioned roofing material case, the Sheet Metal Workers Union engaged in a boycott of factory-fabricated products at four major federally assisted projects. While these projects involved hospital and airport rather than residential construction, they are noted here for the purpose of showing the extremely flagrant and unreasonable nature of the Union's product boycott activities.

On each of the four projects, the design engineer specified certain high and medium efficiency filter assembly units manufactured by two out-of-town manufacturers. These pre-tested medium and high efficiency filter assembly units were designed to be used in conjunction with specified filters ranging in efficiency from 30% to 90%. (The average low efficiency filter—e.g., household filter, has an efficiency rating of less than 10%.) According to the design engineers, these specified factory-fabricated filter assembly units had to be installed at the airport job because previously installed low efficiency filter systems had been incapable

of handling the extreme air pollution at the airport and properly protecting the air conditioning units from fouling. With respect to the hospital jobs, the special factory-fabricated high and medium efficiency filter assembly units were necessary to filter out minute particles, including bacteria, before they reached the critical hospital areas.

Upon inspecting the filter assembly units after receipt by the sheet metal contractor and prior to installation, the Union representatives and members determined that they did not bear yellow Sheet Metal Workers Union labels indicative of fabrication by members of the Sheet Metal Workers International Association receiving construction wages. In fact, both manufacturers were "union"—one having a contract with a production local of the Sheet Metal Workers International Association and the other a contract with the United Auto Workers. Based on the fact that the filter assembly units lacked the "proper" union label, the Sheet Metal Workers Local Union took the position that no installations would be made at the respective job sites unless the sheet metal contractors paid a substantial monetary penalty. (The formula to be used to determine the amount of the penalty was as follows: The difference between the wages paid to local construction sheet metal workers and the wages paid by the manufacturer to his production employees multiplied by the hours it would have taken for local construction Sheet Metal Workers to field fabricate the units.)

After experiencing about two weeks' of the Union's refusal to install the filter assembly units, one of the two sheet metal contractors involved capitulated and paid the penalty demanded by the Union. The other contractors stubbornly refused to comply with the Union's outrageous demands and elected to await the outcome of Labor Board charges filed by the manufacturers against the Union. In the meantime, *five months* elapsed before the filter assembly units were installed. Even then, they were installed only after the Labor Board advised the Union that it would seek injunctive relief based on the charges filed by the manufacturer many months before the units were installed.

The irony of the case is that the Union claimed that it had a right to fabricate the high and medium efficiency filter assembly units at construction wage rates. Yet, none of the local contractors had the expensive tools, dies, and testing equipment necessary to fabricate such units and guarantee that they performed as specified by the design engineer. To purchase the type of testing equipment and hire the quality-control personnel necessary to guarantee the efficiency of the units (as did the out-of-town manufacturers) specified by the engineer would involve an expenditure of many thousands of dollars.

7. In March, 1972, at about the same time the Labor Board was finding that the Sheet Metal Workers Local Union had engaged in illegal product boycott activities in both the roofing material and the filter assembly unit cases, the Union struck again. This time, the Union claimed that certain kitchen equipment purchased by an owner-developer for installation at a high-rise apartment project had been made by an "inferior union". The Union directed its members not to install the kitchen equipment and picketed the project causing a complete cessation of operations. As the "price" for installation, the Union demanded that the contractor pay a penalty of 25c for each pound of kitchen equipment purchased. When it became apparent that the Sheet Metal Workers would not install the kitchen equipment, the equipment was stored in a vacant area of the building.

A few weeks later, the general contractor decided that preparation must be made to install the kitchen equipment with or without the Sheet Metal Workers. Accordingly, supervisory personnel installed some tapouts (i.e., links to the duct exhaust system) to prepare for installation of the kitchen hoods, which were included in the boycotted kitchen equipment. The next day, it was discovered that persons, thus far unknown, had poured acid over the kitchen counter tops and had smashed and scratched the hoods and refrigeration equipment. Coincidentally, when the manufacturer sent a crew to the job for the sole purpose of trying to salvage and repair the damaged equipment, the Union reinstated its picketing, which it had earlier removed once it became apparent that the kitchen equipment could not be installed. Once again, all of the crafts refused to cross the picket line and the job was completely shut down. The picketing continued until the manufacturer's repair crew was removed from the job and Labor Board charges were filed. Damages resulting from the Union's actions may run as high as $100,000.00.

Apart from the *ad hoc* product boycotts and restrictive work practices engaged in by the Union, it should be noted that the base labor agreement itself contains numerous clauses which restrict the contractor's ability to utilize cost-saving materials, methods and procedure. (A copy of the labor agreement is attached as Exhibit "A".) Examples of such clauses are the following:

A. Article II—Section 2: This clause states that the sheet metal contractor can only purchase sheet metal material "claimed" by the Union from manufacturers, who pay their employees wages equivalent to the construction rate of $10.00 per hour. Inasmuch as there are no manufacturers, who pay their employees $10.00 per hour, the practical impact of the clause is that almost every local sheet metal contractor has been forced to become a manufacturer, to purchase expensive shop equipment, and to hire large numbers of shop Sheet Metal Workers at the $10.00 an hour construction rate in order to produce sheet metal products, which can be purchased elsewhere at 10 to 50% of the contractor's cost.

B. Article VIII—Section 3: This clause permits purchase of some prefabricated sheet metal products from companies having contracts with production locals of the Sheet Metal Workers International Association, but expressly limits the use of prefabricated pipe and fittings to single-family residences. According to local contractors, the use of purchased, fabricated pipe and fittings would result in a substantial reduction of costs on most federally assisted projects. For example, the purchase of three-inch pipe from a manufacturer would cost about 15¢ per foot, while the same pipe fabricated in a local construction shop would cost about 45¢ a foot. Similarly, elbows can be purchased at 27¢ a unit, while local construction shop fabrication would cost $1.80 to $2.50 a unit or six to eight times the available purchase price. In addition to the savings resulting from the purchase of the fabricated pipe and fittings, the purchased pipe is available in lengths desired by the contractor, but similar construction shop fabricated pipe comes only in very short lengths. Thus, where construction shop fabricated pipe is used, different pieces of pipe must be taped and screwed together at the job site in order to achieve the desired length. This results in the expenditure of an additional one-half a man hour (i.e., $5.00 at the current construction rate) to prepare for the installation of eight to ten feet of pipe.

C. Article XXX: This clause requires the sheet metal contractor to bid and perform any and all the general contractors and/or owners work, which the Union is claiming or can claim as sheet metal work, even if the general contractor does not desire the sheet metal contractor to perform some of this work. This clause restricts the general contractor's right to effect economies by purchasing prefabricated products and or utilizing other crafts and subcontractors to perform work, which would have the effect of eliminating the need for additional sheet metal work. For example, the general contractor on a military barracks project, decided that he could avoid having to lay certain sheet metal duct work in a given area because his union carpenters had constructed a double ceiling, which could be used to convey air from the air conditioning units to the individual rooms in the barracks. The Sheet Metal Workers took the position that the double ceiling should have been built by its members and the sheet metal contractor had violated the labor agreement (although he had never been invited to bid the disputed work). Another defect of this clause is that the sheet metal contractor cannot restrict his bid to the work, which he is capable of performing profitably, efficiently, and economically. By the same token, the general contractor knows that if he does not assign almost anything that can even remotely be considered sheet metal work or a substitute thereof, he runs the risk of "trouble" from the Sheet Metal Workers.

D. Article XXXI: This clause severely restricts the use of flexible hose. Flexible hose has practical application in situations where wiring and other hardware set in a ceiling makes it difficult to utilize straight metal duct work and rigid elbow fittings. In these circumstances, the use of flexible hose eliminates the need for extensive lay-out work and fabrication of costly fittings and angled duct work. Further, there is a substantial savings in installation costs inasmuch as the flexible hose is easily bent on the job site to circumvent the ceiling obstacles encountered.

We submit that there can be no valid contention that restrictive work practices and restrictions on the use of prefabricated products are more than offset by the increased productivity of the individual Union members at the job site. In this regard, one sheet metal contractor recently advised us that six years ago his Union Sheet Metal Workers earning from $6,000.00 to $7,000.00 could make complete fiberglass duct pipe installations in eight houses in the course of a 40-hour work week. The same worker today earns $16,000.00 to $18,000.00 a year, works a 35-hour work week, and installs only four homes in a week. (Other contractors point out that the seven-hour a day Sheet Metal Worker physically works only 4½ hours a day inasmuch as he spends 2½ hours a day eating lunch, taking coffee breaks, washing up, and loading and unloading his tools. Of course, should he be "forced" to work beyond the seven-hour work day, he must be compensated at the rate of $20.00 per hour.) Should there be any doubt in the minds of the members of the distinguished Subcommittee that there exists a productivity crises in the construction industry, both the FEC-SMCA and the AGC invite each of you, at your convenience, to participate in a guided, visual tour of South Florida construction job sites.

In summary, the Associations believe that there exists no justification for restrictive work practices and restrictions on the use of prefabricated materials. From our experience, these restrictions result in substantially increased costs in all types of construction, including federally assisted residential projects. Accordingly, we endorse and support S. 3373 as an appropriate and necessary measure to increase productivity in our industry.

EXHIBIT "A"

1969–72 AGREEMENT

(Entered into between Florida East Coast Sheet Metal Contractors Association Inc. and Sheet Metal Workers International Association Local Union No. 223, Dade, Broward and Monroe Counties, Fla.)

STANDARD FORM OF UNION AGREEMENT

Sheet Metal, Roofing, Ventilating and Air Conditioning Contracting Divisions of the Construction Industry

Agreement entered into this 1st day of July, 1969, by and between Florida East Coast Sheet Metal Contractors' Association, hereinafter referred to as the Employer, and Local Union 223 of the Sheet Metal Workers' International Association, hereinafter referred to as the Union for Dade, Broward and Monroe Counties, Florida.

Article I

Section 1. This agreement covers the rates of pay, rules and working conditions of all employees of the employer engaged in but not limited to the (a) manufacture, fabrication, assembling, handling, erection, installation, dismantling, conditioning, adjustment, alteration, repairing and servicing of all ferrous or nonferrous metal work of U.S. No. 10 gauge or its equivalent or lighter gauge and all other materials used in lieu thereof and all air-veyor systems and air handling systems regardless of material used including the setting of all equipment and all reinforcements in connection therewith; (b) all lagging over insulation and all duct lining; (c) testing and balancing of all air-handling equipment and duct work; (d) the preparation of all shop and field sketches used in fabrication and erection, including those taken from original architectural and engineering drawing or sketches, and (e) all other work included in the jurisdictional claims of Sheet Metal Workers' International Association, See Addenda article XXX, XXXI, AND XXXII.

Article II

Section 1. No Employer shall subcontract or assign any of the work described herein which is to be performed at a job site to any contractor, subcontractor or other person or party who fails to agree in writing to comply with the conditions of employment contained herein including, without limitations, those relating to union security, rates of pay and working conditions, hiring and other matters covered hereby for the duration of the project.

Section 2. Subject to other applicable provisions of this Agreement, the Employer agrees that when subcontracting for prefabrication of materials covered herein, such prefabrication shall be subcontracted to fabricators who pay their employees engaged in such fabrication not less than the prevailing wage for comparable sheet metal fabrication, as established under provisions of this Agreement.

Article III

Section 1. The Employer agrees that none but journeymen and apprentice sheet metal workers shall be employed on any work described in Article I.

ARTICLE VIII

Section 1. The minimum rate of wages for journeymen sheet metal workers covered by this Agreement when employed in a shop or on a job within the jurisdiction of the Union to perform any work specified in Article I of this Agreement shall be $_____ per hour, except as hereinafter specified in Section 2 of this Article. (See Addenda Article XIV)

Section 2. On all work specified in Article I of this Agreement, fabricated and/or assembled by journeymen sheet metal workers and/or apprentices within the jurisdiction of this Union, or elsewhere, for erection and/or installation within the jurisdiction of any other Local Union affiliated with Sheet Metal Workers' International Association, whose established wage scale is higher than the wage scale specified in this Agreement, the higher wage scale of the job site Union shall be paid to the journeymen employed on such work in the home shop or sent to the job site.

Section 3. The provisions of Section 2 of this Article, Section 2 of Article II and Section 1 of Article III shall not be applicable to the manufacture for sale to the trade or purchase of the following items:

1. Ventilators
2. Louvers
3. Automatic fire dampers
4. Radiator and air conditioning unit enclosures
5. Fabricated pipe and fittings for residential installations only
6. Mixing (attenuation) boxes
7. Plastic skylights
8. Air diffusers, grilles, registers
9. Sound attenuators

Section 4. The provision of Section 2 of this Article shall not be applicable to the manufacture for sale to the trade or purchase of PLENUMS—Double wall panels for use in construction of air housing.

Section 5. Except as provided in Sections 2 and 6 of this Article, the Employer agrees that journeymen sheet metal workers hired outside of the territorial jurisdiction of this Agreement shall receive the wage scale and working conditions of the local Agreement covering the territory in which such work is performed or supervised.

Section 6. When the Employer has any work specified in Article I of this Agreement to be performed outside of the area covered by this Agreement and within the area covered by another Agreement with another union affiliated with the Sheet Metal Workers' International Association and qualified sheet metal workers are available in such area, he may send no more than two (2) sheet metal workers per job into such area to perform any work which the Employer deems necessary, both of whom shall be from * * * * * * * * *

Section 4. It is agreed by both parties to this Agreement that if the party of the first part (Sheet Metal Contractors') is unable or refuses to figure work that belongs to the members of the Sheet Metal Workers' International Association, that the Sheet Metal Workers' Local Union No. 223 has the right to place sheet metal workers on these jobs. In order that the Sheet Metal Contractors' may be familiar with all types of work which has been given the Sheet Metal Workers' by Building and Construction Trades Department, Local Union No. 223 shall furnish the party of the first part with a copy of these awards.

Section 5. The Union agrees to furnish weekly to the Health and Welfare Trustees, the names of all Employers to which it furnished men, whether under the terms of this Agreement or otherwise.

Article XXX

Section 1. It is expressly agreed and included herein, for the purpose of more specifically but not by any means a limitation, that the following supplement to Article I of the Standard Form of Union Agreement shall be amended to include the furnishing of all integral components and any and all necessary fabrication.

Section 2. The employer, when accepting any contract or authorization to perform any job site or project work under the trade jurisdiction of the Sheet Metal Workers' International Association, shall be required to bid in a lump sum and man all of the work on that individual portion of the job, or on that individual portion of the construction project, which embraces and includes the fabrication on the job and installation of all materials and work that comes within the trade jurisdiction of Sheet Metal Workers' International Association.

Section 3. If all of the work on that Individual Portion of the construction project as defined in Section (2) above is not awarded to the Employer, then the Employer shall not accept a contract to perform a lesser portion of the work on that construction project.

Section 4. The intent of this provision shall include and extend to all work within the trade jurisdiction of Sheet Metal Workers' International Association which requires a composite crew under International Agreements, or under local agreements, with other International Associations, or with other Local Unions, and the fact that another union may be assigned part of the work shall not excuse the employer from failing to bid as outlined above and insist on the right to bid for such individual portion of the work, job or contract.

Section 5. The failure of the general contractor, owner, or other employer from whom the employer hereunder receives his contract or right to bid to grant the entire individual portion of the contract to this employer shall not excuse the employer hereunder from observing all of the provisions of this Article.

Section 6. In the event of a dispute concerning the application of this provision of the contract, Business Manager and Business Representatives of the Union, shall be allowed, upon request to examine the contract or contracts involved, the purchase order or invoice or any other document for the purchase or manufacture of disputed work or materials.

Section 7. No Employer shall accept or perform work covered by this Agreement, on any construction project, from any Contractor whose prime business is mechanical or sheet metal work, unless the Contractor has a collective bargaining agreement with this Union.

Definitions:

For the purpose of this Agreement, a single dwelling residence home: Shall not include high rise apartments, condominium apartments, industrial or commercial buildings or any other buildings of similar types.

The word lump used in Article XXX Section 2 shall be defined as Definition 2–B of lump by Webster's new Collegiate Dictionary, copyright 1956, G & C Merriam Company, The Riverside Press, Cambridge, Mass. The whole aggregation, collection lot "as taken in the lump."

The word individual used in Article XXX Sections 2, 3, 4, 5 shall be defined as (a) not divisible, (b) inseparable, (c) identical, by Webster's new Collegiate Dictionary, copyright 1956, G & C Merriam Company, The Riverside Press, Cambridge, Mass.

The word portion used in Article XXX Sections 2, 3, 4, 5 shall be defined as (a) an allotted part, by Webster's new Collegiate Dictionary, copy right 1956, G & C Merriam Company, The Riverside Press, Cambridge, Mass.

For the purpose of this Agreement and for the purpose of lump sum bidding, individual portion shall be an allotted part of a job or project site that is not divisible in any manner.

Air conditioning, ventilation, and/or exhaust systems together shall all be considered one individual portion of a job or project site.

The fabrication and installation of all flashings, metal skylights, scuppers, pitch pans, roof expansion joints, gutters (excluding half round) and downspouts together shall all be considered one individual portion of a job or project site.

For the purpose of this Agreement a shop is a sheet metal business that is properly

equipped and manned to fabricate materials for any given job.

Article XXXI

Rules governing use of conduit and flexible hose for supply and/or return systems and fabricated items.

(a) General:

1. The use of conduit and flexible hose is divided into two categories.

A. Airtight (high pressure)

B. Conventional

2. The classification of a system, for this purpose, will not be determined by static pressure or velocity, but rather by the following requirements:

A. A high pressure system will have airtight duct work of special construction. It will be made airtight by mechanical means such as welding, gasketing and/or caulking.

B. In addition, for a system to be considered high pressure it must have pressure reduction devices such as one of the following:

a. Pressure reducing valve with lined duct.

b. Pressure reducing valve with sound trap.

c. Attenuation box with pressure reducing valve.

d. Double duct, or mixing box with valves.

e. Peripheral high velocity system.

3. Any supply system that does not have both airtight construction and a pressure reduction device will be considered a conventional system.

4. The requirements in Paragraph No. 2 above, refer to both supply and return systems, except in addition to the aforementioned, a high velocity return system must have metal flues or metal risers to be considered high pressure, and be of airtight construction to qualify.

(b). Conventional systems:

1. The use of conduit is not permitted in a conventional system.

2. Flex Hose shall not replace the fabricated fitting and/or fittings at the outlet, and shall not exceed seven (7) feet in length in any one branch or take-off line.

3. Flex Hose shall not be used as a trunk line of any system.

4. Flex Hose shall not be used on primary air, fresh air, or exhaust systems.

CONSUMER PROTECTION ACT—AMENDMENTS

AMENDMENTS NOS. 1576 THROUGH 1601

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

Mr. ERVIN submitted 26 amendments intended to be proposed by him to the bill (S. 3970) to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

AMENDMENTS NOS. 1603 THROUGH 1606

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

Mr. FANNIN submitted four amendments intended to be proposed by him to the bill (S. 3970), supra.

IMPORTATION OF UPHOLSTERY REGULATORS—AMENDMENT

AMENDMENT NO. 1602

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

Mr. RIBICOFF. Mr. President, this amendment is simply a needed clarification of the tariff schedules. The proposed changes would not result in any modifications of present duty rates.

Antifriction bearings are vital to the national security. Space vehicles, missiles, aircraft, submarines, and tanks are inoperable without ball and roller bearings. There is no one who seriously questions the paramount role of bearings as the controlling element in the manufacture of practically every item of defense hardware which has moving parts—in truth, bearings are the basic "pacing components."

All segments of the domestic bearing industry are being severely attacked by imports. While the Tariff Commission and other administrative agencies are able to measure the dimensions of this penetration for most bearings the segment made up of mounted or housed bearings was inadvertently left indefinite when the tariff schedules were enacted. Amendment No. 1602 to H.R. 640 will remedy this situation.

The Departments of State, Commerce, Treasury, Labor, and Office of Special Representative for Trade Negotiations have all offered no objections.

Further the Office of Management and Budget advises there would be no objection from the standpoint of the administration's program. I ask unanimous consent to include in the RECORD at this point an explanatory Tariff Commission report on H.R. 10385, a bill introduced in the House which is identical to my amendment, except for a technical change recommended by the Commission.

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

REPORT TO THE COMMITTEE ON WAYS AND MEANS, HOUSE OF REPRESENTATIVES, ON H.R. 10385, 92D CONGRESS, A BILL "TO MAKE SPECIFIC PROVISIONS FOR BALL OR ROLLER BEARING PILLOW BLOCK, FLANGE TAKE-UP, CARTRIDGE, AND HANGER UNITS IN THE TARIFF SCHEDULES OF THE UNITED STATES"

The bill, if enacted, would amend the existing provisions in Part 4J of Schedule 6 of the Tariff Schedules of the United States (TSUS) relating to ball and roller bearings. The object of the bill is to create a special provision for certain ball and roller bearing units which presently are classifiable in various provisions of the tariff schedules.

The domestic producers of the bearing units in question, on whose behalf the bill was introduced, are primarily interested in providing for these bearing units in a single provision to enable adequate statistical reporting with respect to imports.

Specifically, the bearing units involved are ball or roller bearings assembled into so-called pillow block, flange, take-up, cartridge, and hanger mounts or holders. These mounts or holders, sometimes also referred to as housings, are designed to facilitate the use of ball or roller bearings in certain general types of application. Comparable mounts or holders are used for other types of bearings, such as sleeve bearings, which do not use balls or rollers; however, the mounts or holders covered by the bill are clearly distinguishable in that the holders designed for ball or roller bearings are machined to basically different holding configurations than are those for other types of bearings.

It is our understanding that the principle types of ball or roller bearing holders, domestically produced and imported, are the pillow block and flange types, such types probably accounting for 75 to 85 percent of consumption, although precise data are not available. It is estimated that domestic production of all types of these bearing units approximates 88 million dollars. There are known imports of pillow block units under item 680.50 of the TSUS, and under item 680.90 for other types of bearing units. It is possible that bearing units are classifiable in other provisions as well, although exact information on this point is not available. The best estimate of the volume of imports, which may be far from accurate, is in the range of three to four million dollars.

After consideration of samples and descriptive catalogues recently submitted to the Commission by industry representatives, it is believed that technical improvement can be made in the drafting of the bill with respect to the description of the products intended to be covered. It is suggested that the purposes of the bill (secs. 2 and 3) could best be carried out if it were amended so that the provisions in the TSUS for ball or roller bearings (items 680.33–.36) would be amended to read as follows (new language italic):

	Ball or roller bearings, including such bearings with integral shafts, *and including such bearings whether or not assembled into pillow block, flange, take-up, cartridge, and hanger mounts or holders,* all the foregoing and parts thereof:		
680.33	Ball bearings etc.		
680.34	If Canadian etc.		
680.35	*Bearings assembled into pillow block, flange, take-up, cartridge, and hanger mounts or holders, and parts thereof*	9.5% ad val.	45% ad val.
680.36	*If Canadian article and original motor-vehicle equipment (see headnote 2, part 6B, schedule 6)*	Free.	
680.37	Other		
680.38	If Canadian etc.		

The rates of duty for the proposed item 680.35 are the same as the rates for items 680.80 and 680.90 under which, as indicated above ball and roller bearing units are known to be imported.

The above-suggested changes in section 2 and 3 of the bill would require a further conforming amendment of section 1. The superior heading for item 680.50 should be amended by inserting after "pillow blocks" and before the "," the following: "(except ball or roller bearing pillow blocks)".

FREE ENTRY OF CARILLON FOR MARQUETTE UNIVERSITY—AMENDMENT

AMENDMENT NO. 1607

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

Mr. HARTKE 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.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 895

Mr. PEARSON. Mr. President, I ask unanimous consent that at its next printing, the Senator from Alaska (Mr. STEVENS) be added as a cosponsor of amendment No. 895 to H.R. 1. This amendment would provide persons 65 or older a phased annual tax credit of up to $300 for

property taxes or rent paid on their residences.

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

ADDITIONAL STATEMENTS

COMMITTEE REPORTS ON LEGISLATIVE REVIEW OF THE ADMINISTRATION OF LAWS

Mr. MANSFIELD. Mr. President, the Legislative Reorganization Act of 1970 requires Senate committees to make reports "not later than March 31 of each odd-numbered year" of their activities during the previous Congress in reviewing the "application, administration and execution of those laws or parts of laws, the subject matter of which is within the jurisdiction of that committee."

In an effort to assist committees in complying with section 118a of the act, the Joint Committee on Congressional Operations has sent to each committee chairman information on the legislative background of this section. This information will be extremely helpful in the preparation of these reports, and, therefore, on behalf of my colleague (Mr. METCALF), the vice chairman of the committee, I ask unanimous consent that this material be printed in the RECORD.

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

SEC. 118(a) LEGISLATIVE REVIEW BY STANDING COMMITTEES (SENATE)

A. TEXT

SEC. 118. (a)(1) Section 136 of the Legislative Reorganization Act of 1946 (2 U.S.C. 190d) is amended to read as follows:

"Legislative Review by Senate Standing Committees

"SEC. 136. (a) In order to assist the Senate in—

"(1) its analysis, appraisal, and evaluation of the application, administration, and execution of the laws enacted by the Congress, and

"(2) its formulation, consideration, and enactment of such modifications of or changes in those laws, and of such additional legislation, as may be necessary or appropriate,

each standing committee of the Senate shall review and study, on a continuing basis, the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee.

"(b) Each standing committee of the Senate shall submit, not later than March 31 of each odd-numbered year beginning on and after January 1, 1973, to the Senate a report on the activities of that committee under this section during the Congress ending at noon on January 3 of such year.

"(c) The preceding provisions of this section do not apply to the Committee on Appropriations of the Senate."

(2) Title I of the table of contents of the Legislative Reorganization Act of 1946 (60 Stat. 813) is amended by striking out—

"Sec. 136. Legislative oversight by standing committees."

and inserting in lieu thereof—

"Sec. 136. Legislative review by Senate standing committees.".

Amendments

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 136 of the Legislative Reorganization Act of 1946 (2 U.S.C. 190d), as amended by section 118 of the Legislative Reorganization Act of 1970 (84 Stat. 1156; Public Law 91–510), is amended to read as follows:

"Legislative Review by Standing Committees of the Senate and House of Representatives

"SEC. 136. (a) In order to assist the Congress in—

"(1) its analysis, appraisal, and evaluation of the application, administration, and execution of the laws enacted by the Congress, and

"(2) its formulation, consideration, and enactment of such modifications of or changes in those laws, and of such additional legislation, as may be necessary or appropriate,

each standing committee of the Senate and the House of Representatives shall review and study, on a continuing basis, the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee.

"(b) In each odd-numbered year beginning on or after January 1, 1973, each standing committee of the Senate shall submit, not later than March 31, to the Senate, and each standing committee of the House shall submit, not later than January 2, to the House, a report on the activities of that committee under this section duirng the Congress ending at noon on January 3 of such year.

"(c) The preceding provisions of this section do not apply to the Committee on Appropriations of the Senate and the Committees on Appropriations, House Administration, Rules, and Standards of Official Conduct of the House.". Effective January 3, 1971 (83 Stat. 376; Public Law 92–136) October 11, 1971.

2. Title I of the table of contents of the Legislative Reorganization Act of 1946 (60 Stat. 813) is amended by striking out—

"Sec. 136. Legislative review by Senate standing committees."

and inserting in lieu thereof—

"Sec. 136. Legislative review by standing committees of the Senate and House of Representatives.".

B. SUMMARY

Each standing committee of the Senate shall "review and study, on a continuous basis, the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee."

Not later than March 31 of each odd-numbered year, each Senate standing committee shall submit to the Senate a report on its review activities during the preceding Congress.

The Committee on Appropriations is exempted.

C. INTENT AND LEGISLATIVE HISTORY

As it appeared in the 1970 Legislative Reorganization Act, this subsection revised section 136 of the Legislative Reorganization Act of 1946, in part by limiting its application solely to the Senate. The subsequent amendment in P.L. 92–136 restored its applicability to both Houses of Congress.

Before it was amended by the 1970 Act, section 136 read:

SEC. 136. To assist the Congress in appraising the administration of the laws and in developing such amendments or related legislation as it may deem necessary, each standing committee of the Senate and the House of Representatives shall exercise continuous watchfulness of the execution by the administrative agencies concerned of any laws, the subject matter of which is within the jurisdiction of such committee; and, for that purpose, shall study all pertinent reports and data submitted to the Congress by the agencies in the executive branch of the Government.

The Senate report on the 1946 Act (Senate Report No. 1400, 79th Congress, 2d Session, May 31, 1946, p. 6) declared the provision was designed "to strengthen congressional surveillance of the execution of the laws by the executive branch," and to have committees "conduct a continuous review of the activities of the agencies administering laws originally reported" by them. In addition, the report continued, section 136 was intended to encourage the use of committees "as vehicles of consultation and collaboration between Congress and the corresponding administrative agencies within their respective jurisdictions." Finally, it was hoped that section 136 would inhibit the creation of special committees of investigation; these sporadic investigating groups, the report asserted, lacked continuity and did not provide members of standing committees "with direct knowledge of the information they have gathered," thus requiring the legislative committees to do much of the work over again when legislative action was indicated.

In its 1966 report, the Joint Committee on the Organization of the Congress took a somewhat narrower view of the intent of the oversight language. One of the most important responsibilities of Congress, it declared,

is to scrutinize continuously existing programs to determine whether they are being administered in accordance with congressional intent, whether amendments are desirable, or whether the program has outlived its purpose. No agency is likely to volunteer that its objective could be accomplished in another manner—or that it is no longer needed. These determinations must be made by Congress. (Final Report 1414, 89th Congress, 2d Session, July 28, 1966, p. 23.).

Section 136 of the 1946 Act, the Joint Committee concluded, "has failed to achieve the desired result. It is a statutory admonition without means of implementation. Although some standing committees have carried on extensive 'oversight' activities, most are preoccupied with new legislative programs." To remedy the situation, the Joint Committee offered five recommendations (*ibid.*, pp. 23–25):

1. The activity commonly referred to as "oversight" shall be redesignated as "review" so that there will be a better public understanding of the function.

2. In addition to the permanent professional staff otherwise authorized, each standing committee shall be entitled to one additional permanent professional staff member who shall be designated a review specialist and who shall be assigned exclusively to performance of review (oversight). He shall be selected by the chairman with the concurrence of the ranking minority member. The review specialist shall be directed to carry out review projects, or to supervise the same, contingent upon the approval of such projects by the chairman and ranking minority member of the committee.

3. Each standing committee other than the Appropriations committees shall file an annual report on the review activities of the committee during the year. The report shall include an evaluation of programs under the jurisdiction of the committee, an assessment of the quality of administration of agencies investigated during the year, and recommendations as to organizational and program changes and/or the elimination of unnecessary activities under the committee's jurisdiction. The reports shall be delivered to the majority and minority leadership of both Houses and by the leadership to the President, with a copy to the Bureau of the Budget.

4. The legislative committees should hold hearings on major reports required of the Executive.

5. The legislative committees should review reports required by law of the executive departments and agencies to determine whether the reports perform a useful function, should be reoriented, or are no longer necessary.

S. 355, the legislative reorganization bill of 1967, contained the substance of all but the fourth and fifth recommendations when it was brought to the Senate floor in 1967. There the language was amended (1) to emphasize that the review functions belonged to the committees rather than to their review specialists, (2) to make it clear that the review specialist would operate within the overall structure of the committee staff rather than separate and apart from it. (3) to make employment of review specialists permissive rather than mandatory, and (4) by the addition of language to the effect that all standing committees might request the Comptroller General "to investigate and report on any matter relating to the receipt, disbursement, and application of public funds" on laws within their jurisdictions. (Congressional Record, February 15, 1967, pp. 3400–3401; March 3, 1967, pp. 5369–5371.)

The House Committee on Rules accepted the 1967 bill's redefinition of oversight and its requirement for regular committee reports on review activities. But it rejected the whole concept of review specialists. "We believe that approach is unworkable," the Committee declared in House Report 91–1215 on its version of the reorganization bill. (June 17, 1970, p. 17.) "Such a staff member would inevitably be absorbed into the day-to-day work of his committee. It is unlikely, furthermore, that he, or two like him, could adequately perform the massive kind of analysis committees so urgently require. And finally, the proposal does not provide for coordination and cooperation among such staff, nor for a systematic exchange of information and techniques that would contribute to greater review effectiveness."

As a substitute for the review specialists, the Rules Committee proposed expansion of the functions of the General Accounting Office and the then Legislative Reference Service in the Library of Congress. See sections 204 and 321 below.

Having stricken from the bill all mention of review specialists, the Committee on Rules dealt with the remaining language in the following manner:

1. It retained from the 1967 bill the renaming of the function as "review" rather than "oversight".

2. It retained from the 1967 bill the statutory redefinition of the function. This consisted principally of removing from section 136 of the 1946 Act the phrase "exercise continuous watchfulness of the execution by the administrative agencies concerned of any laws . . . within the jurisdiction of such committee" and substituting instead "review and study, on a continuing basis, the application, administration, and execution of those laws . . ."

3. It retained from the 1967 bill the concept of regular committee reports on their review activities, but made them biennial, i.e. applicable to each Congress, rather than annual.

4. It struck from the language permission for the committees to exclude from their reports matters they might determine should not be made public in the interest of national security.

5. It struck out provisions for the transmission of the biennial committee review reports, as appropriate, to the President, the Director of the Administrative Officer of the United States Courts, the Board of Commissioners of the District of Columbia, and the heads of other appropriate agencies, corporations, and instrumentalities of the Government.

6. It struck out the language relating to requests to the Comptroller General (but see section 204 below).

The House accepted the Rules Committee's version without amendment. The Senate accepted the main thrust of the House version with an amendment; it changed the submission date for Senate committee review reports from January 2 to March 31 of each odd-numbered year "so as to provide sufficient time for the preparation of the report." (Congressional Record, October 5, 1970, p. 34940.) (Although nowhere explained in the reports or the debate on the bill, the Rules Committee set the January 2 date because technically all House committees die at the end of a Congress and it was not thought appropriate for a committee of one Congress to report on the activities of the previous Congress. No such problem arises on the Senate side since the Senate is taken to be a continuing body, a characteristic shared by its standing committees.)

For an explanation of the amendment to section 136 of 1946 Act made by P.L. 92–136, see the commentary on section 118(b) below. The amendment did not affect the Senate.

D. IMPLEMENTATION

Determination of the extent and effectiveness of the review activities of Senate committees would require an intensive inquiry into those activities. The starting point for such an inquiry would be the biennial committee reports on their review activities required by the law. These probably will not become available for Senate committees until late March of 1973 since the first effective date for report is March 31, 1973.

SEC. 118(b) LEGISLATIVE REVIEW BY STANDING COMMITTEES (HOUSE)

A. TEXT

(b) Clause 28 of Rule XI of the Rules of the House of Representatives is amended to read as follows:

"28. (a) In order to assist the House in—

"(1) its analysis, appraisal, and evaluation of the application, administration, and execution of the laws enacted by the Congress, and

"(2) its formulation, consideration, and enactment of such modifications of changes in those laws, and of such additional legislation, as may be necessary or appropriate,

each standing committee shall review and study, on a continuing basis, the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee.

"(b) Each standing committee shall submit to the House, not later than January 2 of each odd-numbered year beginning on or after January 1, 1973, a report on the activities of that committee under this clause during the Congress ending at noon on January 3 of such year.

"(c) The preceding provisions of this clause do not apply to the Committee on Appropriations, the Committee on House Administration, the Committee on Rules, and the Committee on Standards of Official Conduct.".

Amendments

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 136 of the Legislative Reorganization Act of 1946 (2 U.S.C. 190d), as amended by section 118 of the Legislative Reorganization Act of 1970 (84 Stat. 1156; Public Law 91–510), is amended to read as follows:

"Legislative Review by Standing Committees of the Senate and House of Representatives

"SEC. 136. (a) In order to assist the Congress in—

"(1) its analysis, appraisal, and evaluation of the application, administration, and execution of the laws enacted by the Congress, and

"(2) its formulation, consideration, and enactment of such modifications of or changes in those laws, and of such additional legislation, as may be necessary or appropriate,

each standing committee of the Senate and House of Representatives shall review and study, on a continuing basis, the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee.

"(b) In each odd-numbered year beginning on or after January 1, 1973, each standing committee of the Senate shall submit, not later than March 31, to the Senate, and each standing committee of the House shall submit, not later than January 2, to the House, a report on the activities of that committee under this section during the Congress ending at noon on January 3 of such year.

"(c) The preceding provisions of this section do not apply to the Committee on Appropriations of the Senate and the Committees on Appropriations, House Administration, Rules, and Standards of Official Conduct of the House".

* * * * * *

Title I of the table of contents of the Legislative Reorganization Act of 1946 (60 Stat. 813) is amended by striking out—

"Sec. 136. Legislative review by Senate standing committees."

and inserting in lieu thereof—

"Sec. 136. Legislative review by standing committees of the Senate and House of Representatives.".

Effective January 3, 1971 (85 Stat. 376; Public Law 92–136) October 11, 1971.

B. SUMMARY

Each standing committee of the House shall "review and study, on a continuous basis, the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee."

Not later than January 2 of each odd-numbered year, each standing committee shall submit to the House a report on its review activities during the Congress ending the following day.

Exempted committees: Appropriations, House Administration, Rules, and Standards of Official Conduct.

C. INTENT AND LEGISLATIVE HISTORY

What was called "legislative oversight" in the Legislative Reorganization Act of 1946 and in Rule XI, clause 8 of the 91st Congress, is renamed "legislative review" and the definition of that function is somewhat revised.

Entirely new in Rule XI, clause 8 is the requirement for a biennial report to the House by each standing committee on its review activities. Such reports are to be submitted no later than the last legal day of a Congress and are to deal with the committee's review activities during the whole of the Congress about to end.

The committees cited above were exempted because it was thought that their areas of jurisdiction do not include matters of the type thought suitable for such reports.

As explained earlier in this report, the 1970 Act dealt with House rulemaking provisions by direct amendment of the pertinent rules of the House rather than by amendment of

the 1946 Legislative Reorganization Act. Thus, section 118(b) amends House Rule XI, clause 28, while section 118(a) amended section 136 of the 1946 Act so as to make it applicable only to the Senate.

In so doing, however, the 1970 Act inadvertently terminated the authority of House committees to expend local currencies when traveling on official congressional business. This authority was granted to the committees of both Houses by section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754) in language which made the expenditures of such currencies dependent upon committee functions under section 136 of the 1946 Act. Because the 1970 Act removed all mention of House committees from section 136, their rights to such currencies were terminated. (For a more detailed explanation, see House Report 92-34, February 26, 1971, on H.R. 4713.) Sections 1 and 2 of P.L. 92-136 restored those rights by making section 136 once again applicable to the committees of both Houses.

D. IMPLEMENTATION

Determination of the extent and effectiveness of the review activities of House committees would require an intensive inquiry into these activities. The starting point for such an inquiry would be the biennial committee reports on their review activities required by the law. These probably will not become available for House committees until after January 1, 1973, the first effective date for such reports.

VETERANS' EDUCATION BILL MUST BE PASSED

Mr. BOGGS. Mr. President, on March 6 of this year the House approved a bill (H.R. 12828) increasing GI benefits for college study, on-the-job training and vocational rehabilitation. A similar measure (S. 2161) providing a higher level of benefits which I was privileged to cosponsor passed the Senate on August 3.

The House approved an increase in the basic monthly allotment for a single veteran in a full-time course of study from the current $175 to $200. The Senate raised this figure to $250 a month.

Increases were also approved for veterans with dependents and veterans enrolled in on-the-job training and vocational rehabilitation programs. In addition, the Senate bill contained a number of important changes including advance payment of educational benefits and supplementary education assistance for veterans in the form of direct loans up to $1,575 a year for costs not covered by other Federal grant or loan programs.

Many veterans expected that agreement would be reached on this legislation long before now. They enrolled in study programs and job training programs—many beginning this month—in the expectation that the increased levels of benefits provided for in this legislation would be forthcoming. They must not be let down.

Both Houses have recognized the great need for increased educational benefits for veterans. I strongly urge that agreement be reached on this legislation as soon as possible, certainly before adjournment. I also urge that benefits be made retroactive to September 1, 1972, so that those veterans who enrolled in courses this month will receive the increase to help meet their current expenses.

NATIONAL HIGHWAY WEEK OBSERVED—AMERICA DEPENDS ON ITS ROADWAYS

Mr. RANDOLPH. Mr. President, the United States this week is observing National Highway Week. This period is set aside as an opportunity to recognize the many important contributions that modern roads make to the continuing prosperity and security of our country.

Highways are the principal means of transportation for the overwhelming majority of American people and they provide the means by which commerce moves to and from every corner of our Nation. The extent of our commitment to motor vehicle transport is reflected in the statistics. The United States today has 3.7 million miles of roads and streets which accommodate more than 100 million vehicles, about one for every two people in the country. During 1971, American motor vehicles traveled 1.17 trillion miles.

Our modern highways permit Americans to have the greatest freedom of mobility of any people in the world. Even in a large country such as ours, we are free from restraints by our highways and can travel virtually anywhere whenever we choose.

Mr. President, it is coincidental, but it is appropriate, that we observe National Highway Week at a time when the Congress is considering legislation to continue and improve our national highway program. The Senate recently passed the Federal-Aid Highway Act of 1972, legislation which is far-reaching in its response to contemporary transportation needs in all parts of the country and at all levels of society. The House of Representatives is expected to vote this week on similiar legislation.

As we observe National Highway Week and the impact of good roads on our life, I hope that we will remember neither the highway program nor any other Government activity can remain static and at the same time respond to changing conditions. We go forward in our legislative efforts, mindful of the contributions highways and motor vehicles have made in the development of our country and fully aware of the reliance we will continue to place on them in the years ahead.

RULES OF ENGAGEMENTS IN VIETNAM

Mr. GOLDWATER. Mr. President, while the Armed Services Committee has not yet reached a decision on the nomination of General Lavelle for a retired rank of lieutenant general, I feel it might be helpful to my colleagues if I recorded here some of my impressions about what happened in the air war in Indochina and involving General Lavelle. I feel that this is necessary because it is becoming very obvious that some members of the press and the communications media would like to extend this unfortunate incident as long as they can and, if possible, bring in the Secretary of Defense and others who had nothing to do with what took place to share some of the blame.

Right at the start, let me say that this is not an attempt to defend General Lavelle. He cannot be defended. What he did was to disobey orders which came to him in the form of rules of engagement for the Vietnam war. He himself has admitted this. The U.S. Air Force has recognized it, and General Lavelle has been relieved of his command, which to me is the most severe punishment that can ever be handed to an officer in uniform. Mr. President, I take particular pains to mention these facts, because I have been told that at least one well-known newscaster has been heard to say that I was trying to defend General Lavelle's action in disobeying orders. This has never been the case, nor is it the case today.

I am hopeful that before long the exact details of some of these rules of engagement which pertain to Vietnam can be declassified to the extent that Members of Congress and the American people can understand the kind of handicaps under which our men have been forced to fight this war. These rules of engagement have been promulgated by different Secretaries of Defense, Assistant Secretaries of Defense, and civilian members of other organizations such as the National Security Council. And let me explain that a rule of engagement is precisely what it says—a rule under which you engage an enemy. In only one other war, to my knowledge, has this strange method of waging hostilities been used. That was in the Korean war when our fighting men were forced to operate under a general rule which said they could not attack the enemy north of Yalu River, regardless of the circumstances.

Mr. President, if it becomes possible for me at some later time to introduce the exact contents of the rules of engagement which apply in Vietnam, I will certainly do so. But for my purposes today, it will suffice to mention just one or two rules of engagement which have previously been publicized as having existed during the November 1971–March 1972 time period.

For example, under one rule, our fighting men were not permitted to attack a Mig aircraft while it is sitting on an enemy runway. Under the rule, the only time one of these dangerous Russian-built aircraft could be attacked is if it was in operation and showed hostile intentions. Now, Mr. President, I suggest that this is a pretty tough rule to live with when you know that the Mig sighted on a particular runway has been used actively against our B-52's, against our helicopters, against our F-105's and F-4's, not to mention Navy aircraft—and to realize that it will soon be used again in attempts to kill American fighting men and destroy American aircraft.

It is important for us to understand that until this rule came along, American fighting men were able to attack

enemy aircraft and attempt to destroy them wherever they happened to be, whether in the air or on a runway.

Another rule in effect said that in North Vietnam, trucks driving on a highway could not be fired upon unless they show hostile intentions toward our fighting men. I suggest that my colleagues think about that one and try and figure out what it means.

Perhaps the rule which has received the most attention and which the Joint Chiefs of Staff felt had been violated involved an enemy radar site high on a mountain range overlooking Laos. The radar site in question provided group control intercept to the Mig fighter planes which could come over low, attack our helicopters as they were doing rescue work, and attack our tactical aircraft. Because it is impossible for a radar to show hostile intentions, as such, it was very difficult for our men to make a decision whether the target should be destroyed. It is my personal belief that a radar site shows hostile intentions merely by existing in a location of strategic importance to the enemy. It exists only for purposes which mean the loss of aircraft and men to us.

This of course was the target which General Lavelle and General Abrams finally agreed should come under the rules and be attacked. As we all know, they were later rapidly corrected by the Joint Chiefs of Staff for their decision.

Mr. President, I mention these rules as background for our understanding of the case involving General Lavelle. What he did was make a decision—and he made it alone—that any of our aircraft flying over Northern Laos would be constantly engaged by groundfire, whether the fire was observed or not. And under this interpretation of the rule, he issued verbal orders that all weapons and ammunition would be expended during each reconnaissance flight and that a returning pilot, when being debriefed by the intelligence group, would report that enemy action had been taken and that he had retaliated.

Now that is the case involving General Lavelle. Let us take a look at the size of it. During the period of time in question, roughly from November 1971 to March 1972, as many as 40,000 sorties may have been flown. We are not able to get the exact number but estimates place it between 25,000 and 40,000 sorties. But the number of cases involving falsified reports is something like 20 or 30. Thus, despite what some members of the communications media have tried to make out of this violation, I believe any fair observer would have to admit that, even though General Lavelle was wrong, we are not talking about a massive number of illegal strikes. I do not give this as an excuse for General Lavelle, because it is my feeling that if only one out of 40,000 had been performed illegally and followed by a falsified report it would be sufficient to condemn the general's action. What I am saying is that the incident does not add up to an enormous and continuous disregard for the general rule in question.

I know that some Members of the Senate might ask why have not other officers involved been punished. I would remind them that the first thing a man learns in the military is the discipline of command and the absolute necessity of obeying command orders. If suddenly, in the military structure, officers junior to the men in command began to refuse orders or to question orders, the result would be utter and complete chaos. Now I will admit that there are ways a junior officer can express his dissatisfaction—he can ask for written orders and he can write a paper outlining his disagreement with those orders which can be placed in a proper file should anything ever come of the incident. This was not done in any of these cases. As General Slay explained, when he was ordered as operations officer of the 7th Air Force, to do the things that General Lavelle wanted done he naturally assumed that General Lavelle had permission from people senior to him. So General Slay obeyed the orders, as did the commanders under him, the pilots and everyone connected with the procedures. Perhaps well over 200 people knew what was going on but it was not until Sergeant Franks, a very trustworthy and valued member of the Air Force enlisted personnel decided that he could no longer do these things, because he felt it was against his Christian training. As we all know, he wrote a letter to Senator HUGHES explaining his feelings and Senator HUGHES very correctly contacted Chairman STENNIS of the Armed Services Committee and the hearings in the Lavelle case were set up.

Mr. President, although a full report will be made available to the Senate at some future date, I think it is safe for me to report here that no one other than General Lavelle is responsible for what occurred. I say this knowing full well that some segments of the communications media had intimated that other officers of higher rank participated in the decision.

The whole episode to me has been most unfortunate. It is unfortunate that a fine career officer like General Lavelle made the mistake that he did, even though I can see how he might feel in his own mind that he was justified. And, of course, the episode has not put the Air Force in a good light because the question repeatedly asked is why could it not have been detected. Let me just say that I think that if my colleagues could have sat through all the hearings they would begin to realize the impossibility of that happening. The question arises as to whether we can prevent similar incidents from happening in the future. My answer is that as long as human nature exists and men can do right or wrong there is no way that we can absolutely prevent future occurrences.

I would suggest, however, that in any future war in which we may become engaged that we try not to write rules of engagement that will hamper our chances of victory. I think I can say without any fear of contradiction that had the rules of engagement not existed this war could have been won a long time ago and a great many American men would not have died.

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "The Lavelle Episode," written by William S. White, and published in the Washington Post of September 23, 1972.

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

THE LAVELLE EPISODE

(By William S. White)

The case of one Air Force general who exceeded his bombing authority in Vietnam has now turned out to be just that—the case of one Air Force general who exceeded . . . et cetera, et cetera.

There is, in short, no evidence of some conspiracy within "the higher brass" to escalate the war, or to challenge in any way the constitutional supremacy of the civilian authority. Particularly, there is no valid showing that the military superiors of the now disciplined and retired Gen. John Lavelle were slyly or otherwise egging him on to hit unauthorized targets in Vietnam.

Professionally "antiwar" people inside and outside the Senate for weeks have used the Lavelle episode, which is deplorable enough in its real nature but not one-tenth so deplorable as it has been made out by them to be, for carom shots all over the place. They have hit the war itself, the military in general, and, of course, that obviously evil thing called the Pentagon.

Their intermediate target has been Gen. Creighton Abrams, who succeeded as top commander in Vietnam upon the retirement of Gen. William Westmoreland. Abrams is now under nomination by the President to be Army Chief of Staff.

It appears plain that having been well and truly cut up symbolically by the new isolationists and new pacifists he will at length be confirmed by the Senate. From the outset of the Lavelle affair the "antiwar" zealots had characteristically followed the Gilbert and Sullivan dictum of verdict first—evidence later. But even they are at last reluctantly acknowledging that Gen. Abrams (as also the chairman of the Joint Chiefs of Staff, Adm. Thomas Moorer) was innocent of Lavelle's transgressions.

If it seems a pity nevertheless that Abrams had to go through all this in order to be allowed to begin to round out the last phase of a distinguished military career, then so it is. It is a great pity, indeed. For the critics of the Vietnam command, first in Westmoreland's and then in Abrams' charge, for years have not been able to grasp one fairly obvious point. This is that the uniformed commander of Vietnam never made the war and never voted—as many of them in fact had done—for the policies that created and sustained it.

The commander's job has been solely to carry out the orders of three American Presidents, orders always harsh with difficulty and sometimes heartbreakingly so. Sometimes, indeed, diplomatic concerns at the civilian level have required the general on the spot to see the enemy run pretty well free while his own troops and air power were fettered by directions from Washington. This restraint has been right and proper; but it has not been easy.

That two successive representatives of the dreadful "brass"—Westmoreland and Abrams—have with massive fidelity and military self-sacrifice been obedient at every turn to civilian direction should speak more than sufficently for their ingrained respect for the constitutional supremacy of the civil authority.

Instead of being used as whipping boys by

pacifists they should receive the thanks of a grateful country not only for their qualities of obedience and sacrifice but also for one of the most amazing achievements in all wartime. This achievement has been the maintenance of generally good troop morale in the kind of action they have had to fight in Vietnam.

Not the least of Lavelle's aims is that his conduct has given the antiwar careerists another stick with which to beat the whole concept of collective security in this world. To be sure, it is not much of a stick. But, then, they don't need much of a stick.

POSITION PAPER OF SENATOR McGOVERN ON SOUTHEAST ASIA NARCOTICS TRAFFIC

Mr. HUGHES. Mr. President, last week at a State Department conference the President reviewed the activities of his administration in the fight against drug addiction, and especially against the international traffic in narcotics. He asserted once again that great progress had been made, and he restated his determination to win the battle.

The Senator from South Dakota, as the Democratic candidate for the Presidency, has issued a detailed indictment of the administration's effort to control the international narcotics traffic. He presented facts and figures in support of his view that these efforts fall far short of the full-scale attack proclaimed by the President. The position paper presented by the Senator from South Dakota reflects a great deal of careful research. Administration sources have characterized it as naive, but they have not yet denied any of its substance. In spite of any differences, however, he has set forth certain truths which no one can deny; namely, that American involvement in the war in Southeast Asia is a major factor in the problem of drug addiction here at home; and that Southeast Asia will be the source of a larger and larger share of the heroin traffic as long as our involvement in that area continues.

In his statement on Monday the President laid great emphasis on his progress in inducing other governments to agree to intensifying their efforts to stamp out the traffic in heroin. Holding up the stick as well as the carrot, he promised to use his authority to cut off military and economic aid to any country whose leaders participate in or condone activities that contribute to our drug problem.

Mr. President, these are persuasive words. Unfortunately, they hide the grim reality known to any one who has examined the situation in Southeast Asia. With American prodding and the help of American dollars the governments of South Vietnam, Laos, and Thailand have enacted punitive legislation and added narcotics personnel to their police forces. They have made some arrests and destroyed some opium. Yet, no one serious believes that these nations are fully committed to the task.

These are societies that have traditionally tolerated both opium and official corruption. The infusion of large quantities of Amerian dollars and men has certainly not reduced that tolerance. High officials in all three nations have been accused of personal involvement or complicity in the drug traffic, and whether or not the charges are justified in any specific instance, it is obvious that individual officials have been and are now involved.

It is also obvious that these governments either cannot or will not control the heavy flow of opium and heroin right in their own capitals. Any American serviceman in Saigon knows where he can buy drugs quickly and cheaply. In Bangkok heroin abuse among the 1,500 military and civilian dependents in the American secondary school has reached epidemic levels. Officials now estimate that as many as 30 percent of these American youngsters are involved in heroin abuse. High grade heroin is available on the streets of Bangkok at 50 cents a fix.

In spite of these grim facts, the President could not possibly cut off military and economic aid to Thailand or South Vietnam as long as he continues the military action against North Vietnam in defense of the Thieu regime in the South. Even as American ground forces are being withdrawn from South Vietnam, economic and military aid to that nation becomes all the more essential to the President's policy. And as our ground forces are reduced, Thailand becomes increasingly vital as the launching pad for our air attacks.

Thus, these nations can rest assured that the threat issued by the President on Monday could not have been meant for them. They may go through the motions of enacting and enforcing laws against the opium trade if the United States insists. Indeed, there are undoubtedly some officials in these nations who are sincerely convinced of the evil nature of this trade. But in the final analysis they know there will be no penalty for negligence as long as the American military effort continues.

Mr. President, when I consider how many thousands of young Americans have encountered the living death of heroin addiction, and how many more are threatened each day, and I know that thousands could be saved if we were to leave Southeast Asia, I can see no possible offsetting gain for this Nation in pursuing the war further.

In the hope that they will contribute to greater public understanding of the cost of this war, I ask unanimous consent to have printed in the RECORD the position paper of the Senator from South Dakota and the comments of Mr. John Finlator, former Deputy Director of the Bureau of Narcotics and Dangerous Drugs.

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

STATEMENT OF JOHN FINLATOR, FORMER DEPUTY DIRECTOR, BUREAU OF NARCOTICS AND DANGEROUS DRUGS, JUSTICE DEPARTMENT

I have read the position paper of Senator McGovern concerning the Southeast Asia narcotics traffic and I support the major allegations that Senator McGovern has made. Increasingly the American heroin market is being supplied from the Golden Triangle region of Laos, Burma, and Thailand. Southeast Asia clearly has the potential to replace Turkey as the major supplier of heroin to the illicit market places of this country. We are at present in the midst of a dramatic changeover. Although the seizures of heroin from Southeast Asia are smaller than those from Europe, the incidence of seizures are growing at an alarming rate.

The failure of the present administration to stop the flow of heroin to this country as well as to make inroads in the demand side of our society, is clear evidence that we do not have a total commitment to what the President calls the number one domestic priority of his administration.

President Nixon's programs have been fragmented and ineffective with the only visibility being a reorganization or shuffling around of responsibilities from time to time: a new prevention office in the White House, a new, confusing enforcement in Justice to chase the street addict-pushers, another new office in Justice to gather drug intelligence, all with high sounding titles and high salaries which outstrip those of the Director of the Bureau of Narcotics and Dangerous Drugs and the Commissioner of Customs.

We are making only a small dent in the amount of drugs coming into this country. It will remain thus until we reach that plateau of total commitment. It is just not there. We need stronger efforts than those we presently espouse in the areas of treatment, rehabilitation, education, prevention, research, and enforcement. Senator McGovern has spoken out on these subjects and I trust he will speak of them again.

We are in worse shape in the war against drug abuse today than on the day the present Administration took office. This lack of success may not be placed entirely on the desk of any one group or administration but Senator McGovernor offers a hope of a stronger commitment than any we have seen thus far.

If, indeed, the problems of narcotics trafficking and addiction is our number one priority, its solution will require the bringing together of a massive amount of the brainpower, manpower, and resources of this country. In this we have failed and instead have putted around the problem in fragmented, piecemeal manner. If the problem is not one of a high priority, then we have not done so badly.

Hopefully, Senator McGovern is going to give us more insight into an outstanding beginning.

* * * * *

John Finlator was with BNDD from its inception in April, 1968. He became deputy director in 1969 and retired on January 1, 1972. He was the first director of the Bureau of Drug Abuse Control when it was created in February, 1966. He has been in government since 1936.

He is presently writing a book on the domestic and international narcotics traffic which will be published by Simon and Schuster.

CURBING THE INTERNATIONAL DRUG TRAFFIC

The crime problem in our country has never been as serious as it is today. We all know this from our own experience, and we can see it in the deserted streets and parks. The FBI crime statistics comfirm what we all know to be true. They show a 33% crime increase since 1963.

The greatest single cause of our high crime rates is the need of heroin addicts to commit muggings and burglaries to finance their habits.

The heroin refined from the seemingly innocent opium poppy is responsible each year for thousands of drug-related deaths and millions of drug-related crimes. The lives of more than half a million Americans are stunted by dependence on this drug.

Heroin addiction alone is more than sufficient to account for all of the 5.5 million robberies, burglaries, and thefts reported to

the FBI last year. American heroin addicts each year spend more than five billion dollars on their drugs, making the illegal heroin traffic one of America's largest industries. Although not all crimes are reported to the FBI, this five billion dollars is three times the entire $1.5 billion price tag of the 5.5 million property crimes reported to the FBI last year.

A recent survey of New York City jails indicated that more than half of those arrested use heroin. In large cities generally, one third or more of muggings and burglaries are committed by heroin addicts. Some criminal court judges find that 75% of their cases involve individuals with a history of drug abuse. No wonder crime has been called "the heroin tax." With addicts spending at least five billion dollars a year on their habits, the heroin tax has a price tag of $100 a year for every family of four.

The addict is a victim, too. The addict's life becomes a constant search for the drug. Addiction consumes and destroys him. Seeking to escape from pain, boredom, or misery, the addict is caught in the narrowing trap of an artificial euphoria. And heroin is a major killer as well. Addiction is the greatest single cause of death in New York City for people between the ages of 15 and 35.

Furthermore, heroin addiction helps finance the growth of organized crime. It is estimated that organized crime gains profits of nearly a billion dollars a year from narcotics trafficking. These revenues can then be invested in other criminal enterprises.

For the addict and for our whole society, nothing could contribute more to improving the quality of life than an end to heroin addiction.

NIXON'S PROMISE—AND PERFORMANCE

Speaking in September, 1968 about the rising heroin problem, candidate Richard Nixon proclaimd: "We need action on the part of the nation's highest officials—that is what this crisis calls for and that is what I pledge the day after we take office in January."

After thirty months of his "action" to deal with the "crisis", Richard Nixon had to acknowledge his dismal failure and admit that the problem was still growing. "Heroin," he said on June 17, 1971, "is a fact of life and a cause of death for an increasing number of Americans." That same day, he submitted to Congress a drug bill which declared: "Drug abuse is rapidly increasing in the United States and now afflicts urban, suburban, and rural areas of this nation."

As the last quote indicates, under the three and a half years of the Nixon Administration, heroin addiction has spread rapidly throughout all segments of the population.

Suburban high schools have discovered heroin problems where there were none before. A recent study found that *one and a half million Americans between the ages of twelve and eighteen have used heroin.* This is one American youth in seventeen.

Until recently, heroin was an urban problem centered in New York City. But the Attorney General of Iowa said last year: "It is still inconceivable to most Iowans that heroin addiction *could* be a serious problem here. But the alarming fact is that heroin addiction has made a formidable inroad in Iowa."

Pointing up the failures of the Nixon years, John Ingersoll, Director of the Bureau of Narcotics and Dangerous Drugs, said in February: "At the end of 1969, our statisticians, employing proven statistical methods, estimated the actual number (of heroin addicts) to be 215,000 with a margin of error not likely to exceed plus or minus 16%. At the close of 1971, we believe the number to be almost 560,000."

Ingersoll's estimate of a 77% increase in two years is the most sophisticated estimate that has been made. Other indicators tell a similar story.

In 1968, 1,440 young men were rejected for the draft because of heroin use. In 1970, fewer young men were examined—but 50% more were rejected.

In 1969, 1,013 drug related deaths were reported in New York City. In 1971, over 1,300 were reported. Substantial increases were reported in city after city. The increases were from 72 to 139 in Baltimore; from 202 to 310 in Chicago; from 65 to 199 in Detroit; from 135 to 180 in San Francisco; and from 24 to 83 in the District of Columbia.

These facts reflect the failure of the Nixon Administration to stop the spread of heroin addiction in the United States. They explain why Richard Nixon had to admit in his drug bill last year that "drug abuse is rapidly increasing in the United States." *One American in 400 is now a heroin addict.*

WHAT CAN BE DONE?

Solving the heroin problem is an exceptionally complex matter. Crucial steps must be taken in many areas. We must increase efforts to cure individual addicts, to resolve underlying social problems, to break up the organized syndicates that purchase, refine, smuggle, distribute, and sell heroin, and to prevent the illicit production of opium.

Each of these efforts is difficult. There is no assurance that any of them will succeed. But we owe it to ourselves and to the many victims of heroin addiction to pursue every possible approach to ending the scourge of heroin addiction.

The Nixon record is vulnerable on every front. What I wish to examine in this presentation, however, is the record of the Administration in one critical area—the international heroin trade. What has President Nixon pledged; and what has he accomplished, in halting the flow of heroin from remote corners of the world into our streets and schools?

THE INTERNATIONAL DRUG TRADE

In September, 1968, candidate Richard Nixon declared: "We must move against the source of those drugs. In doing so we must seek out the cooperation of friendly nations which have been made conduits for these drugs. . . . A new Administration will accelerate the development of tools and weapons to detect narcotics in transit."

On June 17, 1971, he reaffirmed that conviction. "Domestic enforcement alone," he said, "cannot do the job. If we are to stop the flow of narcotics into the lifeblood of this country I believe we must stop it at the source."

Nixon not only has made this commitment; he has even claimed success. He claimed on July 9, 1971 that "we are dealing very effectively with the problem at its source."

Despite Nixon's claim, an increasing amount of heroin is being smuggled into this country.

On June 27, 1972, BNDD Director John Ingersoll estimated that heroin is being smuggled into the U.S. at the rate of 6½ to 10 tons a year. A year ago his estimate was 5 to 6 tons.

In September, 1970, Ingersoll said: "Every time one addict is cured, more take his place because of the ever-increasing amounts of heroin available."

A year ago Richard Nixon triumphantly announced that—continuing a policy begun under the previous Administration—opium production was being phased out in Turkey. He reminded us that Turkey has in the past accounted for 80% of heroin smuggled into the United States.

Yet recently the Administration has been hinting that stopping opium production—dealing with the problem at the source, in Nixon's phrase—is not the answer at all.

There are some questions that Americans should be asking.

If opium production in Turkey is being phased out, how can heroin importation—and addiction—be increasing?

After years of emphasizing the importance of meeting the problem at the source—and claiming success—why is the Administration backing away from emphasis in this approach?

And why is it that the drug problem is worse than ever, four years after Richard Nixon called it a crisis and demanded immediate action?

THE SOUTHEAST ASIA HEROIN TRADE

The answer is that more and more of the heroin entering the United States originates in Southeast Asia. The Bureau of Narcotics and Dangerous Drugs estimates that more than half of the world's illicit supply of opium, the raw material for heroin, is grown in the "Golden Triangle" region where the borders of Thailand, Burma, and Laos converge. One year's crop of 700 to 1000 tons can be refined into enough heroin to supply America's addicts for ten years. More and more of this heroin is reaching the American market.

Southeast Asia has been a major producer of opium and has had opium addiction problems of its own for a long time. But only in late 1969 did the white, pure No. 4 heroin that is used by American addicts begin to be produced in Southeast Asia. When it appeared it appeared in earnest. John Ingersoll says: "Our first indications of the presence of (No. 4) heroin in Southeast Asia came in December of 1969. In 1970, the trickle turned into a stream, and in 1971, the stream turned into a torrent of heroin pouring out of the Golden Triangle."

Since there was no indigenous demand for No. 4 heroin anywhere in Southeast Asia, its appearance signified an intention to supply the U.S. market. The first victims were our GIs in Vietnam. Possibly 100,000 GIs became heroin addicts in Vietnam during 1970 and 1971. Now that many of our GIs have come home and the market for No. 4 heroin has diminished in Southeast Asia, Southeast Asian heroin is being marketed in our country.

Our inability to prevent this has been a consequence of our priorities. The top and really only priority of our government in Southeast Asia has been to fight the war. The political and military priorities of the war have relegated other problems to distant back burners. The U.S. has always tolerated corruption on the part of our Southeast Asian allies as long as they fight the war and follow our policies. Black marketeering, stealing U.S. aid, currency manipulation, and smuggling are tolerated, and all are rampant. Narcotics trafficking has not been treated any differently.

Opium was being grown, smoked, and smuggled in Southeast Asia when the U.S. first became involved in the region during the 1950s and 1960s. But the opium traffic was viewed as a minor local problem and ignored. The U.S. built up a vast military and political apparatus in Indochina to fight the war. We ignored the fact that vitually every link in that apparatus was simultaneously becoming part of a vast opium producing, refining, and smuggling apparatus which today is well on its way to replacing Turkey as the major source of heroin entering the United States.

Here are some of the broad outlines of the Southeast Asia opium and heroin trade as it has developed:

In Laos, opium is grown by the Meo tribesmen we organized into General Van Pao's "secret army"; in fact, once the U.S. began providing them with liberal food supplies to assure their allegiance, many of them were able to switch to opium as virtually their only crop.

In Burma, opium is grown by the Shan rebels, the biggest opium growers in the world. They are armed with American weapons and are able to thwart central government control. Their weapons were provided by the CIA or were acquired by trading opium with government officials in Laos and Thailand for guns supplied by (and stolen from) the U.S. military aid program.

Opium is also grown by hill tribesmen in Thailand.

Opium from Burma is transported into Thailand by remnants of Nationalist Chinese (KMT) forces driven out of China in 1949. These forces are armed with U.S. weapons and have been supported in the past by the CIA. The Thai government now uses them to patrol its rugged northern frontier with Burma and to help suppress the growing insurgency in northern Thailand.

Opium is transported by the Royal Laotian Air Force and the South Vietnamese Air Force, which have been organized, financed, and supplied by the United States, and on local commercial flights as well.

Opium and morphine base (which is refined from opium) are transported from Thai ports in fishing trawlers to clandestine laboratories in Hong Kong. This could not happen without the complicity of the Thai police and customs authorities.

Heroin is refined in laboratories in Thailand, Laos, Burma, and Hong Kong. In the quantity and quality of its output, Hong Kong now rivals the refining capacity of Marseilles.

From Southeast Asia, heroin has been smuggled to the United States via many routes. There have been seizures of heroin sent to the U.S. from Southeast Asia via the military postal system. Southeast Asia heroin has been seized in France on its way to the United States, and Southeast Asian heroin is reaching the United States by way of Latin America. A courier ring was uncovered smuggling Southeast Asian heroin to the U.S. via the Philippines. Another courier ring was uncovered this year operating through Bangkok. An increasing amount of heroin refined from opium grown in Southeast Asia is smuggled to the U.S. by seamen from Hong Kong.

The Nixon Administration ignored the drug problem in Southeast Asia until 1971 when heroin use reached epidemic proportions among our GI's in Southeast Asia. By that time it was too late. The Administration's hands were tied. Our allies in Southeast Asia had developed a vast opium producing, refining, and distributing network while the U.S., with its great power in Southeast Asia, patrolled the air, the land, and the sea, organized armies, created and destroyed governments, promoted intrigue, but ignored the opium trade. Important members of the armed forces and governments of South Vietnam, Laos, and Thailand are raking in big profits from the drug trade. They are not about to forgo those profits.

The US Army Provost Marshal in South Vietnam, in a 1971 report, stated that the opium trade in South Vietnam is controlled by a four tiered pyramid. At the top "are the powers behind the scenes who can manipulate, foster, protect, and promote the illicit traffic in drugs." "The people comprising this group," the report stated "may be high level, influential political figures, government leaders, or moneyed Chinese members of the criminal syndicates now flourishing in the Cholon sector of the City of Saigon."

The Provost Marshal identified Tran Thien Khoi, chief of South Vietnam's customs fraud repression division and brother of Prime Minister Tran Thien Khiem, as "a principal in the opium traffic."

General Ngo Dzu, II Corps commander in South Vietnam and a staunch supporter of President Thieu, was identified last year as a major narcotics trafficker. Thieu promoted him after a whitewash investigation.

General Ouane Rattikone controlled the largest heroin laboratory in Southeast Asia during his tenure as chief of staff of the Royal Laotian Army (the only army other than the U.S. Army that is completely financed by the U.S. taxpayer). This laboratory was the major supplier of heroin for U.S. forces in South Vietnam at the peak of the heroin epidemic.

A high-level CIA intelligence report made public by Jack Anderson states, "A broad spectrum of Lao society is involved in the narcotics business, including Generals, Princes, high-level bureaucrats and Province Governors." Another intelligence report states, "Most of the refineries in Laos operate under the protection of the Royal Laotian Armed Forces . . ."

NBC News reported on July 15, 1971 that both President Thieu and Vice-President Ky were financing their election campaigns from the narcotics traffic and labeled President Thieu's chief intelligence adviser, General Dang Van Quang, as "the biggest pusher in South Vietnam." Quang's involvement in the heroin trade has been confirmed by other sources.

The Nixon Administration denied and covered up these facts and stood by helplessly because it cannot crack down on the corrupt governments it is trying to prop up. Meanwhile, our allies in Southeast Asia made millions of dollars peddling heroin to GI's in South Vietnam who were risking their lives trying to defend them.

Today, they are making great profits supplying heroin to addicts in America.

In 1970, the BNDD broke up a Filipino courier ring which had smuggled approximately 1,000 kilograms of Southeast Asian heroin into the United States in the previous year.

That was enough to supply 15% to 20% of the estimated U.S. consumption at the time.

On April 5, 1971, 7.7 kilos of Double U–O Globe brand Laotian heroin (the same brand produced in General Ouane Rattikone's laboratories) were seized in Fort Monmouth, New Jersey.

On November 11, 1971, 15.5 kilos of the same brand of Laotian heroin were seized in New York City.

The new Laotian Ambassador to France was caught in April, 1971 when he arrived in Paris with 60 kilograms of heroin in his suitcase. That is enough heroin to supply five thousand addicts for a full year.

In January, 1972, U.S. customs inspectors in Honolulu broke up a smuggling system and arrested three couriers body-carrying heroin from Bangkok to buyers in San Francisco and New York.

On April 5, 1972, a seaman was arrested in Miami with 10 kilos of Double U–O Globe brand Laotian heroin and on April 11 another seaman was arrested in New York with another 5 kilos of Southeast Asian heroin.

And on August 23, 1972, the same day that Richard Nixon delivered his acceptance speech, the BNDD announced the seizure of 9 kilograms of Southeast Asian heroin in New York City and the uncovering of a smuggling ring. The BNDD noted that there had been another seizure of Southeast Asian heroin in the same area the month before.

The seizures are only the tip of the iceberg. John Ingersoll of BNDD told the Senate Foreign Relations Committee on June 27 that "we have reason to believe that certain ethnic Chinese criminal elements in America have geared up an operation to take advantage of the heroin availability in Southeast Asia. . . . The evidence points to the establishment of a new pattern which affects places never previously of any significance to the drug traffic. Either as the result of actual seizures or our intelligence, we believe these shipments have come in through such diverse seaports as Norfolk, Charleston, Miami, New Orleans, Seattle, Vancouver, New York, and the Great Lakes, port of Chicago."

As one Republican Congressman has said, "Vietnam is truly coming home to haunt us. No matter what they say, . . . the first wave of this material is already on its way to our children in high school."

It is impossible to be sure just how much Southeast Asian heroin is now entering this country. NBC's estimate in a recent special broadcast was that one third of heroin entering this country now comes from Southeast Asia. A recent report by the Strategic Intelligence Office of BNDD stated, "More of the heroin reaching the U.S. is from this area than conventional knowledge has recognized. A recent study by BNDD chemists, involving 109 traceable heroin samples, revealed 28 (or 25.7 percent) to be of southeast Asian origin."

The percentage of heroin entering this country that comes from Southeast Asia is increasing; the Golden Triangle region of Laos, Burma, and Thailand clearly has the potential of replacing Turkey as this country's major heroin supplier. Whether that potential is realized will depend on how the United States responds to the problem. So far, the U.S. has met this challenge with half-measures and cover-ups.

Nixon Administration officials have heralded their achievements and claimed increasing cooperation with the governments of Southeast Asia. However, independent information from Congress, the news media, and concerned citizens has brought the Administration's credibility into serious question, and recent leaks of secret Administration documents directly contradict their public statements.

Nelson Gross, the State Department's chief narcotics spokesman, told a Congressional inquiry on June 9 that "we feel that during the past year some real progress has been achieved" and that "the governments of Thailand, Laos and Vietnam have already joined us in the fight."

This official optimism was flatly contradicted by a Cabinet level report dated February 21, 1972, prepared by officials from the CIA, the State Department, and the Department of Defense. According to *The New York Times* of July 24, the report stated that "there is no prospect . . . under any conditions that can realistically be projected" for stemming the smuggling of narcotics in Southeast Asia.

"Our answer is categorical," Nelson Gross told the Senate. "The governments of Southeast Asia are not engaged in drug trafficking." Secretary of State Rogers claimed in May that the governments in the area are actively cooperating in efforts to curb the drug trade. But the Cabinet level report stated, "The governments in the region are unable and, in some cases, unwilling, to do those things that would have to be done by them if a truly effective effort were to be made. . . . The most basic problem, and the one that unfortunately appears least likely of any early solution, is the corruption, collusion, and indifference at some places in some governments, particularly Thailand and South Vietnam, that precludes more effective suppression of traffic by the governments on whose territory it takes place."

Nelson Gross insisted that there were only "unsubstantiated allegations" implicating General Ouane Rattikone in the drug trade. However, General Rattikone has acknowledged his complicity, and John Warner, chief of the Intelligence Office of BNDD, has since confirmed Rattikone's complicity.

In July, 1971, a Congressional committee was told that "U.S. military authorities have

provided Ambassador Bunker with hard intelligence that one of the chief traffickers is General Ngo Dzu, the commander of II Corps." The U.S. Embassy permitted the late John Paul Vann, the senior U.S. adviser for II Corps, to respond: "There is no information available to me that in any shape, manner or fashion would substantiate the charges." He also indicated that General Abrams had no such information. General Dzu was then promoted. *The Washington Post* later obtained the secret documents whose existence had been denied and published them in June, 1972.

Nelson Gross denied there was a serious problem. In a letter to the Senate Committee he said: "Southeast Asia is not a major source of heroin on our market" and that "only five percent" and "certainly no more than 10 percent" of heroin used in the U.S. comes from Southeast Asia. But it was pointed out above that a survey of 109 seizures of heroin in this country by BNDD found that 26% came from Southeast Asia.

The Washington Evening Star-Daily News on August 19, 1972 reported on secret intelligence summaries compiled by CIA and BNDD that contain some of the facts that the Administration will not acknowledge in public. The summaries state that "officials of the Royal Thai Army and Customs at the several checkpoints along the road to Bangkok are usually bribed and 'protection' fees prepaid by the smuggling syndicates or by the driver at the checkpoints."

The summaries also clearly explain why the U.S. has been unable to deal effectively with the Southeast Asia drug trade. They state, "priorities related to requirements of the Vietnam war may limit pressures that can be applied". The "war on drugs" has become a casualty of the war in Indochina.

Our political and military commitments to the governments of Southeast Asia have prevented any effective action to stop the narcotics traffic. These commitments are the result of our determination to fight the war in Indochina. We have allied ourselves with corrupt governments that are complicit in the drug trade and this fact is coming home to haunt us.

Ending the war in Vietnam will free us to make the narcotics traffic our number one priority in the region.

Heroin addiction in our country has brought living death to hundreds of thousands of Americans. It is a major force behind our intolerable crime rates. It is fueling the activities of organized crime.

We can no longer tolerate the narcotics traffic and we can no longer support the corrupt governments of Southeast Asia that profit from it.

Our commitment to the war in Indochina is based on a false notion of national security. Since Richard Nixon took office, the United States has spent $60 billion to fight the war compared to less than $1 billion to combat the narcotics problem. Can anyone say that the North Vietnamese are a greater threat to our national security than the crime, violence, and internal decay caused by narcotics?

It is time to stop fighting the war in Vietnam and see how we can effectively fight the war on drugs.

KEEPING THE BROKEN PROMISES

What are the prospects for the future?

In order to halt the international narcotics trade it will be necessary for the next Administration to keep the promises that Richard Nixon has broken.

He said on June 18, 1971 that controlling the heroin trade is his first priority in relations with the countries involved.

"I intend," he has said, "to leave no room for other countries to question our commitment to this matter."

Those promises have been broken. Stopping the heroin trade has not been the Administration's top priority. In failing to crack down on the Southeast Asia heroin trade, the Administration has left plenty of room for other nations to question our commitment.

There is no way to control the international narcotics trade while winking at one of the major areas of supply. We will simply have to make a top priority effort to control the Southeast Asia narcotics trade. Ending the war will be the key.

In the following specific ways, Richard Nixon's determination to continue the war in Vietnam has prevented him from being able to crack down on the Southeast Asia heroin trade:

(1) He can't cope with the problem without admitting the facts about his corrupt allies in Laos, Thailand, and South Vietnam who are supplying heroin to the U.S. market. If he admitted these facts, support for the war would dry up overnight. Richard Nixon has therefore chosen to ignore the problem.

(2) Richard Nixon is trying desperately to prop up these weak, corrupt Southeast Asian governments. He does not want to expose scandals which would threaten their fragile existence and lessen their ability to fight the war.

(3) We can never bring the necessary pressures to bear on these governments as long as we need Vietnamese soldiers, Lao mercenaries, and Thai air bases to fight our war.

The best case in point is Thailand. As a major opium grower and the conduit through which Burmese opium is smuggled, Thailand is increasingly the key to controlling the Southeast Asia drug trade.

At the same time, as we increase our reliance on air power, shift troops from South Vietnam to Thailand, and reopen air bases in Thailand, Thailand is becoming increasingly crucial to our war effort.

The war effort is also dependent on Thai mercenaries in Laos and South Vietnam.

As long as the U.S. is relying on mercenaries and air bases that are available only with the approval of the Thai government, obviously there is a limit to how much pressure we can bring to bear on them. The war gives the corrupt Thai government a veto power over American policy. As long as the war continues, we will never be able to pressure the Thai leaders to give up the enormous profits that they are making from the opium trade.

In the following ways; ending the war will facilitate controlling the Southeast Asian heroin trade:

(1) The end of the war will free us to make a crackdown on narcotics the top priority in our relations with the nations of this area.

It will free the President to meet this issue head-on instead of covering it up for political reasons.

(2) Political settlements at the end of the war are likely to lead to the emergence in Laos and South Vietnam of new governments that would be less corrupt and more likely to suppress the opium trade. The people and governments of Laos and South Vietnam are likely to realize that if they are serious about rebuilding their countries, they will have to root out corruption and curb the growing drug problems that are ravaging their societies.

(3) The end of the war would completely turn the tables in Thailand. We would no longer be dependent on the Thai government for the war effort; instead, they would be dependent on our economic aid to bolster their topheavy economy. A threat to cut off aid would give us tremendous leverage.

The Thai government could seal off the Thai-Burmese border, if they were determined to do so. Virtually all of the Burmese opium passes through Thailand. Most of it is carried in large mule caravans by the KMT. Some is carried by Burmese Shan rebels, but the KMT units tightly control the border and tax every pound of opium that crosses into Thailand. This shows that the border can be controlled. If the opium can be taxed, it can be stopped. But it will require a vigorous effort by the Thai government. The United States must pressure the Thai government to make that effort.

The U.S. House of Representatives has passed an amendment to the foreign aid bill that cuts off aid to Thailand until the President determines that Thailand is cooperating to stop the narcotics traffic. It is a step in the right direction, but it has the drawback of allowing a Presidential determination of cooperation. President Nixon will not cut off aid because he needs these air bases. The Secretary of State claims that Thailand is already "cooperating," and the President already has the power to cut off aid to Thailand but has not used it. The Senate should also pass this amendment, with the provision that restoring aid to Thailand is dependent on *significant achievements* in stopping the narcotics traffic as determined by Congress or by an independent body.

(4) The reason that the government of Burma is unable to stop the opium traffic is that the opium growing areas are controlled by rebel bands armed with American weapons (they obtain those weapons by selling opium to corrupt Thai and Laotian officials). When the war ends and the United States stops sending arms into the area, the flow of arms to the rebels will be disrupted. If corruption in Laos and Thailand were controlled and if the borders were sealed, the Burmese rebels would find it difficult to market their opium or to obtain weapons. With a shortage of weapons and money, the rebels would be weakened and it would be easier for the Burmese government to regain control of the opium growing areas. In the past, the Burmese government has cracked down on the opium traffic when it has been able to.

In addition, ending the Vietnam war and reorienting our foreign policy may improve our relations with Burma and make cooperative efforts more likely.

These points must be placed in the context of a full program to stem the international narcotics trade. Such an effort must include four components. There is nothing mysterious about these recommendations. Some are official Administration policy and all have been discussed and advocated for a long time. But these recommendations are meaningless as long as the war continues and the Southeast Asia narcotics trade continues unchecked.

(1) *Direct Diplomatic Pressure*—The United States should exert maximum pressure on other governments to crack down on the illicit production and smuggling of opium. This effort must be placed at the top of the agenda of our foreign relations. Every possible diplomatic lever, including possible reduction or cessation of foreign aid, must be brought to bear. If necessary, the President should directly take charge of this effort and should personally negotiate with the leaders of other countries.

In this effort, the U.S. must use the carrot as well as the stick. Other countries, too, have an interest in halting the drug trade. They have their own opium and heroin problems. If given a realistic alternative to involvement in the drug trade, foreign countries may well find it in their interest to cooperate in international control efforts.

Unfortunately, the opium trade is an important source of income to hundreds of thousands of farmers around the world, and, in some cases, to entire national economies. Consequently, the United States must be prepared to assist in making sure that realistic alternative sources of income are available. This should include price support payments and, in the long term, investments in the areas affected to help create alternative sources of income.

(2) *International Cooperation*—U.S. action

is needed at once, but the proposed U.S. actions would be more effective if taken by an international organization. The U.S. should attempt to organize the international community to pressure offending nations to clamp down on the narcotics trade. The International Narcotics Control Board should have authority to investigate alleged noncompliance with international obligations in any nation that is a party to the Single Convention on Narcotic Drugs. Economic sanctions, including the withholding of international development funds, and possible trade restrictions, should be available as a tool of last resort in the event of persistent failure by any nation to cooperate. An effective program of economic assistance to opium producing areas converting to other crops should be developed under international auspices. So far only a tiny step has been taken in this direction.

(3) *U.S. Agencies*—We should strengthen the U.S. agencies that are responsible for controlling the international narcotics trade. An additional $40 million should be appropriated for the Customs Bureau and the Bureau of Narcotics and Dangerous Drugs for hiring and training specialists in drug law enforcement.

A conflict of jurisdictions between BNDD and the Customs Bureau has undermined the effectiveness of Federal control efforts. We cannot expect other nations to take us seriously when we urge cooperation if we are unable to coordinate our own efforts. Yet President Nixon has been unable to gain control over this conflict between two Federal agencies, and the conflict has repeatedly jeopardized important cases. BNDD should be assigned primary responsibility in controlling the international trade, and the President should be prepared to step in personally to ensure that this mandate is carried out.

(4) Finally, increased research efforts can contribute to improving our ability to control the illicit narcotics traffic. The development of cheap, non-addictive synthetic painkillers could make it possible to completely outlaw opium production throughout the world. If legal crops for medicinal purposes can be marked with practical tracer elements, this would make it much easier to detect opium diverted into the illegal market. And there are even indications that remote sensor devices can be developed that would permit direct detection of heroin shipments. All of these possibilities should be vigorously pursued.

The international law enforcement strategy is clearly not the total solution to the drug addiction problem. A two-pronged approach is needed—rehabilitation of those who are now addicted and law enforcement and education to prevent the spread of heroin addiction. Here are some of the elements of a total approach to drug addiction:

Rehabilitation of Addicts—Any serious assault on the drug addiction problem must include an extensive rehabilitation program. A broad range of treatment facilities—methadone maintenance, therapeutic communities, detoxification, and abstinence—must be available; we must seek to guarantee that any addict seeking treatment can gain access to a suitable modality of treatment. Vocational training and counselling and other supportive services must be available, and we must attempt to eliminate unfair job discrimination against ex-addicts. Today there are waiting lists in our methadone programs; methadone is frequently the only treatment available (although for many addicts, such as young veterans who have been addicted only a short time, methadone may not be suitable); and supportive services are frequently absent. Even if it were possible to suddenly stop the flow of heroin into this country and prevent more people from becoming addicted, there are already more than a half million heroin addicts in our country who need treatment.

Domestic Law Enforcement—Domestic law enforcement efforts must be pursued as an adjunct to the international control effort, to make it as difficult as possible for the heroin traffickers to operate. Law enforcement efforts should be directed not at the street level pushers who are usually addicts themselves but at those who organize, promote, and profiteer from the spread of heroin addiction.

Even if the domestic and international control efforts cannot eliminate the heroin traffic, it is reasonable to hope that they can reduce heroin availability on the street and curtail experimentation and thus help stop the spread of addiction (although confirmed addicts will still do whatever is necessary to obtain the drug).

Drug Education—Like the law enforcement effort, drug education programs that frankly and openly present the facts about various drugs can help discourage experimentation with heroin among youths.

Although President Nixon said in March, 1970 that drug education is the highest priority of his Administration, the drug education budget for fiscal 1972 in the Office of Education was 13 million—one fourth the cost of *one* C–5A transport.

Other Drugs—International enforcement efforts must not be limited to heroin. Other drugs, including cocaine, methadone, and barbiturates, must be included; they are problems now and could become more serious if heroin becomes scarce. Synthetic drugs equivalent to heroin may also become available. Control efforts must be pursued now *before* these problems grow.

Underlying Social Problems—Solving basic problems of poverty, alienation, and lack of opportunity will be the key to a long range solution of our drug problems. Until the underlying social causes of drug abuse can be cured, drug abuse cannot be completely eliminated. As long as the belief persists that it is possible to solve problems by taking drugs, it will always be possible that a new drug problem could emerge.

These considerations, however, should not discourage us from making an immediate effort, pursuing every possible avenue, to cure the heroin plague. Heroin overshadows all other drugs in its disastrous impact on our lives. Heroin is responsible for much of the crime, violence, and insecurity that haunt urban life; heroin addiction has destroyed the lives of hundreds of thousands of addicts; and heroin trafficking has fueled the growth of organized crime. Heroin is our worst drug problem and solving it would immensely contribute to improving the quality of our lives.

The effort to solve the heroin problem must cease to be fragmented and haphazard. We must pursue it with the same determination and seriousness of purpose that we invested in the Manhattan Project and the space race.

CONCLUSION

The difficulties in attempting to control the international narcotics trade are obvious. Opium is grown in many countries and total U.S. consumption is small compared to world-wide production. The intention in this presentation is not to propose panaceas or to paper over problems but rather to clarify some of the reasons for past failures and to point the way toward a more realistic effort. International enforcement efforts are not the full answer to the drug problem nor is Southeast Asia the only opium-growing area that could replace Turkey in supplying the U.S. market. But our failure to face up to the problem in Southeast Asia has been one major reason for the failure of the "total war" that Richard Nixon declared on heroin. The next Administration must face up squarely to the fact that Southeast Asia is fast becoming this nation's major heroin supplier.

It would be wrong to see only the problems that beset the international control effort. There are also some important facts which indicate that an international control strategy will have some reasonable prospect of success. The poppy has a long growing period and is easily detected from the air or by satellite. Poppy cultivation is possible only in certain fairly restricted climates. Cultivating the poppy is exceptionally demanding; few who are not accustomed to that life would be willing to adopt it. Consequently, the international syndicates will not easily be able to persuade farmers elsewhere to cultivate the poppy, if they lose their source of supply in the Golden Triangle.

In the 1950s Iran was able to gain control over remote hill tribes and halt opium production. India and China have had considerable success in controlling the illicit production of opium and preventing diversion into illegal channels. Turkey's recent agreement to terminate opium production—culminating a decade of negotiation and pressure—illustrates what can be achieved, when narcotics control is made a top priority. It is now time to place cracking down on the heroin trade at the top of the agenda in our relations with *all* of the nations involved. No objective we are pursuing in Vietnam is so important as to justify jeopardizing our efforts to control the heroin trade.

The next President can act to end the war, and crack down on the supply of heroin from Southeast Asia. This is the fight that America should be pursuing.

This is the fight that, as President, I intend to win.

THE EAST LOS ANGELES DOCTORS HOSPITAL

Mr. TUNNEY. Mr. President, October 22, 1972, marks the 10th anniversary of the founding of the East Los Angeles Doctors Hospital. It gives me great pleasure to congratulate this private institution on its 10th anniversary because of the excellent health-care delivery services it has provided to the community. Working together, the hospital and the community have relied upon each other for the advancement of medical services, the development of health care career opportunities for young people, the encouragement of neighborhood beautification, the stimulation of art and design as an adjunct to environmental improvement, and the creation of a treatment and convalescence that not only reduces the apprehension of the patients but also serves to hasten their recovery.

It has been a decade that the East Los Angeles Doctors Hospital has grown from 39 beds to 150 beds. It has been a decade of service to an area in which resides the greatest concentration of Mexican Americans. And, it has been a decade of creative experimentation making a hospital the focus of community service—of integrating medical services with the general elevation of people's expectations and, most important of all, a decade of providing access to health care for thousands of people.

Here is a private institution—a taxpaying institution—a nongovernment funded institution, that has unilaterally developed and implemented community action programs without the need for grants or Federal subsidies.

Here is an institution—East Los Angeles Doctors Hospital—which has created cash prizes, scholarships, and purchase commissions for local Barrio

artists, mosaicists, sculptors, and designers. Within the new hospital, the walls and corridors are lined with murals that borrow from the colorful and heroic Mexican heritage, depicting both the evolution of medicine and the continuing struggle of a people to emerge—done with a sensitivity and skill which would do credit to the best of the world's artisans.

Here is an institution that has quietly and privately funded its own training programs for developing entry level skills in health manpower for Chicano youth, and has annually provided numerous cash scholarship grants for advanced nursing training both in licensed vocational nursing as well as registered nursing curricula.

Here is an institution that has thrown open its door to both the militant and the quiet and invited joint participation in community outreach programs that would raise the general level of health within the Barrio.

Here is an institution, that 10 years ago under the visionary leadership of an innovative hospital administrator, Mr. Al R. Markey sought to put in practice those beliefs that many give mere lip service to: Those beliefs that say private business and the public weal cannot only coexist but effectively cooperate to the mutual benefit of both.

Here is an institution that sought to develop and prove the concept that there is a direct connection between the speed of recovery of the ill and the environment in which that treatment and recovery takes place. A concept, by the way, that only now is being integrated into Federal health-care planning.

On this 10th anniversary of East Los Angeles Doctors Hospital—an anniversary that also celebrates the opening of an expansion of that hospital which brings the most modern of health-care technology to its resident community—it gives me special pleasure to be able to recognize their achievements. It is a story that will have little impact on the world at large, and one that will probably not be heard beyond the boundaries of the Chicano community in southern California. But it is a representative story which if multiplied throughout our country would have a cumulative effect on our national strength and give an immeasurable thrust to the betterment of health-care delivery for all Americans.

INCREASED SOCIAL SECURITY BENEFITS

Mr. DOMINICK. Mr. President, I am particularly pleased to be among the Members of the Senate who have joined in cosponsoring S. 4001. The bill, which was introduced on September 19, 1972, by Senators AIKEN and MANSFIELD, has the support of 74 Senators. The bill, which was referred to the Finance Committee, would increase the amount of income that an individual could earn without suffering any deductions in social security benefits. The present limitation on earnings amounts to $1,680 per year and under the proposed legislation, would be increased to $3,000. There would be no penalty for engaging in work which is evidenced by the provision that only 50 cents in social security benefits would be deducted for every $1 of earned income in excess of the limitation.

I was proud to cosponsor S. 639, which was introduced by the distinguished Senator from Texas (Mr. TOWER) on September 22, 1971. That bill also proposed to raise the maximum earnings for a social security worker from $1,680 to $3,000 before any reduction in benefits occurred. There is no question but that present limitations prevent many senior citizens from working and earning more than a token amount. Raising the limitation will have the effect of affording many of our older, but by no means less industrious, citizens an opportunity to perform meaningful and productive work. It will provide the opportunity for these persons to once again experience the satisfaction and pride of making a contribution to society through employment. The bill would take effect for taxable years after December 1972.

I urge the prompt enactment of this legislation by Congress.

STRENGTHENING THE FAIR CREDIT REPORTING ACT

Mr. PROXMIRE. Mr. President, in 1970 Congress enacted the Fair Credit Reporting Act which for the first time brought credit reporting agencies under systematic regulation. Up until that moment, these agencies which affected millions of American people went virtually unregulated. Hearings before the Subcommittee on Financial Institutions, of which I am chairman, demonstrated that many Americans were irreparably damaged by misleading or erroneous credit reports.

These hearings also documented widespread snooping into the private lives of American citizens. In many cases the information sought was only remotely connected to the legitimate purpose of the company seeking information. For example, we learned of instances where insurance companies inquired into the housekeeping habits of persons applying for insurance. In other cases they wanted detailed information on a person's private life, his associates, and his political views.

My original legislation would have regulated the type of information which could be collected by companies ordering investigative reports on consumers. The information would have to be reasonably related to the purpose for which it was sought and it could not have unduly invaded a person's right of privacy.

Unfortunately, when the bill was reported by the Committee on Banking, Housing and Urban Affairs, a number of these safeguards were deleted. A recent article by the Los Angeles Times lists a number of shortcomings in the act. I believe this article indicates we need to take a careful look at the legislation now that it has been in effect for nearly 2 years. My subcommittee on financial institutions is planning to conduct a complete review of the legislation early next year to determine how it can be strengthened and improved. Mr. President, I ask unanimous consent that the Los Angeles Times article be printed in the RECORD.

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

CREDIT PROBERS: CONSUMER'S PAST STILL FAIR GAME

(By Alexander Auerbach)

Sixteen months ago Congress enacted the Fair Credit Reporting Act to safeguard your privacy. The law is apparently not working.

The act was intended to ensure the "confidentality, accuracy, relevancy and proper utilization" of the millions of consumer credit reports and dossiers prepared each year by a small group of companies that call themselves "business information services." Some critics have called these outfits "credit snoopers."

An investigation by The Times into the activites of Retail Credit Co., the largest purveyor of investigative credit reports, has turned up evidence that the law has failed to live up to the hopes of its proponents in Congress.

If you apply for insurance, a job, a mortgage or even to rent an apartment, chances are good that a so-called "investigative consumer report" will be run on you. If your boss or a potential employer is curious about you, a report may be made entirely without your knowledge.

TOPLESS AND DIVORCED

Because of gaps in the law's protection:

When Judy C. of Palo Alto applied for auto insurance last year, a Retail Credit investigator was free to decide that it was "relevant" to her application to note that she was a topless dancer, and divorced.

Retail Credit's reports sometimes pass along highly personal medical information which the firm obtains with the consumer's authorization for one purpose, but which it then retains and resells without the consumer's knowledge or permission. Even the prestigious Mayo Clinic's records are used in this way.

A report can virtually brand a man a thief, based solely on hearsay. A report on a Santa Clara man in 1966 said his former boss "suspected (him) of taking money from the till" even though no charges were filed. A 1972 Retail Credit manual repeats an almost identical example.

MORE FORTUNATE MAN

Fred P., 26, was fortunate. "We learn of no connection with any Peace movement or other serversive (sic) type organization," said Retail Credit's report. "He is regarded as a normal loyal american (sic)." If the report said the opposite about him, he probably would not have found out about it until it caused him some problem.

(Reports such as these are not available to the public. These examples, as well as various other Retail Credit internal documents, were supplied to The Times by a source hostile to the company.)

The federal law does not allow people such as Fred to see reports on them before they are circulated—or even afterward, since the contents are only disclosed orally to complaining consumers. The reporting agencies in effect usually get "one free bite," and are merely required to maintain "procedures" to promote accuracy.

The law gives the Federal Trade Commission some power to regulate the credit reporting industry, but thus far the FTC—despite numerous consumer complaints and investigations of its own—has not acted.

Lawmakers in New York, California and other states are considering bills to provide stiffer protection than the federal act gives. In Canada, where Retail Credit has major operations, several provinces have passed or are considering legislation stronger than the Fair Credit Reporting Act.

Court actions in this country may also change the legal doctrine known as "conditional privilege" which until now has given the credit reporting agencies virtual immunity from libel and slander suits.

Atlanta-based Retail Credit Co. reportedly controls 60% to 85% of the market for investigative consumer reports. With almost 7,000 investigators across the country, it prepared these reports on 20 million people last year, more than 750,000 in Los Angeles alone. Its activities extend into Canada and Mexico.

(There are two types of credit reports, both regulated by the Fair Credit Reporting Act. A simple credit report summarizes the consumer's record of paying his bills, his employment history and legal information on public records, such as lawsuits and liens.

(An investigative report, however, involves an on-the-street inquiry into the consumer's finances, reputation, mode of living, health or other details.)

SEEKS ADVERSE DATA

Any examination of numerous Retail Credit internal documents plus court records and other public data, as well as interviews with company officials, former employes and state and federal agencies, all indicate that:

Retail credit competes aggressively, to gather as much adverse information as it can about the subjects of its investigative reports. It will seek "informants" when corporate or government regulations block access to personnel or other records.

Its investigators, whose income depends partly on the number of reports they turn out, routinely complete up to 20 reports a day. One man in Northern California produced 33 in one day several weeks after the FCRA was enacted.

Retail Credit was founded in 1889 as a small Atlanta credit bureau. Then, as now, much of its work was done for insurance companies wanting detailed information on applications in distant cities.

BOOM AFTER WARS

By the turn of the century the firm was also doing employment reports, first for insurance companies and then for industry. "Both world wars saw the use of reports by government agencies," says a Retail Credit manual, and private employers now "use the service liberally."

Today for $5 the company will prepare a detailed investigative report including estimates of the subject's financial condition, drinking habits and marital habits, along with any police record or legal entanglements. It will also pass along two neighbors' comments on his or her general reputation. For $10.50 an hour the firm will gather as much more detail as the customer wants.

Its list of customers ranges from Prudential Insurance Co. and the Bank of America to a San Diego dentist.

W. Lee Burge, president of Retail Credit, said last year that the "typical field representative" is 33, has been with the company more than five years, and probably has some college education.

The company's manual for its branch office managers, entered as evidence in an Oklahoma lawsuit, tells manager to look for prospects who "have a good handshake, clear voice, and look you in the eye."

A college man from a small school would be "more satisfied with average earnings and difficult working conditions." For the same reasons, the manual adds, he should come from a home where—financial and cultural advantages were rather moderate."

SUSPICION EMPHASIZED

"He should be sufficiently suspicious by nature," for his major task is tracking down what Retail Credit refers to as "protective information," meaning negative information to protect its clients from people who might be bad insurance or credit risks.

"Protective information," the manual says, "is the 'meat' of the report—the basis on which we sell our service."

In congressional hearings that preceded enactment of the FCRA, Retail Credit denied that it imposes a quota on its investigators for a fixed percentage of "protective information."

However, the company's internal documents demonstrate the emphasis placed on coming up with negative data.

PERFORMANCE RECORD

Each inspector must daily fill out a "performance control record," and note the percentage of his reports that included protective information.

The branch office manager is told: "These forms should be reviewed regularly through the month to be sure that all inspectors are developing a reasonable percentage of significant information."

Last October Norman W. Smith, a regional vice president, sent a stiff memo to his branch managers.

State Farm Insurance Co., he said, was getting more adverse information in reports from Southern California Retail Credit offices than from other offices in the West. In Southern California, 5.9% of the reports had information bad enough to warrant denial of auto insurance to the applicants, while in Northern California the figure was only 3.5%.

CLIPPINGS AND RECORDS

The "usable information," Smith said, included "rating of the residence address by crime frequency, quoting of newspaper clippings and subsequent followup with court records, police records, etc."

A company bulletin last December noted that one office had protective information in 38% of its employment reports, with 10% having information adverse enough for the applicant to be turned down.

It concluded with "Congratulations!"

Investigators' pay starts at about $575 per month, plus expenses and a quarterly bonus based on both output and quality of reports.

The investigator's inquiry begins with a look at the dossier Retail Credit has on the subject—the person being checked. Often these are only a page or two of information, but some are more lengthy. The file contains data from past reports, news clippings mentioning the subject, and other material.

The investigator's manual, also entered in the Oklahoma lawsuit, notes that even the customer firm's request form can yield "tips."

The address identifies the neighborhood, which "may give the inspector an idea of the type of person being investigated."

As for occupation, "speculative or 'get-rich-quick' occupations should be checked into carefully. Certain occupations, such as 'retired,' 'real estate,' 'pool room,' 'soft drink dealer' are at times used as a front for illegal liquor dealing. Other occupations, such as junk dealers and pawnshops indicate unreliability, and when taken with a foreign name, provide tips of great importance."

(Retail Credit President Burge told The Times "some of the material" in the manuals entered in the Oklahoma case "may have been greatly modified" since. This specific section, Burge said, "was antiquated when it went into the manual. There's been a great change in the nation's population since World War II, and this may be archaic.")

If the applicant for insurance or credit lists references, says the manual, the inspector should disregard them, since they are probably favorable, and to seek other "sources"—neighbors, an employer, banker, landlord or local storekeeper.

Police, court and other public records are routinely examined.

(Retail Credit was one of eight investigative firms indicted in January on charges of bribing New York Police Department officials to obtain arrest records, which in New York are confidential. The firms pleaded guilty to a misdemeanor charge of giving an unlawful gratuity to a public servant, and the felony charges of bribery were dropped.)

The company's "Statement of Principles" notes that "any individual or firm has the right to determine to whom he will or will not give information."

Nonetheless the branch manager's manual contains detailed instructions on opening up information sources.

If a company refuses to give out information on its employes, says the manual, "we may need to 'play upon' the company's sense of cooperation and responsibility to other members of the industrial family."

If the firm feels that security regulations block it from giving the data, "we should contact their security director. . . . Experience shows that when properly approached these people are usually sympathetic to our needs."

AUTHORIZATION SIGNED

On most insurance applications the applicant signs an authorization allowing the insurance company to get his hospital and medical records. Since Retail Credit is working for the insurer, its investigator may use the authorization.

In a bulletin to its salesmen in December of last year, Retail Credit reported:

"Personal review of medical records is now available from the Mayo Clinic!" It noted that until then "only limited information" had been available from the clinic in Rochester, Minn., in the form of an abstract prepared by the clinic's staff.

The change, allowing the investigator to examine the clinical records directly, provide "more information than can normally be found in a combination of doctor and hospital records," the bulletin notes.

(The Mayo Clinic gets a special service from Retail Credit when running credit checks on its patients. The results of the check are sent by phone or cable, the Credit Reporting Manual says, since the clinic "needs information for charge before their patient leaves the hospital.")

32,000 PHYSICIANS

Retail Credit also has file cards on 32,000 physicians who will provide the company with patient information for insurance reports.

Under the FCRA, a consumer can demand disclosure of a credit reporting agency's files on him. But the law does not require the agency to reveal medical information in the file, so there is no way for the consumer to find and correct an error in his medical record.

Retail Credit's branch manager's manual notes that medical records have a special legal status, and cautions against making any direct quotations from medical records already in Retail Credit's files. But if the investigator avoids verbatim quotations, it says, "limited factual information may be given," if it is somehow relevant to the investigation.

WAYS TO CATCH ERRORS

Long before the FCRA was enacted, Retail Credit had systems for catching and correcting errors. Reports are reviewed before they are mailed, and are reinvestigated if the customer firm questions the information it gets from Retail Credit.

Occasionally, where a substantial life insurance policy is involved, Retail Credit will have two investigators make separate, independent reports. This the company notes, not only cuts errors but it discourages its customers from ordering reports from Retail Credit's competitors.

The double-checking systems often work well. Last December an insurance company sent back a report to a Retail Credit office in Northern California, and the investigator acknowledged that a "mixup of people" apparently was caused by a "misunderstanding in the original interview."

Sometimes the procedures apparently fail, however. An insurance company is suing Retail Credit for $8 million, the amount paid to the widow of a Tulsa rancher. The firm said in its civil complaint that it relied on a Retail Credit report that the rancher was worth $37 million, when, it charges, most of his assets were mortgaged.

The rancher's widow told reporters that the investigator copied information from an erroneous newspaper clipping the couple had hung on the wall as a joke.

Retail Credit has denied that it is negligent, and says it will vigorously defend itself against the lawsuit.

FEW LOSE OUT

Retail Credit says only a small percentage of consumers it investigates are denied insurance, credit or a job because of the reports—about 5%, according to various company statements.

The company says it studied a sample group of reports on consumers who were turned down, and found that one out of every 60 contained a serious error requiring correction.

Using those figures and the company's total volume (that is, one-sixtieth of 5% of 20 million investigative reports) it would seem that 16,000 consumers each year are turned down on the basis of reports containing serious errors.

That figure does not include possible errors in reports which were not adverse enough to cause the consumer to be turned down.

MANY NOT COVERED

And it does not include the large number of retail Credit's reports which are not covered by the federal law's provisions.

These include investigations conducted on those who file claims against their own or other insurance companies, or even those who ask the mover to pay for the damaged couch.

Retail Credit's FCRA manual states that the law does not protect sole proprietors, including doctors and lawyers practicing alone, since reports on them would be business reports, not consumer reports, and thus not covered by the FCRA.

And the law covers only investigations of consumers' eligibility for benefits, not reports which discuss their desirability as customers, according to the company's manual. "We interpret this as a catch-all clause," the manual states.

HATFIELD'S PROPOSAL

A bill by Sen. Mark O. Hatfield, (R–Ore.) to strengthen the federal act has languished in the Senate banking committee for 18 months.

A number of state legislatures are closely watching an Oklahoma lawsuit which could pave the way for stiff state laws.

Tulsa consumer advocate Paul Polin, a longtime critic of the credit reporting industry, persuaded his state attorney general that a 1905 Oklahoma law covered Retail Credit.

The state law requires a credit firm to alert a consumer before making an investigation, and compels the firm to give him a copy of the completed report. (The FCRA requires only a verbal disclosure.) The case is before the state's Supreme Court.

A California lawsuit may also chip away at the agencies' traditional protection against libel suits under the so-called "conditional privilege" doctrine.

In that case Retail Credit acknowledged that its report on an Oakland insurance agent, which said that there was "a question of (his) honesty," was based on one interview with a man who volunteered that he was "prejudiced" against the agent.

Retail Credit did not deny that the report was false, but claimed that it is immune to libel action because the report was not made with malice.

A jury disagreed, and awarded $290,000 in damages. Retail Credit has appealed.

If the verdict is upheld, it could open the way for private lawsuits which federal officials say might provide more protection than the FCRA.

The federal law, they note, actually protects the credit reporting agencies from lawsuits.

INDIAN INTERN EDUCATION PROGRAM AT UNIVERSITY OF ARIZONA

Mr. FANNIN. Mr. President, recently the University of Arizona's student newspaper, the Arizona Daily Wildcat, published an article concerning an Indian education intern program at the University. This program has been designed to prepare Indians to become teachers in the tribal schools in Arizona. This is a most commendable program, as it will immeasurably assist in expanding the participation by Indians in implementing education programs.

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:

UNIVERSITY OF ARIZONA INTERNS TO SERVE AS TRIBAL SCHOOLS' EDUCATORS

(By Ellen Hale)

American Indians are learning they have much to say in today's society and a University of Arizona education program is helping them learn to say it.

The program is a two-year internship project which prepares Indians to become teachers in tribal schools in Arizona.

Under the guidance of program coordinator Dr. Vance C. Frasier and administrative coordinator Jerry Hill, 20 Indian students representing 13 tribes are studying to bridge the gap between university education and reservation teaching.

"There is a growing movement for Indians to direct their own affairs and the project is designed to involve the Indian people in the determination of their futures," Frasier says.

Now in its second year, the program will graduate 17 of the interns next spring with degrees in elementary or secondary education.

The internships are financed by the Bureau of Indian Affairs (BIA) and allot each intern a $2,600 yearly stipend.

Students enter the program as juniors and devote seven to eight hours a day to extensive and innovative training each semester.

"Rather than use the traditional teaching approach, we prefer the 'saturation technique,' teaching each subject one at a time in a block system," explains Frasier.

Two days a week students practice-teach or assist in public schools.

Frasier believes the technique is more successful in training Indians for their work in reservation schools than traditional methods.

"The idea is to develop in them a definite set of skills which are not so much knowledge-oriented as performance-oriented," he says.

After eight weeks, interns "field practice" in Indian schools.

The correct approach to teaching in Indian schools that the interns are learning involves what Frasier terms "open education."

"We create an environment with learning centers where kids are involved in their own learning process. This seems to be a more viable method than the structured, authoritarian system we all know," he argues.

The end beyond the means is to "Indianize" education.

Less than three per cent of reservation teachers are Indians, and this has created a major handicap in the development of Indian leadership. Frasier maintains.

The resultant lack of models for self-development has been reinforced by BIA governing of Indians, he adds.

"Hopefully, with programs like this, Indians will have control of their own schools within five years, although it will be much longer before all Indians' teachers are Indians themselves," Frasier says.

This year the entire Navajo school system in Arizona is being run independently of the BIA.

There is an unbelievable amount of agreement among Indians as to who should teach their children," Frasier remarks. "Almost all want their own tribesmen teaching their own tribes in their own languages."

Such concern makes the program's goals twofold and doubles its significance, according to Frasier.

"Not only does it prepare Indians for teaching and upgrading their own schools; it involves the whole Indian community in the education process," he explains.

Frasier believes there are benefits for Anglo society as well.

"We can learn a lot from the Indian. He has great respect for individuality and doesn't see the need for competition to establish his 'self'," Frasier says.

The currently popular belief that one should live in harmony with his environment is an indigenous Indian philosophy, according to Frasier.

"You see, if we let Indians keep their cultural heritage and don't try to anglicize them, and we listen to them ourselvse, we might avoid covering the face of the earth with asphalt."

EVALUATION OF ALASKA

Mr. GRAVEL. Mr. President, in Alaska this year an unusual kind of government evaluation was conducted worthy of notice on this floor for implications it has not only in Alaska but for all government evaluation.

The researcher, Michael Rowan, of Rowan Group, Inc.—a company that operates in the United States—designed an evaluation which permitted the government services delivered to Eskimo people to be evaluated by the Eskimos themselves. In his report he wrote about the difference between his research approach and the approach of other professionals in his field:

Contrasting with other professionals in this field we feel that consumers of a government service are its best evaluators. Secondly, we feel that imaginative programming can develop from in-depth psychographic research in the same way as new products are created in the corporate environment by deep probes into the possible human uses of nonexistent products. Resonance between the government and its social service clients in the Bethel area is difficult to achieve because of massive cultural and historical media differences or absences, but in this case, psychographic feedback was a perfect (perhaps the only) tool to reach deep into the minds and hearts of these people and come up with a sense of where they want to go and why.

In the past, most research in this field has been of a quantitative "perspective" nature. That is, the researcher approaches his task with a point of view which structures most of the questions he asks, and the answers he receives (whether he knows it or not).

This kind of research usually produces volumes of quantitative data about things which were always basically known (or knowable from other sources) . . . another form of justification.

The approach that we used in this project is light years away from the "perspective" mode. It is open-ended, psychological, motivational and qualitative (not quantitative). It accepts the fact that if we were to score and choreograph one human life, we would find most of the feelings and thinking and behavior to be in the subconscious, especially culturally invisible, lines of force. We try to pick up on those signals and patterns through the use of unstructured, open-ended questions about very general life-bearing kinds of probes. In his *Experiments in Hearing*, (McGraw-Hill, 1960) George von Bekesy explains the abandonment of "perspective" in media research:

"It is possible to distinguish two forms of approach to a problem. One, which may be called the theoretical approach, is to formulate the problem in relation to what is already known, to make additions for extensions on the basis of accepted principles, and then to proceed to test these hypotheses experimentally. Another, which may be called the mosaic approach, takes each problem for itself with little reference to the field in which it lies, and seeks to discover relations and principles that hold within the circumscribed area."

We permitted the Eskimo respondents to define the "circumscribed area" of our work. Our approach is "mosaic" in the sense that von Bekesy uses the word. We did not try to structure anything. We were interested only in the probe.

We found some things which are relevant and valuable. Some observations appear to be irrelevant because we were not commissioned to assess them. We found them anyway, and we present it all as part of our report. With this approach one can often find by accident something totally unanticipated by the original concept.

Edison once wrote: "When you are experimenting and you come across anything you don't understand, don't rest until you run it down; it may be the very thing you are looking for or it may be something far more important."

The findings of this unusual probe into Eskimo culture and life produce some conclusions which have, I feel, vast implications for the delivery of health and social services, new Government programing and strategy and use of a new public radio and television station going on line there:

We offer what we found in this research the way the astronomer offers the existence of a new planet from knowledge of the gravitational movements of other planets around it; in other words, we do not have causes and effects, here—we have parallelisms. And we really don't have scientific findings. We have probes.

1. ESKIMOS AND THE POWER OF SPEECH

The Eskimo people we are dealing with have been called the most adaptive people in the world. Well they may be, because they have no history. In a world with no writing and print there can be no history, there is only the memory of the oldest person around. And there is the addition and deletion of the grandmother who decides to change the meaning of the past.

In this mode, life comes all at once; it is spontaneous, homogenous, familistic. Any intrusion is accepted as a natural thing, whether it be a tundra fire, the death of a child, the end of the caribou, the school, a jet, TV, the salmon run, the next fish camp, permanent settlement, migration, the resurrection of Jesus Christ. Life is not rational to a people without a history. There is no sense of accuracy or truth the way the Western man sees it.

There is also a preponderant reliance on the power of speech. The emotional baggage of the past, the cultural dreams and hopes, the drastic deaths and disappearances and longings, are all packed into the sounds of daily speech, where they disappear instantaneously. The Eskimo people are weaved together into this semantic web of common experience and shared memory. They carry within themselves all the timelessness of the present, and whatever they remember is what works in their lives.

The Eskimos we talked to can hardly remember the old life. None of them—in the thousands of conversations electronically processed in our data—ever referred to the fact that only two generations ago everything was different, there were no villages as such, no welfare checks, no doctors, no jets, no white men. There is very little conscious longing for the past. There is a total acceptance of the present, as is.

Underneath this conscious layer is something else again, because here is where the Eskimos are paying the dues for this transition.

Moreover, in his research Rowan found what he called "transmutations" of the Eskimo culture which are being induced unconsciously by Government programing designed from an agricultural or urban bias, both of which naturally are irrelevant in the Arctic villages:

Just a few of the basic things which this mutation has radically altered, as we can pick it up from what people say, are:

(a) The shift from the ear to the eye; from the semantic connections of the ear to the 'private eye' of the Gutenberg man, the reader.

(b) The replacement of the family with impersonal, contractual institutions (schools, hospitals, courts, etc.)

(c) The obsolescence of the old and the crowning of the young.

(d) The castration of the man as providers because of the money-making possibilities open to women (welfare, arts and crafts, services) . . . the 'discovery' of unemployment with the arrival of the first compensation.

(e) The evisceration of the family power structure (as represented by the village) and the replacement of that structure with a racially and culturally ignorant foreign power who deals in alien languages (print) and removed sequences (clock time) which are neither felt nor understood.

(f) The replacement of Yupik with English, making one's first tongue a personal embarrassment.

(g) Alcoholism.

By far the most significant mutation deals with altering the ratios of speech and language. As Sapir, Whorf, Traeger, Mead, Lee, Carpenter and others have so aptly demonstrated in their media work, language is not a reflection of thinking and experience, language is something which by its very use structures and shapes thought. This is true of all media according to Innis and McLuhan, especially electronic media, so the introduction of radio and television to the Eskimo people arrives at just the perfect time if our intent is to strengthen the family integrity of the Eskimo way of life.

It comes as startling parallelism to find a deep concern for Eskimo culture and language emerging at the same time as alcoholism is massively affecting the Eskimo population, while simultaneously radio and television are coming on line.

There are inherent connections between human speech and electronic media and these connections may be what Edison was talking about when he spoke of searching something out, because 'it may be the very thing you are looking for, or it may be something far more important.' We may have found something very important in this research.

He was also interested in finding the relationship between electronic media which are just being distributed into the villages and the traditional emotional power of speech among the Yupik speaking Eskimos. To do this he enlisted the aid of Ted Carpenter, perhaps the most renowned Eskimo anthropologist and a close acquaintance of Marshall McLuhan. Carpenter's thinking began to put a frame around the use of media among the Eskimos:

McLuhan writes in *Understanding Media:* Any medium whatever is an extension, a projection in space or in time, of our various senses. Speech is the only medium that uses all the senses at once.

Carpenter goes on to say that Eskimos have a balanced sense of the real world because of the balance and integrity evolving out of a life lived all at once in the multisensory mode of human talk. This cultural integrity, which was upset by western technology and institutions, may be possible to restore (if only partially) through electronic media, which, again according to McLuhan, utilize all the senses in a balanced, integral combination:

The television image is of low definition quality. This automatically involves the television viewer in a good deal of do-it-yourselfness and in strengthening the feeble image. (He compares TV to a Suerat painting or stain-glass window art, where the light comes *through* the medium, and the effect is put together in the viewer's own head.) This gives the television image a strong sculptural and tactile quality, McLuhan says, and these tactile values elicit the highest degree of participation response of any medium we have.

Technically, McLuhan is referring to the fact that the television viewer does not see an image on the TV screen; actually, his brain is the screen. Of the millions of possible electronic dots on the TV screen, the eye at any instant is scanning about 60 to 70 of them, and "fills in" the rest. This is a massive amount of filling in. If for example, a high speed shutter photograph is taken of a TV screen, there is no image on the photoplate, illustrating the principle. The involving nature of TV is thus a multisensory kind of event involving the eye, the ear, and to a very great degree, the sense of touch.

McLuhan is convinced that it is the sense of touch which permits the brain to learn how to do all the "filling in" required by the low definition TV image. Television, therefore, is the closest medium to human speech ever achieved by media, delivering, as it does, a balanced kind of experience requiring a balanced use of the senses to incorporate it.

The most meaningful conclusion in this report is that radio and television can indeed be accepted as social services. In other words here we have a situation where use of public radio and television will be servicing Yupik speaking Eskimos who jump the gap from tribal man to electronic man and dismiss the thousands of years of writing and hundreds of years of print which have biased so much of what is in civilization. Thus the conclusion of the writer is that radio and television properly produced by Eskimos for Eskimo consumption permit what we could call a cultural resonance which will give them identity and security in a world fraught with dynamic change:

Radio and television are social services, per se, in the Bethel region, because the only way to restore the balance of semantics and speech—so inherent in the old life—is through radio and television. Here we are not talking about the "content" of media, but the media themselves as having these inherent effects, this sensory balance. Radio and television can strengthen family life among the Eskimos in a unique way.

If radio programming were used for massive distribution of personal messages, for example, and television were universally programmed as a social service resource, this might reduce the amount of transportation (and dislocation) necessary to village life at the moment. "The natural effect of the electric", McLuhan writes, "is to substitute information movement for transportation of things. That is, the faster information moves, the more the forms of knowledge, process, and experience become accessible to observation"... And use. Not only can transportation be cut down, but money values can go up because the normal exchange rate for money in the villages is computed nowadays over airplane time. Moving money information at electric speed (like the credit card does) is just another way to use money faster. Every dollar used has another six or seven dollars generated by its quick use in the service environment, as the economist would describe. This is just one example of how media generate wealth, or why media *are* social services.

Radio and television could also be programmed to achieve higher levels of electronic effects which are inherently felt in any case. Prior to this time, we have been speaking of the TV medium itself as involving, balanced, integral—corresponding by its sensuous involvement to the prior Eskimo use of speech. Now we are saying that the programming in Yupik, the surfacing of socio-cultural problems and alternative solutions, the electronic distribution of information or "education" (should one prefer the word), would only enhance the elegance of the natural behavioral effects, making it very involving and powerful.

The author also describes the powerful effect of media in the interior environment of the Eskimo home. He also suggests that the Eskimo people should have access to the microphone and the camera not just a radio and television set. In other words not only do the clients of a service become its evaluators but the listeners and viewers become the producers:

To understand the powerful impact of radio and television in the Eskimo home, we refer here to Edward Hall, the anthropologist and author of *The Silent Language*. Hall's concept is that every language has a grammar and every culture also has a grammar, hidden signals which are invisible to their users, and which give *them* convenience and comfort. The visitor is befuddled by them, the user is convenienced. For some years now, Hall has been studying the hidden dimensions of culture and he has found that there is no such thing as experience in the abstract, as a mode separate and distinct from culture.

The Eskimo culture came under direct attack by the schools because no experience in Eskimo life required a school. Children did not need preparation for life in the old Eskimo world, and, in fact, there was no word for "child" in Yupik until the white man came along with a lot of experiences which require school: numbers, print, and history. The school therefore declared an invisible war on the Eskimo culture and symbolically, the Yupik tongue. This developed a schizoid identity among those who go furthest into the western mores—the further you go the farther away wanders your identity. The Eskimo high school and university dropout rate is just one example of a side effect.

This is what happens when a family and a people find their culture invisibly eroding—with their own compliance in many instances. Culture is invisible to those who use it. You never know it's gone until you lose it, and then you've got someone else's. Radio and TV come into this setting like a bombshell.

"The reader must remember that the average Eskimo home is a human encasement, very small, maybe 9' by 15' at the most, packed with people. This was the custom before and after the white man introduced the walled house and permanent settlement. A radio placed inside this environment has a similar effect to the electric light. The lightbulb extends day into night, changing all the ratios of sleeping and eating and conversation.

The radio surrounds the listeners invisibly, forming a backdrop of subconscious stimulation. It will only be realized fully when it is turned off, just as we only begin to feel suffocation when there's no air. Consider the effect of radio in the situation of personal, high-intensity and multi-person contact in small spaces over long periods of time (actually village Eskimos spend nine months indoors every year; spring is like being born again every year).

Now consider television. Television is not a "surround" like atmosphere, light, or radio; TV is an *event* which is very involving, participative. Wholesale introduction of *commercial* TV into the Eskimo home would obviously be an invasion of the greatest possible magnitude, an outright cultural declaration of war, and a speedy, total victory for the media hijackers. We say hijackers because television can hijack the Eskimo people into the cities,* or at least drive them from their homes, if the material is not programmed properly and tuned to cultural needs. Tuning is extremely important, and this involves how many hours per day the TV should be broadcast as well as what kind of programming should be presented.

Just one day of television broadcasting could take an Eskimo family on more "trips" than every one of its members had experienced in the previous year, or perhaps in their whole lives. This is why we stress the local nature of programming, the sense of villagers talking to each other, the right of personal statement in media (especially radio) the access of Eskimos to the microphone and camera, not just the speaker and the screen. The only people who can truly pick up on all the hidden signals which Hall talks about, and make them work in electronic media to strengthen (rather than eliminate) family life in the Methel region, are the Eskimo people themselves. Training the first Eskimo television crew therefore takes on a priority of highest order.

The sense of this whole report comes down to the idea of dialogue. In radio and television in western societies, the production is what Tony Schwartz calls "munication" not *com*munication. Total concern for programming says nothing about the human use of the programming. Or, as McLuhan puts it, "Mere flow of the most excellent impression does not confer relevance of function on any medium whatever." We must ask, "Can the Eskimo people use this program to strengthen their lives?"

One of the reasons for the research was to *let the dialogue begin at the outset*. If we design programming from anything but a deep knowledge and respect for the Eskimo way of life, we will change its ratios. (Side effects: alienation, alcoholism, listlessness). If we seek dialogue, we will set the tone and language of the programming in acceptable Eskimo forms, easy to use, natural, hidden, invisible, operable forms. Yupik is one of those forms, and we should use it. We are not going to communicate if we do not.

Dialogue is a form of interplay which fits uniformly into the natural sensory balance of television reception. It may be possible (and this is the most advanced of our probes) to use Eskimo radio and television to develop counterpoint to all the other institutions which operate in the villages. Eskimo radio and television can reconnect to cutural heritage, give identity to the people, increase the flow of information and thus develop the economy, surface and deal with problems like alcoholism, return the power to the local village (re: Sky River project), and provide a trainload of psychic support to a people floundering for recognition and hope. Dialogue is a way, as McLuhan says, of making the consumer a producer, and the producer a consumer. Interchanging among Eskimos is the key to this process; command of the media is the key to interchange.

This report is meaningful to me because it involves in-depth, in-home, personal interviews of 1,404 individuals by indigenous, professionally trained, Yupik speaking, bilingual Eskimos. In other words here we have the first human data on the direction of the cultural life of present day Yupik speaking Eskimo people. The implications of this study for government are simply immense. For example, in simply asking people about their problems in the village the researcher found the problem mentioned 10 times as often as any other to be that of alcoholism. The unusual thing about this one small piece of data is that of all the Government programs in existence in the villages, none impact directly and meaningfully on this number one problem among the people the Government is supposed to service. Now it seems to me that human feed-back such as we have here in this research presents us with an opportunity to impact government programing in the areas of greatest human need and concern or it permits us to redesign entirely our programing to meet the existing human needs.

Now the fact that the writer sees media as social services in this area suggests that radio and television become to the psychic life of the Eskimo what fish and food stamps have become for the health of his body:

Radio and television as social services have the possibility of delivering an elaborate, sophisticated identity and ability to the Eskimo people. Should it be achieved there will be inchoate side effects which may affect alcoholism, welfare, unemployment and poverty. Radio and television can also put the schools in proper cultural context, permitting a better relationship between the young and old. All these are possibilities we see proceeding out of a proper and effective use of electronic media to support the family life of the Eskimo people. It is difficult, frankly, to see this as anything but an exciting and hopeful challenge to the Alaskan government. What if it turns out that we truly can bring the Eskimos out of a psychological cycle which if left untended, leads only to more frustration, anxiety, alcoholism, and despair? Then our work will have been complete.

---

*While no clear one-to-one relationship has yet been established between migratory behavior and media distribution almost everyone seriously into the anthropology of media and its side effects speak as if it is already established, and several on-going studies into the USA and out indicate that they are right.

Specific conclusions of the report involve the following recommendations written by health and social services community planner, Jon Buchholdt of Anchorage, to the Alaska Department of Health and Social Services. I hope this kind of thinking and these kind of conclusions will not be lost upon the Federal Government's Department of Health, Education, and Welfare and the Federal Communications Commission:

As has been stated before, the Department of Health and Social Services should use the electronic media to enable health and social services to individuals and families to reflect back upon the people their own values and traditions. This reflection will yield greater understanding of these services, and better response to them.

The media should be used to generate a desire for local control of these services as a conscious and planned stimulus of rural regional and village organization and development.

The media should be used to train Native paraprofessionals employed in health and social services delivery, and to provide these paraprofessional people access to college courses necessary for professional development to the point that bush health and social service systems can begin to be professionally controlled by Native people as well as democratically controlled. The media is the means to village-based higher education through prescription ITV instruction and education.

The media should be used to bring parents and children together again through common language usage. Making families fluently bilingual should be regarded as a critically needed, family-supportive and stabilizing social service. This can be accomplished through comprehensive ECD programs incorporating multi-media parent and child instructional programs, including adult basic education. If these instructional services are incidental to ECD programs, they are reimbursable under Title IVA.

Finally, the media should be used in a broad regional community mental health program attacking alcoholism.

A well coordinated radio and television production and broadcasting program will quickly establish educational TV and public radio as indispensable social services in a region where families are caught in the bind of transition between a subsistence and money culture and economy.

1. It is clear that the radio and television media must be regarded as both a valuable health and social services tool, and that public (educational) radio and television should be regarded by the Alaska Department of Health and Social Services as an essential social service, reimbursable under Titles IV, and XVI of the Social Security Act.

2. The Alaska Department of Health and Social Services should continue to contract with Bethel Broadcasting, Inc. to produce software in support of health and social services in Southwest Alaska.

3. The BIA and Alaska Native Health Service should contract with Bethel Broadcasting, Inc. to produce programs in support of their health and social service programs.

4. Those agencies employing paraprofessional health and social service employees in Southwest Alaska should cooperate in the development of a regional, multimedia community college program designed to reach out in the villages through innovative use of television and videotape to involve paraprofessional employees in systematic training and career development courses.

5. The Department of Health and Social Services should work with the Department of Education, the BIA, the State Operated Schools, and the U.S. Public Health Service to:

a. Integrate bilingual language skills development programs as essential parts of village ECD programs.

b. Contract with Bethel Broadcasting, Inc. and the University of Alaska to join forces to develop bilingual television instructional materials for use in village ECD programs; paraprofessional staff training and career development programs; and village adult basic education (ABE) programs.

6. The Department of Health and Social Services should work with the Department of Education and the new Department of Community and Regional Affairs to plan and design multi-media village ABE programs based on health, family life, and community organizational materials and themes. Through the use of television, health education, for instance, should become an opportunity for literacy.

7. Alcoholism should be addressed through a regularly produced series of programs designed to reflect back upon the people their attitudes toward liquor, and to change drinking behavior as well as community attitudes toward drinking, as well as toward agencies with alcoholism program responsibilities.

8. The role of the community service aide program should be the subject of extensive radio and television programming. A media campaign should be launched to explain who these aides are, where they are employed, and how they should be used.

9. The Yukon-Kuskokwim Health Corporation should contract with Bethel Broadcasting, Inc. to produce media materials to support village health aides, and to be used in their training.

10. The Department of Health and Social Services and the Department of Community and Regional Affairs should contract with Bethel Broadcasting, Inc. to utilize the media to assist villages to organize themselves to attack village sanitation problems through use and multiplication of shared revenue program funds, and the State's other water and sewer programs.

11. The Department of Health and Social Services should cooperate with the Department of Labor to use the media to amplify fully employment opportunities throughout the Bethel region.

12. The itinerant schedules of regional public health nurses and Bethel Hospital physicians should be faithfully provided to Bethel Broadcasting so that scheduled visitations can be announced daily as a regular radio and television program feature.

13. All health and social services media software and programs should be bilingual productions.

14. Within a year after television broadcasting is on line in Bethel, this psychographic survey should be repeated using a well distributed sample of about 200 families. The results should be compared with data contained in this report as a method of on-going program evaluation.

15. The Department of Health and Social Services should regard post-land claims settlement organization and planning as essential to family security and welfare in rural Alaska. Media software produced in support of this planning should be regarded as reimbursable under Titles IV and XVI, and Health and Social Services should cooperate with the Department of Community and Regional Affairs to provide individual, family and village involvement in post-settlement planning and organization toward good post-settlement fortune stewardship.

16. The field staff of the Department of Health and Social Services, as well as that of other State and Federal Departments should undergo training to enable them to use video-tape as a means of reporting their activities to their supervisors. Video-taped reports should also be made by the Department to the people. This would facilitate the development of program accountability. Along this line, the Department should use videatape to enable actual health and social service consumers to comment upon and evaluate services. This use of video-tape could be a joint effort between the Department and Bethel Broadcasting, Inc.

17. As a social service, the Department should use the media to help families and villages to maximize and fully exploit subsistence opportunity. For instance, intelligence regarding the fishery, game migration, hunting and fishing regulations, food preparation and storage, gardening, improvements in snowmachines, and outboard motor technology, and innovative hunting, trapping and fishing techniques. This would represent the use of the media to extend the traditional subsistence community regionally.

THE 25TH ANNIVERSARY OF THE POLITICAL EXECUTION OF THE BULGARIAN PATRIOT NIKOLA PETKOV

Mr. ALLOTT. Mr. President, last Saturday, September 23, 1972, marked the 25th anniversary of the political execution of the heroic Bulgarian freedom fighter, Nikola Petkov. It was on this date in 1947 that Petkov was executed on the gallows for the crime of conspiracy against the state. On that day he was called "an agent of Anglo-American capitalism" for his courageous opposition to the Communist Party leaders' reign of terror in Bulgaria.

In the election of 1946, Petkov's party strongly opposed the Communists. The results of this election, marked by corruption and bloodshed, sent 101 representatives of Petkov's party to the Grand National Assembly. It was in this great hall that Petkov's fate was decided.

It was not long before Petkov was arrested and tried for conspiracy against the state. In the blatantly unfair trial that followed, he was convicted and sentenced to death. This death sentence caused a massive public outcry throughout the free world. But these pleas for justice were ignored and Petkov was hanged on September 23, 1947.

Thousands of other Bulgarian citizens have followed the example of Petkov, sacrificing their lives for the cause of freedom and independence of their country. It is ironic that this Bulgarian national hero cannot be honored openly by the people for whom he gave his life. Thus it is even more important that we celebrate this anniversary for Nikola Petkov's life shall remain an inspiration to all people who believe in justice and freedom.

Mr. President, I believe that it is proper for us to honor the memory of Nikola Petkov, a patriot who can be counted among the great democrats of all time.

ACT NOW ON GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, an article in yesterday's Washington Post listed the unfinished business which Congress must handle before it adjourns sine die. The article mentioned the outstanding appropriations bills—defense, foreign aid, State-Justice-Commerce,

and the new Labor-HEW appropriations, the welfare reform proposal, the water pollution act amendments, the housing bill, and the new minimum wage legislation. But no mention was made of one issue which has been pending in the Senate far, far longer than any of these issues, and which deserves consideration as much as any of the pending bills.

Mr. President, I refer, of course, to the Genocide Convention. The convention was originally submitted to the Senate by President Truman in 1950. It took 21 years for the Foreign Relations Committee to report it to the floor. That has now occurred, and the Senate has a golden opportunity to act on the convention now.

If we fail to act on this convention prior to adjournment sine die—which now looks as if it will be in the next 3 weeks—we will lose this opportunity—perhaps indefinitely. This worthwhile convention deserves our consideration, and I believe we owe it to its proponents to act up or down on this convention after 22 years of indecision.

Mr. President, let us act on this convention without further delay.

SOUTHEAST ASIA HEROIN

Mr. BUCKLEY. Mr. President, the Senator from South Dakota (Mr. McGOVERN) has challenged President Nixon to live up to his threat to cut off aid to all governments that do not cooperate with us in the war against the world heroin traffic. He and Frank Mankiewicz, his campaign manager, have demanded that the President start by immediately banning aid to Thailand, Laos, and South Vietnam. Frank Mankiewicz said:

> That is where the majority of the world's heroin is coming from.

The Senator himself did not go beyond charging that one-fourth to one-third of U.S. heroin comes from Southeast Asia. But he added:

> The reason that Richard Nixon has been unable to prevent this is that our allies in Laos, Thailand, and South Vietnam are involved in the narcotics trade.

To bolster his case, the Senator from South Dakota quoted the following paragraph from what was supposed to be "a cabinet level report," which was made the theme of an article by Seymour Hersh in the New York Times of July 24:

> . . . the governments of the (Southeast Asian) region are unable and in some cases unwilling to do the things that have to be done by them if a truly effective effort were to be made.

A few months ago the able and distinguished chairman of the Subcommittee on Internal Security (Mr. EASTLAND) commissioned Gen. Lewis W. Walt, U.S. Marine Corps (retired), to conduct an investigation of the world drug traffic. General Walt, who retired in early 1971, is one of our country's foremost soldiers and foremost citizens. I believe that he has produced a report of outstanding significance which merits the attention of every Member of Congress. In my remarks today I intend to quote specifically from those portions of General Walt's report which dealt with Southeast Asia, because I believe they constitute a definitive reply to the allegations made by the Senator from South Dakota and his campaign manager.

Fact No. 1, as General Walt points out, is that Southeast heroin accounts for no more than 10 to 15 percent of the total traffic coming into this country—not one-quarter, one-third, or one-half, as the Senator and Mr. Mankiewicz contend.

Fact No. 2 is that it is Burma and not Vietnam, Laos, and Thailand which is the heartland of the Southeast Asian drug situation.

Let me quote what General Walt had to say on the subject in his testimony of August 14:

> The Southeast Asian drug situation must be dealt with on a regional basis. As I see it, there are five factors which contribute to the making of this situation:
>
> The principal factor in the entire situation is the virtually total absence of any kind of governmental authority or machinery of control and repression in northern Burma, which is the heartland of the Southeast Asian drug situation.
>
> The second most important factor is the criminal element in Southeast Asia, largely dominated by ethnic Chinese, operating in a Mafia-like manner through the old tongs, or Triad societies.
>
> The third factor is the serious lack of experienced personnel and technological equipment, and of an established control apparatus which still hampers the efforts of the Southeast Asian governments.
>
> The fourth factor, in my opinion, is the element of Communist involvement—in Laos, in Thailand, in Burma, and probably in Vietnam.
>
> The fifth factor is corruption.
>
> Looking at it from this standpoint, it is nonsense to suggest that the prime factor contributing to the drug problem in Southeast Asia is the existence of widespread governmental corruption.
>
> Given the existence of the other four factors, there would still be a serious drug problem in Southeast Asia regardless of any corruption that might exist in any government.
>
> There may be honest differences of opinion over whether corruption should be ranked ahead of the Communist factor or ahead of the lack of personnel and equipment. But I believe that no one can challenge the assertion that the Burma factor ranks first and the criminal factor ranks second in the Southeast Asian drug equation. Anyone who ignores these factors is simply not looking at the situation objectively or as a whole.
>
> Let me expand on the statement that Burma is the heartland of the Southeast Asia drug problem.
>
> Burma produces by far the bulk of the opium exported from the so-called Golden Triangle.
>
> The great majority of the refineries in Southeast Asia are located in Burma. This was so even before the recent crackdown in Laos and Thailand which obliged many of the refineries to relocate in Burma.
>
> Burma is the prime sanctuary and base of operations for the major groups of traffickers. It is in Burma that the great opium caravans originate which are the ultimate source of 60 to 70 percent of the traffic coming out of Southeast Asia.
>
> These facts are common knowledge, and anyone who talks about the situation in Southeastern Asia, damning Laos and Thailand but ignoring Burma, is simply not presenting a balanced picture.

In his testimony of September 14, General Walt added further important information about the situation in Burma. He pointed out that the chief reason why the Burmese Government has not been able to assert its authority in northern Burma is because of the chronic state of insurgency there, involving Shan and Kachin tribesmen and White Flag Communists. The White Flag Communists' insurgency, he said, has grown to the point where it absorbs probably 80 percent of the total counter-insurgency energies of the Rangoon government in northern Burma. Furthermore, it so happens that the area between the Salween River and the Yunnan frontier, which is firmly controlled by the White Flag Communists, is the most fertile opium-producing territory in the whole of Burma.

Said General Walt:

> In view of the fact that Peking mothered the White Flag Communist movement and that it still controls them, it cannot escape morale responsibility for their role as prime producers in the Burma opium traffic. Moreover, the act of this insurgency places the Burmese Government in the invidious position of not being able to enforce its own laws in the area, and of having to tolerate opium trafficking by the regional military forces which oppose the Communists.
>
> This is a situation which calls for some plain talk—all the more so because China has now been brought into the world community of nations.

Using a map that showed the main opium growing areas in Laos and Thailand, as well as the areas under Communist occupation, General Walt further demonstrated that in Laos the Communists control fully 80 percent of the territory where opium poppies are grown, and that they also control a significant stretch inside Thailand along the Laotian frontier.

General Walt gave high marks to the governments of Thailand, Laos, and Vietnam for the cooperation they are now giving us in the regional war on opium and heroin. In the case of Thailand, he detailed some of the impressively large seizures that had been made by the Thai authorities since the beginning of the year, and described the destruction of 26 tons of opium which were surrendered to the Thai Government by the Chinese irregular forces in northern Thailand, pursuant to an agreement which gave the CIF members status as Thai residents, land of their own, and resettlement assistance.

In the case of Laos, General Walt quoted a paragraph from the so-called cabinet-level report, a paragraph which had been overlooked by Mr. Seymour Hersh of the New York Times—and was later overlooked by the Senator from South Dakota and Mr. Mankiewicz.

> Surprisingly enough, the most effective antinarcotics program in the area seems to be in Laos. . . . Ambassador Godley first convinced Premier Souvanna Phoama of the great importance the United States Government attached to the antinarcotics program and made it clear that few things could hurt the cause of Laos more with the American Congress and people than anything less than a maximum effort against the illicit traffic. Souvanna was sufficiently impressed by the importance of the effort that he placed his intelligence chief, General Khamhou, in personal charge of the program. Khamhou, one of the most powerful men in Laos, had a clear charter from his chief and went to work

with a real sense of personal dedication. He has been assisted by all appropriate parts of the U.S. mission. The overall antinarcotics effort in Laos appears to be making good progress; it is an example for other countries to follow.

I agree with General Walt's observation that, when they quote from confidential documents, newspapermen frequently have a penchant for quoting the "bad" paragraphs and ignoring the "good" paragraphs.

Mr. President, at this point, I ask unanimous consent to have printed in the RECORD some of the key passages from General Walt's report on the Southeast Asia drug situation.

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

EXCERPTS FROM GENERAL WALT'S TESTIMONY ON THE WORLD DRUG TRAFFIC BEFORE THE SENATE SUBCOMMITTEE ON INTERNAL SECURITY, AUGUST 14, 1972

It is my understanding that you have asked me to present our findings on Southeast Asia before today's session of the subcommittee because there have been conflicting reports about the situation in that part of the world and because there is an intense congressional interest.

According to some accounts which have appeared in the press and on TV documentaries, the large-scale opium traffic in Southeast Asia has been made possible only because governments which are supposed to be friendly to us have failed to cooperate with us in combating the traffic and because top governmental officials in these countries have themselves been involved in the traffic. These were the allegations.

The administration has replied that these reports are false and exaggerated, that we are today receiving excellent cooperation from the governments in Southeast Asia, and that remarkable progress is being made.

Where does the truth lie?

It is obvious from a reading of the Congressional Record that many Congressmen have been disposed to believe the critics because in certain cases the critics have been able to allude to confidential official documents that appear to be highly critical of the Southeast Asian governments. I may say that I myself had read so many critical articles prior to my departure that I, too, was disposed to be skeptical, if not critical, before I embarked on this trip around the world. However, I came away with a final impression that was sharply opposed to my preconceptions.

First, Mr. Chairman, I should like to reply specifically to a statement that appeared in the New York Times of July 24, because it has been widely quoted and reproduced and has obviously had considerable impact. The article quoted the following paragraph from what it described as a "cabinet level report": I quote:

"There is no prospect of suppressing air and sea traffic of narcotics in Southeast Asia under current conditions or under any conditions that can realistically be projected. This is so because the governments in the region are unable and, in some cases, unwilling to do those things that would have to be done by them—and cannot be done by the United States—if a truly effective effort were to be made."

I have been given a copy of the so-called cabinet level report and here are my comments on it, sir.

First, let me say it is a great temptation for any newspaperman to quote from any classified document he happens to get access to. This is supposed to give him a scoop; and there are many people who believe that the mere fact that a document is classified constitutes proof that the statements made in it are accurate. But from many, many years of experience in the assessment of intelligence, I know how misleading a single document or a single quotation from a classified document can be.

Those who have had the same experience I have had, would, I believe, agree with the following general observations:

(1) Honest and conscientious men looking at the same situation can come up with substantially different assessments.

(2) The classified files on any complex situation, therefore, will inevitably contain reports that differ significantly on details and even on fundamentals.

(3) Intelligence files will frequently also contain what we call raw intelligence; that is, reports that have come in from a variety of sources which may or may not be true, and which have to be substantiated before they can be considered hard intelligence.

(4) Those who have the responsibility of decision must weigh their intelligence files or their report files in aggregate, assiduously distinguishing between raw intelligence and hard intelligence.

(5) Reports that are 6 months to a year old must never by themselves be used as a guide to the current situation, even though their validity at the time may have been generally accepted. Situations can change radically in 6 months or even less.

(6) Reports, including task force reports, will vary tremendously in quality. Some are outstanding; some are mediocre; some simply crumble before the test of time; some turn out to be odd mixtures of valid findings and of findings that miss the mark completely. Each report and each section of each report, therefore, requires careful evaluation.

In reading the report in question, I found several statements which are hardly in harmony with the paragraph quoted.

There was, for example, an entire paragraph devoted to the remarkable progress in Laos, while, on the subject of Thai trawlers, the report said, "For a number of reasons the suppression of illicit traffic by Thai trawlers appears both feasible and highly rewarding; it should clearly command highest priority."

The report to which the New York Times article referred was dated February; the team was in Vietnam in January. Their findings were based on the situation that existed during the previous 6 month's to 1 year's time. So I am not challenging gospel when I tell you that my own assessment of the situation in Southeast Asia today differs radically from the quotation reprinted in the New York Times article.

Let me first give you a general statement of my findings and then I shall proceed to deal with the situation on a country-by-country basis.

Mr. Chairman, I would welcome questions at any time during my presentation, sir.

I will not tell you that all is well in Southeast Asia and that we have nothing more to worry about as far as the opium traffic in the area is concerned. The problem remains a formidable one and there are still many weaknesses to be overcome.

To the criminal element, the gigantic profits to be had from the opium trade constitute an almost irresistible enticement. For example, sir, a kilo of opium grown in Turkey, if it is sold to the government, a farmer gets $15 for it. If it is sold illicitly he gets probably $30 for it. Now, by the time that kilo of opium is changed into heroin and sold on the streets in New York, it is worth almost $40,000—so you see the people in between, who are getting it here and selling it, are making a lot of money.

Mr. SOURWINE. General, can you give us an idea of the size of a kilo?

General WALT. A kilo is 2 2/10 pounds.

Mr. SOURWINE. But in opium, what is the size of it?

General WALT. About the size of a building brick. I hoped to have a morphine brick here this morning but I don't have it; it has not been brought in yet. It may be brought in later. It is just about the size of building brick.

The traffickers are enterprising and highly organized and it is to be anticipated that they will move to sophisticate their procedures in an effort to circumvent the stepped-up security measures of the Southeast Asian governments.

The Governments of Thailand, Laos, and Vietnam are relatively new to the business of narcotics control and they suffer from a lack of specially trained customs and police officials and of logistical communications, and technological equipment. These weaknesses we are seeking to overcome through special training programs and advisory missions and through special equipment supply programs.

Some allowance must also be made for the political and social problems that have delayed regional action on the drug problem, including the fact that the Governments of South Vietnam and Laos have been fighting desperate and costly wars against the North Vietnamese invaders while the Government of Thailand has been having increasing difficulty with the Communist insurgency in its border areas.

Corruption throughout Asia is more widespread possibly than it is here in our country and this is a problem, too, that will have to be overcome or reduced to more acceptable dimensions.

But, acknowledging the dangers and the weaknesses, I still believe there is much reason for hope in Southeast Asia. There is movement there and momentum, and this momentium is in the right direction.

As the Senators know, our own Bureau of Narcotics and Dangerous Drugs maintains missions in Vietnam, Laos, Thailand, and in many other countries. We tend to take the existence of these missions for granted. Actually, the mere fact of their existence is of profound significance because it bespeaks an extraordinary degree of cooperation between their governments and ours. There is no precedent in history for an arrangement between two governments under which government A gives government B the right to station law enforcement representatives on its territory, who operate their own intelligence system and their own network of informers, offering rewards for information in a more or less public manner. About the only power they lack is the power to arrest—and here I would observe that our own BNDD men are frequently invited to accompany law enforcement squads in other countries, in an observer capacity, in raids on traffickers and laboratories.

The implications of this arrangement go far beyond permitting American BNDD officers to operate on their territory. Every government that commits itself this far automatically incurs an obligation to cooperate with us in the field of narcotics intelligence and to take action on any hard intelligence which we pass on to them.

At the very least, this degree of cooperation must be considered pretty solid proof of good faith. It would be impressive standing by itself; but there are many other evidences of good faith.

For example, both the Thai Government and the Laotian Government have agreed in principle to special aerial photographic reconnaissance of their territory so that we will know, and they will know, precisely where the opium is being grown, and approximately how much is being grown. It is my understanding that the first systematic reconnaissance flights will probably be made in December of this year and January of next year,

when the next opium crop matures and when the poppy field will have maximum visibility.

What the critics say is not completely untrue but, by and large, their criticism and the documents they quote in support of their criticism have to do with a situation that existed a year or so ago. Over the past year, however, the situation in Vietnam, Laos, and Thailand has changed radically. It would be no exaggeration to say that all three governments in this period have made the quantum jump from an indifferent or, at the best, an unmotivated attitude toward the war on drugs, to the status of allies with the United States in this war.

These are my basic observations on the situation in Southeast Asia.

The Southeast Asian drug situation must be dealt with on a regional basis. As I see it, there are five factors which contribute to the making of this situation:

The principal factor in the entire situation is the virtually total absence of any kind of governmental authority or machinery of control and repression in northern Burma, which is the heartland of the Southeast Asian drug situation.

The second most important factor is the criminal element in Southeast Asia, largely dominated by ethnic Chinese, operating in a Mafia-like manner through the old tongs, or Triad societies.

The third factor is the serious lack of experienced personnel and technological equipment, and of an established control apparatus which still hampers the efforts of the Southeast Asian governments.

The fourth factor, in my opinion, is the element of Communist involvement—in Laos, in Thailand, in Burma, and probably in Vietnam.

The fifth factor is corruption.

Looking at it from this standpoint, it is nonsense to suggest that the prime factor contributing to the drug problem in Southeast Asia is the existence of widespread government corruption.

Given the existence of the other four factors, there would still be a serious drug problem in Southeast Asia regardless of any corruption that might exist in any government.

There may be honest differences of opinion over whether corruption should be ranked ahead of the Communist factor or ahead of the lack of personnel and equipment. But I believe that no one can challenge the assertion that the Burma factor ranks first and the criminal factor ranks second in the Southeast Asian drug equation. Anyone who ignores these factors is simply not looking at the situation objectively or as a whole.

Now, sir, I would like to go to specifics on Burma.

Let me expand on the statement that Burma is the heartland of the Southeast Asia drug problem.

Burma produces by far the bulk of the opium exported from the so-called Golden Triangle.

The great majority of the refineries in Southeast Asia are located in Burma. This was so even before the recent crackdown in Laos and Thailand which obligated many of the refineries to relocate in Burma.

Burma is the prime sanctuary and base of operations for the major groups of traffickers. It is in Burma that the great opium caravans originate which are the ultimate source of 60 to 70 percent of the traffic coming out of Southeast Asia.

These facts are common knowledge, and anyone who talks about the situation in Southeastern Asia, damning Laos and Thailand but ignoring Burma, is simply not presenting a balanced picture . . . Most of the opium production in Burma, as you will see from this map, is concentrated in the Shan and Kachin States, along the Chinese frontier. The northern part of the Shan State above Lashio and east to the Chinese frontier has been the locus of the White Flag Communist insurgency which is a pro-Peking and Peking-backed group.

In a period from March to June, after the harvest but before the monsoons set in, the opium is transported to the Thai and Laotion frontiers either by trains or porters or by caravans of horses and mules. The caravans can be very elaborate undertakings.

That is a map of Burma. You can see the general location in northeastern Burma and this is the area where foreigners cannot get into; it is an area controlled primarily by the tribal and political insurgents and is definitely not under the control of the Burmese Government and this is the center of the opium growing and the heroin manufacturing activity of Burma.

When it reaches the frontier area, the opium may be processed into morphine base or heroin in the three large refinery complexes in the Tachilek area, which is situated here, or at other refineries in the tri-border area which I spoke of earlier . . .

As I said earlier, we saw from the aircraft the complexes in the Tachilek area which refine opium into morphine and heroin. This manufacture of course, takes place before the heroin is moved on down toward the Thai border and the Laotian border.

Alternatively, the raw opium may be moved into Thailand by a variety of devious routes and then transhipped by trawler from Bangkok to Hong Kong, Singapore, and other points.

The KKY and the Chinese irregular forces, who operate sometimes in competition, sometimes in collusion, are supposed to conduct the major convoy operations, while the KKY is reported to be in control of the three large refinery complexes in the Tachilek area.

Burma is a signatory of the 1961 U.N. Single Convention on Narcotics. The government appears to be unhappy about what the opium trade in its northern provinces is doing to its reputation, and it feels it is wrecking its reputation as a nation incapable of controlling the opium growing. Every once in awhile it will take a small affirmative action; it will seize some opium or destroy a few poppy-fields or put enough pressure on some of the refinery operators to induce them to relocate. But it fears to take more radical action against the growers and the traffickers because it is already having more trouble than it can handle with the current crop of nationalist and left-wing insurgencies. The result is that Burma remains an open conduit through which a constant flow of opium and morphine seeps through Thailand and Laos, in large quantities, into western Asia, while an already significant and growing flow of heroin seeps through them to America.

Because it is fearful of compromising its neutrality, the Burmese Government does not want to enter into any bilateral arrangement with the United States. This can be understood. But it may be carrying things a little bit too far when the Burmese Government even turns down an offer from us of logistical and communications equipment for a beefed-up antiopium effort on their part.

These are facts which have to be kept in mind assessing the situation in Thailand and Laos.

Now, sir, I would like to go to the country of Laos. I want to deal next with this country because there has been a lot in the news about the opium traffic there.

Laos has accounted at the most for some 100 tons of the 700 tons or 12 to 15 percent, of the opium produced annually in the Golden Triangle and it probably accounts for much less today. Most of this has been consumed locally, but a limited amount has gone into the export trade. Laos has had a much greater importance as a transit area for opium and morphine base coming from Burma and as the locus, until recently, of a number of heroin refineries.

In Laos, as in Thailand and Burma, the opium is grown by primitive hill tribes—in Laos primarily by the Meos and Yaos who have cultivated opium for generations. For them it represents their only cash crop and their only hedge against the possible failure of their rice crop. Their income from their plots of opium poppies may not run any more than $60 to $100 a year, but to a Meo family this is a very large amount which may make the difference between survival and starvation in a difficult year.

The opium is grown on mountain slopes at an approximate altitude of 3,000 feet, which seems best suited for its cultivation. As in Thailand and Burma, the tribesmen practice slash and burn agriculture. They clear an area on a hillside, burn the trees they have cut down, mulch the soil and then cultivate it for a number of years until it begins to show signs of exhaustion. Then they move on to another hillside or another area on that same hillside, and the process begins all over again.

Flying over northern Laos, I saw literally hundreds of clearings on the mountain slopes which had been devastated and then abandoned in this manner. In some parts of Laos the clearings occurred at such frequent intervals that it was as though an army of giant locusts had moved through the mountain jungles, pockmarking them with areas of total destruction. Needless to say, this is not good for the ecology of any country.

Here is a map which shows the major opium producing areas in Laos.

The area includes Phong Salv Province in the far north, Samneua Province in the northeast, and the Plaines des Jarres in Xiangkhoang Province. There was a time when these producing areas were divided more or less evenly between Meos under Pathet Lao, or Communist, influence, and Meos loyal to the Government in Vientiane. But as the Pathet Lao, with heavy North Vietnamese support, have extended their area of control, the anti-Communist Meos have been forced out of their opium lands and onto the plains, so that today the opium growing areas of Laos are overwhelmingly under Communist control. The opium agriculture in these areas, like all other agriculture, is under the village management of Hanoi-trained cadres.

In addition to the locally produced opium which was picked up from the hill people by ethnic Chinese entrepreneurs, horse and mule caravans brought large quantities of opinum into Laos from Burma. The opium was moved to processing laboratories at Ban Houei Sai and other centers; then the opium, morphine, and heroin was moved out, generally by plane, to Thailand, Vietnam, and Hong Kong.

Why did the Laotian Government not move sooner to deal with the opium traffic in its country? There are several reasons that help to explain the lag, sir.

The first reason is that until recently the Laotian attitude toward opium was as tolerant as were Western attitudes 100 years ago. Opium was not a serious problem among the Laotian people and the heroin problem was nonexistent. There was no law against growing opium or merchandising it and no law against processing opium into morphine or heroin. And so, without violating any law, a handful of senior officers, including Gen. Ouan Rathikone, former commander of the Laotian Army, could line their own pockets by engaging in the opium trade. General Rathikone was retired from the Army last July.

Second, there was the Government's almost total preoccupation with the war that has ravaged their country for more than a decade now. Beginning as a domestic insurgency, this war has in recent years evolved into an open invasion by North Vietnam, involving as many as five divisions of the North Vietnamese Army at times. For a small coun-

try of 3 million people, the many scores of thousands of military and civilian casualties have had a devastating impact.

On top of this, the Government must cope with some 235,000 refugees who have fled from areas under Communist control. In the light of these facts, perhaps some allowance should be made for an attitude which accepted the war and the refugees as the Government's first priorities.

Third, there was the factor of corruption and vested interest. There can be no question that many well-placed people in Laos, both Laotian and ethnic Chinese, were making a good deal of money out of the opium business and doing it without violating any law.

With the major scandals that we have had in some of our metropolitan cities, reaching all the way up to police inspectors and judges, we are not exactly in the best position in the world to lecture other countries on corruption. But it is a fact that corruption tends to be far more widespread in low-income countries. When police inspectors and judges who make $20,000 and $25,000 a year succumb to temptation in our own country, we should not be surprised when their counterparts in other countries who work for bare subsistence salaries succumb in substantially greater numbers to the temptation of big money.

Fourth, there is the fact that opium in Laos did not become a problem that vitally affected American interests until the heroin epidemic hit the American forces in Vietnam during the summer of 1970. It took several months before we realized what was happening and it was getting on to mid-1971 before our war against the heroin epidemic in Vietnam went into high gear. It was about this time that we began to use our influence to persuade the governments of Southeast Asia to join us in more vigorous measures against the opium traffickers.

All governments tend to move with a certain time lag. On the whole, I believe that the Governments of Laos, Vietnam, and Thailand must be given credit for moving quickly and dramatically since we first raised the issue with them on a top priority basis.

Looking at the situation which existed a years ago in Laos, no one could be blamed for deciding that ingrained attitudes ran too deep to make any serious improvement possible. But then things began to happen.

The strength of the American reaction to the news of the heroin epidemic among our servicemen in Vietnam persuaded the Laotian leaders that they could no longer afford to remain indifferent or unmotivated if they wished to retain American support. And so, on November 15, 1971, the Laotian Legislature took the revolutionary step of passing a law banning the production, sale or use of opium. All of the Meo deputies, following the leadership of Gen. Vang Pao, voted affirmatively on this measure.

Even before the law was passed, the Laotian Government had acted to curtail refinery operations, destroying two refineries and seizing large quantities of drugs in the process.

Alarmed by the evidence of mounting governmental pressure, several additional refineries closed down or moved their operations to Burma. Today, according to responsible officials who follow the situation in Laos, on a day-to-day basis, there is no evidence to indicate that there is a single heroin lab currently active in the country of Laos.

While there are unquestionably some corrupt officials in the Laotian police force and the Laotian Armed Forces, everyone in the Embassy with whom I discussed the matter, was completely convinced of the sincerity and motivation of Prime Minister Souvanna Phouma and Gen. Vang Pao and of the key officials appointed to deal with the problem of opium suppression.

In Vientiane I was able to meet with a number of the Laotian officials now involved in their country's war against opium and the opium traffickers. Among them were His Royal Highness Tiao Mankhara Manivong, President of Narcotics Destruction; Mr. Chanthaboun Luangraj, Director General of National Police and President of the Subcommission for Repression of the Narcotics Traffic; and Mr. Nith Singharaj, President of the Interministerial Committee for Narcotics Control. I had a chat with each one of these gentlemen and I may say that my conversations with them completely bore out what we had heard from Ambassador Godley and his staff, and that is, that the Laotian Government is now animated by a completely new spirit and that the officials assigned to deal with the problem have both a sophisticated understanding of it and the determination to really do something about it.

Despite the fact that they have had to build an antiopium apparatus almost from scratch, and despite the demands of the war, the Laotian Government's antinarcotics operation has drawn blood since the first of the year in the form of repeated seizures of small and large quantities of opium.

Their biggest haul to date was 89 kilos of opium—something over 200 pounds of opium. On June 14, when I was having lunch with Ambassador Godley in Ban Houei Sai on the Thai frontier, the report came in that the Lao police, acting on their own, had picked up another 12 kilos of opium in the nearby village of Ban Dan.

A recent report by the Embassy team contains language far more optimistic than any previous assessment of the situation in Laos. According to this report, the security measures instituted by the Laotian Government have surprised and discombobulated the traffickers so that there has been a dramatic reduction in the amount of traffic moving through Laos to other destinations. A direct result of the Government's drive has been a serious depression in the price of opium.

It is, of course, true that the Meo tribesmen whom we supported were opium cultivators, as were the Meo tribesmen on the Communist side. Virtually all Meos in both Thailand and Laos grow opium—because they have done so for generations, because they use it as a medicine and as an euphoric drug, because it is their one cash crop and because it can be stored against hard times.

Apart from declaring war on the Meos or forcibly uprooting them from their lands, there was no easy and immediate way of terminating opium cultivation by the Meos. An enduring solution would require resettling the Meos on a permanent basis, teaching them how to cultivate substitute crops, and providing transportation so that they could move these crops to market and giving them some kind of support during the period of transition. All of this is going to require a good deal of time and a good deal of money.

While there was much criticism of the fact that the Meos on our side were engaged in opium agriculture, I have thus far come across no criticism of the Pathet Lao and the North Vietnamese Communists for condoning and even encouraging the cultivation of opium by the Meo tribesmen under their control; or have I seen any mention of the fact that General Vang Pao's Meos have largely discontinued the cultivation of opium, in the first place because of Vang Pao's crop substitution program going back a number of years; in the second place, because the Communist advance has forced them out of their traditional lands, which were suitable for poppy cultivation, onto the plains, which are not suitable for poppy farming. Nor have I seen the question raised as to the ultimate purpose and destination of the opium which the Meos under Pathet Lao control are known to be growing. Obviously, if they are growing opium, they are not consuming all of it; some of it must be sold somewhere.

To sum up, I would like to quote a statement that was made to us by one officer in our Embassy:

"If you want to gage the progress that has been made here, you have to be in a position to compare how easy it was for the traffickers previously with how difficult it has now become for them."

I should also like to quote, in summing up, the paragraph on Laos from the so-called "cabinet-level report," the same report from which the New York Times quoted a paragraph that appeared to be highly critical of the Southeast Asian governments. While there are some highly sensitive matters in the document, dealing with informers and technology, the paragraph on Laos contained nothing that in itself warranted classification and I have, therefore, been given express permission to read this paragraph to the subcommittee. I quote:

"Surprisingly enough, the most effective antinarcotics program in the area seems to be in Laos. * * * Ambassador Godley first convinced Premier Souvanna Phouma of the great importance the United States Government attached to the antinarcotics program and made it clear that few things could hurt the cause of Laos more with the American Congress and people than anything less than a maximum effort against the illicit traffic. Souvanna was sufficiently impressed by the importance of the effort that he placed his intelligence chief, General Khamhou, in personal charge of the program. Khamhou, one of the most powerful men in Laos, had a clear charter from his chief and went to work with a real sense of personal dedication. He has been assisted by all appropriate parts of the U.S. mission. The overall antinarcotics effort in Laos appears to be making good progress; it is an example for other countries to follow."

This paragraph was never quoted by newsmen who had access to the document—the same as they had access to the paragraph that was quoted. I do not know why this is so, but from a number of experiences, I have the impression that when they quote from confidential documents, newspapermen have a penchant for quoting the bad paragraphs and ignoring the good paragraphs.

I would like now, sir, to go to the country of Thailand.

Thailand has come in for a tremendous amount of criticism in a recent spate of feature articles and TV documentaries.

My investigation has convinced me that while some of the criticisms may have had a measure of validity a year ago, there has been a dramatic improvement in the situation since that time, in particular over the past 8 months; and I hope that my testimony will help to update the information available to Congress so that Members of Congress, in making their assessments, will not have to rely on the data of a year ago.

Opium cultivation was made illegal in Thailand by a law passed on January 1, 1959; but, as we found out in our own country during prohibition, it is one thing to pass a law and another thing to be able to enforce it.

In Thailand the problem of enforcement was complicated by the fact that most of the opium is grown by primitive hill tribesmen—Meos, Yaos, Lahus, and others—who live in isolated settlements and move from hillside to hillside and who, like their cousins in Laos, rely on opium as their only cash crop and as their hedge against starvation in a bad year. The principal cultivators of the opium poppy are the Meo tribesmen. I show you here a map of the distribution of the Meo tribes in northern Thailand . . .

. . . The Thai Government has very little effective control over these people.

There is, of course, no firm figure on total

production; the best estimates are, however, that Thailand produces between 130 and 200 tons of opium a year.

The Thai Government has for a number of years now been seeking to discourage opium production by the hill tribes; but, as everyone who has been out in the area realizes, this is going to be a complex problem and it is going to require time. The optimum solution would involve helping the opium-growing tribesmen to convert their temporary settlements into permanent settlements by building roads and schools and dispensaries, teaching them to grow substitute crops which can realistically be moved to market, and assisting them during the period of transition.

In recent years the Thai Government has been going about this problem with genuine motivation. Its motivation springs in part from a desire to cut down on opium production and traffic in Thailand, in response to international criticism; but there is another important element, an element of self-interest, to this motivation.

The slash-and-burn agriculture—as I pointed out in my remarks earlier on what is happening in Laos where they are destroying the wooded hillsides—does devastating things to the ecology of a country. When the tribesmen abandon their wornout pöppy plots to move on to a new hillside, the soil is left pulverized so that with each heavy rain some of it washes down into the valley. The progressive stripping of the hillside jungles is destroying the watershed, raising water levels in the valleys beyond the point suitable for rice agriculture and silting up the dams 15 years sooner than scheduled. Thai agricultural experts are sold on the need for dramatic action and the Government itself is clearly very much concerned.

In December of last year the Thai Government signed an agreement with the U.N. Fund for Drug Abuse Control, a pioneering agreement of its kind, calling for joint planning, with U.N. support, for a project designed to eliminate opium production by the hill tribesmen through a program of village development and crop substitution. The government also set up a variety of special agencies to deal with various aspects of the drug problem in Thailand, including a special program for hill tribesmen under the patronage of the king and directed by the king's nephew, Prince Phisidet, a young man of dedication and vigor, with whom I had a long conversation in Chiang Mai in northern Thailand.

There are massive problems to be overcome in weaning the hill tribes from opium agriculture. First, there is the problem of land ownership. Traditionally, the king owns all the mountains and all the seashores of Thailand and, therefore, all hillside agriculture is technically illegal. But if the hill people are to be persuaded to shift to other crops and a more stable agriculture, they have to be assured of the ownership of the land they till. The Thai Government has been encouraging the development of permanent settlements, ignoring the technical illegality of their own position while they grapple with the legal problem of land ownership.

The second problem involves finding suitable crop substitutes. Opium is very easily moved to market and it does not take a lot of transport and it brings a large and reasonably stable cash return. Corn or fruit or market vegetables would be much more difficult to move to the distant urban markets and the prices would fluctuate widely, according to the whims of the Thai merchants. Beyond this, there is the fact that with substitute crops like tea, coffee, and fruit, it would take 5 years before the first crop came in.

Third, there is the problem of teaching the hill people entirely new agricultural techniques, including terracing and windbreaks.

Fourth, there are no educated hill people who are available for immediate recruitment as administrators or technicians and bare literacy probably does not exceed 5 or 10 percent among the hill people.

In Chiang Mai, I also had a long conversation with Mr. I. M. G. Williams, the U.N. representative who is working with the Thai Government on the hill tribe program. Mr. Williams is a dynamic man with a tremendous experience in the area. In World War II he served as a colonel with the British army in Burma and after the war he worked for many years in different parts of the Far East as an official of the British Colonial Office and the British Foreign Office.

Mr. Williams had the highest praise for the cooperation he was getting from the Thai Government, especially from his Thai counterpart, Chit Posayananda, whom we also met in Chiang Mai. Mr. Williams told me of their plans for a pilot program involving the construction of a model village with five satellite villages. The village would contain a headquarters and a dispensary and be staffed by agricultural experts who would be volunteers on the Peace Corps style.

Mr. Williams felt that despite the many difficulties there was reason for optimism. He said that there was a new mood among the hill people. They want to get away from the itinerant slash-and-burn agriculture and move into permanent settlements and get some education for their children. But he felt that the program was not moving as rapidly as it might, in part because his headquarters in Geneva insisted on the most painstaking studies before any action was taken in each case.

The government has pushed its efforts to the point where it has aroused open resentment among the Meos, making it markedly easier for the Communists to recruit Meo tribesmen for the guerrilla insurgency which has plagued northern Thailand for a number of years now. The Communists come to the Meos and say to them, in approximately these terms: "The government is trying to prevent you from growing opium poppies, which you have always done and which is your right. They are trying to take your only cash crop away from you. Come with us and we will let you grow opium poppies."

On the basis of such agitation and with cadres trained in Hanoi and Peking, the Communists have been able to establish fairly effective control over a strip of land perhaps 150 miles long by 25 to 50 miles deep along the northernmost portion of the Laotian frontier.

The Communists have about 3,000 guerrillas in the area who are extremely well equipped. We were told that they have AK47 rifles which are comparable to our M–16's, 60 and 81 millimeter mortars, B40 rockets, 57 millimeter recoilless rifles, and rubber landmines and booby traps similar to those used by the Vietcong. There is reason to believe that the movement is directed from China, among other things because the supporting propaganda operation, the Voice of Free Thailand, is located there. The Voice of Free Thailand has transmitters capable of reaching all the way to Bangkok and it carries sophisticated programs of music, news, and propaganda in both the Thai and Meo languages.

I have heard the question asked repeatedly how so much opium could be coming through Thailand if the Thais were really trying to stop it. While there is a lot of room for improvement in Thailand, I think the basic answer to this question is given by the fact that the powerful United States of America, with the largest, the best-trained and the best-equipped customs agency and drug repression agency in the world, is able to intercept no more than 15 percent to 20 percent of the drugs coming into this country.

In Saigon, before I left for Thailand, an earnest young newspaperman came to see and said that he was convinced that so much opium could not be entering Thailand from Burma without the complicity of the customs authorities at the border. There are only four customs posts on the Burma border and there are literally hundreds, if not thousands of jungle trails. The smugglers don't have to pay bribes to get by customs; there is a simpler, easier, and cheaper way of getting their stuff into Thailand. Once they get into Thailand, to avoid ambushes by the Royal Thai Army, they traverse a network of trails along remote mountain ridges, traveling mostly at night and rarely following the same route on any two trips.

In Thailand, as in other countries, I asked the BNDD representatives whether they were able to share drug intelligence with their counterparts and whether the Thai authorities took action on the information they were given. They told me that the Thai authorities had never violated a confidence, that BNDD did share their intelligence with them, and that the Thais did follow through vigorously whenever they were given a lead.

I also asked about the charges of corruption in high places. I was assured categorically by the American drug control officials that they have absolutely no information pointing to the involvement of anybody in the Thai Government at the policymaking level.

Any government can be made to look bad if one focuses only on the failures and weaknesses and on unfounded allegations against that government; but I believe every government is entitled to credit for its record of positive accomplishments; and after my visit to Thailand, I am convinced that some of the accounts that have appeared in our media have failed to give the Royal Thai Government credit for all that it has done, especially over the last year, to help bring the flow of drugs under control on a national and international scale.

I have already mentioned Thailand's agreement with the United Nations. Thailand was also the first nation to enter into an agreement with the U.N. Committee for Drug Abuse Control, and together they are now engaged in a pioneering international project aimed at the suppression of opium cultivation through education and crop substitution.

The memorandum of understanding of last September between the Thai Government and the United States Government was the first document in which two countries jointly committed themselves to an all-out battle against the international drug traffic.

In April-May of this year, the Royal Thai Government, with United States technical and logistical assistance, created a special mobile enforcement unit designed to interdict narcotics in the north. This operation now has five offices in northern Thailand.

During the first week of June, acting on its own intelligence, it struck a major blow against the drug traffickers with the seizure of 1,600 kilos of opium concealed in the wells of tank trucks, as well as a large amount of chemicals used in the manufacture of heroin. I have some pictures here showing trucks and opium seized in Lampoon. It is a regular oil tanker truck in which they found the stuff. There is the material, 2 tons of it, that they captured.

The Thai police officials took me to see the tank trucks and the seized bales of opium. It was an awesome thought to realize that when this stuff is converted into heroin, the amount seized would be worth some $60 million here in the United States on the streets of New York, and that literally thousands of human lives could be destroyed or wasted as a result of this drug.

Following up on the seizure in northern Thailand, the largest opium seizure made until that time in Thailand, Bangkok police several days later seized the first No. 4 heroin laboratory discovered in the city. There had been many other seizures, large and small

of heroin and opium prior to my arrival in Thailand.

Two weeks ago the papers carried the news that the Thai authorities had seized another 2.5 tons of opium and another No. 4 heroin laboratory.

Mr. SOURWINE. What does that mean; No. 4 heroin laboratory?

General WALT. That is the pure—that is the white stuff and the most difficult to make.

One of the greatest problems the Royal Thai Government had to contend with involved the activities of the Chinese Irregular Forces—CIF—along the northern Thai frontier. It had been common knowledge for years that these forces were heavily involved in the flow of opium. The Royal Thai Government in March of this year moved to resolve this problem by granting resident status and resettlement assistance to the several thousand members of the CIF in Thailand in return for their promise to get out of the opium business completely and turn over their stocks of opium.

Now, these CIF forces—Chinese Irregular Forces—sir, came out of Mainland China at the time of the Communist takeover there, and they have been without a home and without any place they could call a home. And so the Thais took advantage of this and they offered them a home and they gave them land—if they, in turn, would turn over to the Thai government the opium that they had on hand, and would get out of the opium growing business. This was a businesslike deal.

The resident status was a particularly precious item of exchange for the CIF because they had up until then been suspended in a condition of statelessness. The resettlement assistance included the grant of a tract of land away from the Burmese border, an agreement to build essential structures and roads, the provision of livestock and equipment, plus cash aid over a period of several years until the settlement became self-supporting. All told, the Thai government committed itself to some $1 million in assistance.

The CIF, on conclusion of this agreement, turned over to the Thai government 26,245 kilograms, or 26 tons of opium, which was publicly burned on March 7 of this year. For some reason this event received virtually no mention in the American press despite the fascinating history of this political-economic swap and despite the staggering amount of opium involved. At the current street price of $390,000 per kilo, this amount of opium, converted into heroin, would be worth approximately $3 billion. The amount of heroin equivalent which the Thai government negotiated off the world market in this transaction was far greater than the total amount of heroin seized by all the free world's enforcement agencies over the previous 12 months.

The news blackout of this incident is something that defies comprehension. I have had the Library of Congress research the matter and they tell me that they have been unable to find any article about the incident in 10 or 12 major newspapers which they checked.

Mr. Chairman, recently some question was raised about whether the 26 tons of opium burned actually was 26 tons of opium. I have here a few photographs I would like to show you of the preparation for the opium burn and of the actual burning.

This is the preparation for the burning. You will note the opium is on top and under the opium are piles of logs that are going to be used as fuel for the burning process. This shows the entire lot piled out on the vacant area where the burning is going to take place. This is a picture of the actual burning. There is nothing left there but the charred logs.

Mr. Ingersoll is going to elaborate on this in a few minutes.

I would like now to ask, Mr. Chairman, that my testimony be interrupted so that you can take the testimony of Mr. John Ingersoll, the director of BNDD; Mr. William Wanzeck, until recently director of the BNDD bureau in Bangkok; and Mr. Joseph Koles, forensic chemist for the BNDD, on the steps they took to make certain that the 26 tons of opium that were burned was really opium and that they were not burning hay or something else. I respectfully suggest that these three witnesses be called to the stand in a group.

EXCERPTS FROM GENERAL WALT'S TESTIMONY ON THE WORLD DRUG TRAFFIC BEFORE THE SENATE SUBCOMMITTEE ON INTERNAL SECURITY, SEPTEMBER 14, 1972

I have prepared this special map of Southeast Asia, including Burma, because I wish to enlarge on my initial presentation.

Fact No. 1 that emerges from this map is that in Laos the communists occupy some 80 to 90 percent of the opium growing areas. The diagonal lines indicate the areas under communist occupation, and the heavy black boot-shaped line indicates the major opium producing area. Obviously, the Meo tribesmen who now produce their opium under communist control aren't "eating" it all.

Fact No. 2 which emerges from the map, is that the communist-led guerrillas in Thailand are in effective control of an important stretch of opium producing land along the Laotian frontier. The diagonal shading on the Thai side of the frontier indicates the area under communist control.

In both Thailand and Laos, the villages where the opium is grown are controlled by communist manager-cadres, trained in Peking and Hanoi. Both movements are armed to a large degree with Chinese weapons, and both have their major radio propaganda operations based on Chinese territory. The money which they make from selling opium is used to support their respective insurgencies.

A highly interesting feature of the current political situation in southeast Asia is this road, marked with a double line, which 25,000 Chinese communists have been building across northern Laos in the direction of the Thai frontier. Eight meters wide and hard-surfaced, the road is now only 50 miles away from that portion of the Thai frontier where pro-Peking guerrillas are already in control. The road is reported to be very heavily protected by radar and anti-aircraft batteries.

The Communists component also plays a vital role in the Burma drug situation. Burma, as I pointed out in my previous testimony, is the single most important factor in the southeast Asia drug situation. This is where most of the opium is grown, it is where most of the refineries and traffickers are concentrated, and it is the ultimate source of most of the morphine base and heroin, as well as raw opium, that comes out of southeast Asia. The Burmese government is unhappy about the situation, but there are several major insurgencies in the area which prevent it from exercising any effective control.

Most of the opium in Burma is grown in the Shan state, which you see here. Some is also grown in the Kachin state to the north. Both the Shan tribesmen and the Kachin tribesmen have been in a state of insurgency against the Rangoon government ever since Burma became independent. But by far the most serious insurgency in the area is the white flag communist insurgency, which is under the immediate control of the Burmese Communist Party and of Peking. Here again, it is Peking which has armed the insurgents and trained their leaders, and which supports them with a China-based radio operation.

Over the past year, the white flag communist insurgency has grown to the point where it absorbs probably 80 percent of the total counter-insurgency energies of the Rangoon government, in northern Burma.

The Shan and the White Flag Communist insurgencies overlap each other. The heartland of the Shan insurgent movement is shown on this map in the area surrounded by a wavy line. The White Flag Communists are in pretty solid control of the area east of the Salween River, marked in lighter shading.

All of the armed groups in Burma, pro-Communist and anti-Communist, have been involved in the drug trade. This goes for the Shan and the Kachin insurgents: for the anti-Communist KKY or Burmese self-defense force, and for the Chinese irregular forces: and for both the White Flag Communists and the Red Flag Communists, a smaller group which is supposed to be under Trotskyist influence. Opium is the nearest thing these groups possess to gold—and they have all used it with abandon to purchase arms and support their activities.

The situation has been marked by a strange division of labor and by some highly enterprising, if unprincipled, accommodations between the rival factions. The KKY and the CIF are the dominant forces in the Thai-Laotian border area. Both of these forces have been heavily involved in the transport and smuggling of opium, and the KKY has also been heavily involved in the refinery operation. On the other hand, most of the opium in Burma, as I have pointed out, is grown by Shan tribesmen, under the control of the Shan states army or under the control of the Communists.

The shaded area which the communists control east of the Salween River is reputed to be the most fertile opium producing territory in the whole of Burma and is credited with some 25 percent of Burma's total production. Burma's production is estimated at some 400 tons a year, but the tribesmen use most of it for themselves, exporting only some 100 to 150 tons. Because it produces the largest surplus of any area in Burma, the territory under communist control may be responsible for as much as 40 to 50 percent of Burma's entire opium export.

How does the opium get from the areas where it is grown to the Thailand-Laos border? Obviously, it has to change hands in order to do so: It has to get from the Shan insurgents and from the white flag communist Shans into the hands of their hated enemies, the KKY and the CIF. To permit the consummation of these mutually profitable transactions, clearly, hostilities must be temporarily suspended by both sides. The town of Lashio—shown here on the map—is the principal exchange point, where the producers deliver their opium and where the caravans form up to move the opium south to the tri-border area.

In view of the fact that Peking mothered the white flag communist movement and that it still controls them, it cannot escape moral responsibility for their role as prime producers in the Burma opium traffic. Moreover, the act of this insurgency places the Burmese government in the invidious position of not being able to enforce its own laws in the area, and of having to tolerate opium trafficking by the regional military forces which oppose the communists.

This is a situation which calls for some plain talk—all the more so because China has now been brought into the world community of Nations.

WHAT SENSE TO THE VIETNAM WAR?

Mr. MONDALE. Mr. President, another monsoon season will soon be over in Vietnam.

But the tragedy of the war goes on. Indochina has been turned into a grim and sordid theater of the absurd, where

every act is masked in falsehood, pretense, and illusion.

Where is the sense in it all?

We are fighting, so we are told, to get out of Vietnam.

Our combat troops have left Vietnam, and we might almost believe that the American presence has been ended. But we are fighting a newer war, a commuter war, shuttling daily between Hanoi and our sanctuaries offshore and in Thailand. Our deathly shadow still lies across Vietnam.

It is not enough to talk about Vietnam, as though our war in that plagued country did not now have its roots elsewhere. Nearly 100,000 Americans wait on the perimeters of Vietnam to carry on the war in our name. We do not know with certainly whose orders they may follow. The Lavelle revelations tell us we cannot be sure.

We are fighting, so we are told, to defend an ally—to show, as the President likes to say, that we will never betray our friends.

But this ally has turned his back on us. He has made a travesty of the democratic principles that we once urged on him.

He has sought refuge in martial law and rule by decree. A year ago, he turned his own election into a farce. Now he has simply canceled local elections—and abandoned the last poor pretense of democracy.

On his behalf, we send 300 airstrikes against North Vietnam every day. And on his behalf, we are now mining the waterways of the South. No matter that his people may depend on them—U.S. mines will keep the North Vietnamese from moving supplies southward by boat.

We are fighting, so we are told, to secure the release of our prisoners.

Yet in the months since the President ordered the resumption of the bombing, a merciless bombardment unprecedented in human history, we have lost prisoners at a rate unequaled since 1967.

In the first 3 years of this administration, 36 men are known to have been taken prisoner. In the first 3 months of 1972, seven men were officially lost. Since the resumption of massive U.S. bombing of the north in April, 48 men were reported to have been taken, 24 of them since July 1. Fifteen were reported in the month of August alone.

These figures tell us that more men were taken prisoner last month than in all of 1971.

More were taken prisoner over the last 2 months than in the past 2 years.

More have been taken prisoner over the past 5 months, in that very period of bombing intended to secure the release of our prisoners, than in all the other 39 months of the Nixon administration.

If we continue to lose men at this rate, we will have lost over 100 men to POW status within a year's time.

So we continue to play out the tragedy. We are bombing to defend our troops; bombing to bring our prisoners home; bombing to insure the survival of President Thieu.

Since 1969, we have achieved a single objective—the survival of President Thieu—at a cost of more than 20,000 American lives, 4 million civilian refugees, and 165,000 civilian deaths in South Vietnam alone.

The statistics numb the mind. Like the images of villages destroyed, families running for their lives, children fleeing in terror from a napalm strike, they have become part of our daily life.

After all, we are told, the cost of the war is down to $20 million a day.

We are being asked to accept the war as merely another inconvenience of modern living. There is less and less talk of turning the corner or glimpsing the light at the end of the tunnel. There is more talk of next year, or 2 years more, or 4 years if necessary.

Two months ago a New Yorker columnist noted sadly:

> The war has become part of America's business as usual . . . so much a part of our lives that we scarcely notice it any longer. The war cannot now be seen as something we are doing; it is what we are.

It is this dull acceptance that hurts us most. And we vote today to reaffirm our conviction that the war in Vietnam must not be the measure of our Nation.

URBAN MASS TRANSPORTATION AUTHORITY CRITERIA FOR SELECTION OF PROJECTS

Mr. ALLOTT. Mr. President, I have spoken many times about the criteria which UMTA proposes to use in the selection of projects for capital grants. My views opposing these criteria are well known and if the voters of Colorado see fit to return me to the Senate this November I expect to introduce legislation next year to deal with this problem.

Meanwhile one of the Nation's most widely respected transportation consultants, Mr. Stewart F. Taylor, makes some very cogent comments concerning the new criteria in the September 18, 1972, issue of Transport Central. Mr. Taylor analyzes exactly the problems I have articulated with respect to the UMTA policy.

I ask unanimous consent that Mr. Taylor's article be printed in the RECORD.

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

UMTA CRITERIA CONSIDERED PROBLEM

(By Stewart F. Taylor)

"The press gave wide play to a recent setback suffered by the rail transit industry when the U.S. Senate Public Works Committee pried open the Federal Highway Trust Fund for bus projects but refused to allow any for rail systems. Less publicized was another blow struck by the Executive Branch in Washington.

"The Urban Mass Transportation Administration (UMTA) has recently published a 33-page document entitled, 'Capital Grants for Urban Mass Transportation.'[1] 'The booklet describes application procedures, the criteria for selecting projects, and the bases for determining the amount of a grant.

"In a section on guidelines there is a statement of 'objectives' on which the project selection system is based:

'1. To reinvigorate public transportation.

'2. By providing better general service and developing special services, to provide greater mobility for substantial groups of people who are totally dependent on public transportation.

'3. To promote transit as a positive force in influencing and supporting desired development patterns in urban areas and in improving environmental conditions.'

A LIMITED CHOICE

"These appear to be enlightened goals to which most leaders and planners would subscribe. But when you get into the guts of the criteria you will find a rather narrow bus bias.

"Any applicant area seeking a grant would be tossed into one of three Standard Metropolitan Statistical Area (SMSA) population categories: under 250,000; 250,000 to 1,000,000; and over 1,000,000. The key sentence indicating U.S. DOT's attitude can be found in the description of that last ('large system') category of over 1,00,000: *'Applications for rail projects will be placed in this category regardless of metropolitan area size.'* [*Italics mine*].

This statement is reinforced by a list of projects which would be given priority in medium-sized areas (250,000 to 1,000,000). Among the more significant:

1. Those helping to prevent a total halt in service.

2. Those related to Federal Highway Administration (FHWA) TOPICS and FHWA-UMTA Corridor Demonstration Projects. Examples: 'Bus lanes,' 'buses to control traffic lights,' and parking spaces . . . in conjunction with terminals for express or improved bus services.

BEYOND THE PALE

'What is the significance of these pronouncements? It appears to mean that the 90 SMSA's throughout the United States with populations between 250,000 and 1,000,000 will have an uphill battle—to say the least—in seeking federal assistance for rail or other grade separated systems. But let us be more realistic and look only at areas between 500,000 and 1,000,000. There are still 31 in that group, including Providence, R.I. (910,781), Columbus, O. (916,228), and Albany-Schenectady-Troy, N.Y. (721,910).

"It means, for example, that recent studies to determine the feasibility of low-cost rail service in Rochester, N.Y. (882,667) and Dayton, O. (850,266) could have the rug pulled out from under them. It means, moreover, that any attempt for assistance to extend the much-lauded M&O Subway in Ft. Forth, Texas would be greeted with a cold eye.

"It is more than a little ironic that many a DOT official has made the junket to Europe and apparently failed to note the successful application of grade-separated rail systems in dozens of cities with populations under 1,000,000—many with less than 500,000.

"UMTA's stance is disheartening. Worldwide trends make it clear that urban rail systems attract greater, sustained ridership, are less detrimental to the environment and exert a stronger influence on orderly urban growth than do buses. And regardless of labels, when an area institutes transportation improvements which are primarily highway oriented, the long term beneficiary is the automobile.

[1] June 1972, Information for Applicants, U.S. Department of Transportation, Urban Mass Transportation Administration. Washington, D.C. 20590. (No document number indicated.)

THE NEEDLESS KILLING OF OCEAN MAMMALS

Mr. HARRIS. Mr. President, contrary to what any of us thought before we were

elected to the Senate, legislation is seldom accidental, hardly ever divinely inspired, and never historic in the sense of new subject matter.

Since I came to the Senate 8 years ago, we have been dealing with age-old questions, albeit in new ways, of war and peace, of maldistribution of wealth and income, of help to peoples or nations, and of delivering services to all our people. In essence, redefining and rethinking all the great issues of our time.

Today, however, I rise to pay tribute to a truly rare and historic piece of legislation, the inspiration behind it, and to share with you its genesis.

I am speaking of the so-called Ocean Mammal Protection Act. In March of 1971, I joined 25 Senators and Representative DAVID PRYOR and 100 of his House colleagues introducing S. 1315, a bill which would have simply outlawed the killing of all ocean mammals by U.S. citizens and banned the imports from other countries of products from these mammals killed by other nations. The bill as passed, which I assume will now go to the President, fell far short of those simple ideals. But the war against this needless killing of ocean mammals is not over and the main reason for that is the existence of one Miss Alice Herrington of New York City.

Miss Herrington was, if you will, the mother of this ocean mammal protection legislation. No one before last year had even tried to introduce such a sweepingly simple bill—which in essence said "we are going to stop the senseless and needless slaughter of ocean mammals." But that is the way Alice Herrington thinks.

Alice Herrington has spent over 20 years in the humane movement. She started out working on local dog and cat spaying programs because she was concerned with the over-population of these animals in metropolitan areas and their consequential lack of care. She then started working in New York and other States on State humane legislation, passing legislation and harassing minor officials into doing their jobs to protect and treat humanely all of our animals.

In 1971, Alice Herrington, who is president of Friends of Animals, decided that she wanted to get some things done on the national level. She created the Committee for Humane Legislation, became its president, too, and came to Washington. She hired two capable Washington attorneys to draft what was to be the Ocean Mammal Protection Act. She got some volunteer and part-time lobbyists and they marched on Capitol Hill.

Well, the rest is history. But only the first chapter. For the first time in the history of our American Congress, we Members had to focus on a subject we would have rather ignored—that we and our Government, directly and indirectly were needlessly slaughtering hundreds of thousands of ocean mammals. These slaughters were taking place under the guise of "management" and "conservation." And huge interests had grown up around them. There were Faulk Fur Co. and furriers in New York; the dog and cat food people; the tuna fishermen; the Government bureaucrats whose livelihood depends on their "management" of these slaughters and many others. She took on all the vested interests. She has made enemies who would depict her as one of "your little old ladies in tennis shoes." And they banded together, and they won the first round.

But did they really win? I think not. Because of the public clamor which has begun because she brought back the first film from our own Pribiloff Islands stripping the mask of "harvest" from the brutal seal slaughter; she showed the first pictures of the killing of the baby white coat seals in the Gulf of St. Lawrence; she proved that the Departments of Interior and Commerce figures as to the size of the seal herd were wrong and so were their statements as to how humane they really were by killing off the old, sick, and the tired. She has brought these facts into every living room in America by television and newspaper. And because of that, Government has slowly started to respond.

The Interior Department put the great whales on the endangered species list. The State Department, feeling the rise of public opinion, pushed the International Whaling Commission to agree to reduce this next year's worldwide whaling kill by 30 percent. And the last U.S. whaling company's permit has been rescinded, putting the United States out of the whaling business. The Commerce Department has announced a $250,000 research program to attempt to reduce the killing of dolphins and porpoises incidental to tuna fishing. And Commerce is seeking a total ban on seal killing on one of the two Pribiloff Islands. The House has now passed a moritorium on the harassment and killing of polar bears and hopefully the Senate will act quickly in the same manner.

The bill itself was far from a total waste of effort. If signed as is, taking and killing of ocean mammals will be much harder, and if it occurs, public hearings will have to be held and the bright light of public scrutiny and opinion will be brought to bear on all who insist on this brutality. The fashion designers, the retail stores and the consumer are all starting to play a role. Many people are now refusing to buy coats made from seal skin or other ocean mammal products. Recently, no less than the famous Christian Dior censored his American opening by taking out all furs from the endangered species list, fearing American consumer reprisals.

No, the battle is just beginning. And the vested interests have every reason to be worried. For everywhere they turn and in everything they do they will hear the footfalls of the greatest of all "the little old ladies in tennis shoes." Alice Herrington is an implaceable foe. She will not compromise on what is right. And she knows that today's young people are with her. She knows that time is with her. She will prevail, and with the help of the other truly humane organizations, such as the Humane Society of the United States, Friends of the Earth, Fund for Animals, American Horse Protection Association, World Federation for Protection of Animals, National Parks and Conservation Association, Society for Animal Protective Legislation, Sierra Club, Defenders of Wildlife, International Society for Protection of Animals, Environmental Action Council, Environmental Political Committee, a true protection bill for all ocean mammals will ultimately pass this Congress.

Alice Herrington and those working with her have brought all of us to an awareness that, if we can wind down the spiral of brutality of the acts man commits on nature, maybe we can wind down the brutality against our brothers in mankind. I will not be here next year, but you can be sure Alice Herrington will, and somehow her message through her tenacity and patience and ultimate right will win out.

I am proud to have played a small role in one of her efforts and I salute her and the Committee for Humane Legislation for helping us all try to be better citizens of our world.

THE SPENDING CEILING AS A PART OF THE DEBT LIMIT EXTENSION

Mr. ROTH. Mr. President, I am delighted to see that the House Ways and Means Committee overwhelmingly approved the spending ceiling as a part of the extension of the national debt limitation.

In a 20 to 5 vote yesterday, the committee adopted a no-holes ceiling of $250 billion using precisely the language I have been sponsoring in the Senate for over 6 months. If enacted into law, this will give the administration the absolutely necessary power to keep fiscal year 1973 outlays at or below the $250 billion mark.

Let me say, though, that I would be happy to see the Finance Committee report a stricter ceiling, for even at $250 billion, I feel the Federal budget may seriously jeopardize our domestic economic recovery. If we can successfully shepherd a lower limitation through the Senate, I will certainly support it, provided it contains the "no-holes" and no-qualifications language I have long recommended.

I will oppose, though, any efforts to weaken the limit by adding exceptions for any program category, or by putting in "stretch" clauses which allow the ceiling to float higher if future appropriations exceed the budget request. We must get serious about these galloping deficits, and the only way that I see to do it is by imposing the strict discipline of my language.

I have spoken many times before on this issue, but I would like to remind Senators that a vote against this discipline is a certain vote for a tax increase. Obviously we cannot guarantee that with such a ceiling there will not be a need for higher taxes, but without the spending lid, there will surely have to be greater tax levies. And these will not come from the "soak-the-rich" plans we have heard so much about, $20 to $30 billion in additional revenues will have to come out of every taxpayer's pocket.

Mr. President, we are all aware of the encouraging economic gains achieved within the last 6 months. More people are at work than ever before in our history; the average weekly paycheck now buys more, even adjusted for inflation; and key industries, such as homebuilding, are returning to a healthy and active state. If we, in Congress, or the administration fail to impose this needed spending restraint, we run the serious risk of undoing these measurable improvements. Worse still, we could, by irresponsible action, undermine the growing confidence of the American consumer and businessman. Their belief in the equity of wage and price controls, and their desire to take positive expansionary steps, could be quickly choked off by a Congress that refused to set the necessary spending example.

Lastly, Mr. President, I congratulate the distinguished Representative from Oregon (Mr. ULLMAN). At his suggestion, the Ways and Means Committee approved the creation of a bipartisan joint congressional committee to study the problems of budgetary control, and to submit to the separate Houses a plan whereby we can help prevent the need for this last minute emergency action. I have long been an advocate of better methods to manage the world's largest budget, and sincerely hope the Senate will recognize the wisdom of such a joint endeavor.

THE BALLOT

Mr. ALLOTT. Mr. President, in this political year of years, I believe it is proper for us to take a moment's respite from the rhetoric to reflect upon the true significance of that common phrase we constantly hear, the right to vote. I regard this right to vote the highest privilege that we, as citizens, possess. I have spoken many times in this Chamber in favor of the extension of this right to the citizens between the ages of 18 and 21. I was privileged to be a cosponsor of Senate Joint Resolution 7, which extended the right to vote to those 18 and over.

It is for this reason that I ask unanimous consent to have a poem printed in the RECORD. It is a poem from the very gifted Milford E. Shields, Poet Laureate of Colorado. I believe his poem is worthy of the consideration of the new voters as well as those of us who have already exercised this privilege.

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

THE BALLOT

I am the great and silent voice,
I am the written will of man,
I am the witness of his choice,
I am the power of his plan,

I am the just equality,
I am the right men understand,
I am the keeper of the free,
I am the future of the land.

HUNTING AND FISHING DAY IN ALASKA — PROCLAMATION BY GOV. WILLIAM A. EGAN

Mr. GRAVEL. Mr. President, Alaskans in general are among the most conservation conscious people in the Nation. Our State provides nesting and breeding grounds for the most widely distributed wildlife in the world. On our rocks and shores, birds from three continents—North and South America and Asia—renew their life cycles. Sea mammals cruise our shores and bear their young. Some of the world's most majestic land mammals are found within our State.

Alaska's State department of fish and game has long worked to preserve and protect these natural resources through careful management and wise use of conservation techniques. Gov. William A. Egan declared September 23, 1972, as Hunting and Fishing Day. In recognition of our citizens who hunt and fish, I would like to join him in the rededication to the wise use of our natural resources and their proper management for the benefit of future generations.

Mr. President, I ask unanimous consent that Governor Egan's proclamation be printed in the RECORD.

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

PROCLAMATION—HUNTING AND FISHING DAY

Alaskans, living in a great land abundant with fish and wildlife, have traditionally followed the recreational pursuits of fishing and hunting.

Alaska's hunters and fishermen have been leaders in major conservation programs designed to perpetuate our fish and wildlife resources. Outdoor sportsmen have formed national conservation organizations to work for the wise use of our natural resources, such as the National Wildlife Federation, Ducks Unlimited, the Izaak Walton League, and many others.

Hunters and fishermen have provided for the improvement of wildlife resources, supporting wildlife protection and management efforts in the Nation. Revenues realized from the sale of licenses, tags, permits, and stamps have been used by states to protect and manage all wildlife and fish resources, including endangered species, not just game animals. Hunters and fishermen purchased nearly 194,000 licenses, tags, permits, and stamps in Alaska last year. Additional monies for the improvement of fish and wildlife are derived from manufacturers' excise taxes on sporting arms and ammunition and on certain fishing tackle items purchased by sportsmen.

Alaska's hunters and fishermen provide a valuable asset to the economy of the State and to the well-being of all citizens by encouraging good citizenship, conservation education, and good sportsmanship. Outdoor sportsmen have promoted proper respect for private as well as public property, of courtesy in forest and field, and in firearm safety and boating safety programs.

Therefore, as Governor of the State of Alaska, I, William A. Egan, do hereby proclaim September 23, 1972, as Hunting and Fishing Day in Alaska and urge all of our citizens to join with sportsmen-conservationists in a rededication to the wise use of natural resources and their proper management for the benefit of future generations. Further, I urge all citizens to visit sportsmen's clubs to learn more about conservation and outdoor skills.

CONGRESS CUTS NIXON BUDGET AGAIN THIS YEAR AS IN ALL PAST YEARS

Mr. PROXMIRE. Mr. President, the $4.4 billion cut Congress has made in President Nixon's budget requests for appropriations makes the President's charge of a "big spending" Congress clearly in error.

Every year at this time the President and his chief budget officials charge that Congress has gone on a wild spending spree. But every year for the past 4 years, and in fact every year for the last 25 years, Congress has cut President Nixon's and every President's budget requests.

The latest figures show that Congress has already cut $4,443,253,150 from the President's total appropriation requests for $172,462,672,599.

INCREASES MORE THAN OFFSET BY CUTS

While Congress increased funds for health and education by $835 million, and made smaller increases for agriculture, environmental and consumer protection, Interior, disaster relief, and some others, it has cut a whopping $4.4 billion from the military budget, $968 million from foreign aid, and $383 million from military construction, which more than offset the increases.

President Nixon and his administration charge us with "big spending" whenever we increase funds for the human needs of the American people, but gloss over the dramatic increase in military funds both requested and spent in this fiscal year.

PRESIDENT CONTROLS OUTLAYS

The problem is that while Congress has control over appropriations, the President has control over spending or outlays. This is why the Pentagon has spent more than $20 billion more than Congress has appropriated for it over the last 5 years. This is why military outlays will increase even though Congress has cut the military budget. If the President wants to cut spending, he should take the ancient advice, "Physician, heal thyself."

The big spending increase is a product of the President's actions. With a word to Mr. Weinberger or at the stroke of a pen, he can cut $10 billion from this year's spending.

Because the Senate will pass a defense appropriation bill with no significant increase over the House cut, and because the Senate will cut the foreign aid bill far below the President's request and near the House figure, I can confidently predict that when we finish, Congress will have cut President Nixon's request for appropriations by over $4 billion and probably by $4.5 billion.

CONGRESS REORDERS PRIORITIES

What Congress has done is to reorder the President's priorities. While he has frozen funds for housing and human needs, and spent lavishly for military weapons and the bombing of North Vietnam, Congress has cut his military budget and used a part of the funds to help the American people.

M'GOVERN'S $4 BILLION DEFENSE CUT AMENDMENT VINDICATED

The $4.4 billion cut in military appropriations also vindicates the stand which Senator McGOVERN and those of us who have been fighting excessive military spending have taken. Only a short time ago, Senator McGOVERN offered an amendment in the Senate to cut military appropriations by $4 billion. This was defeated when only a single Member of

the President's party voted for that amendment.

But now the House committee has gone Senator McGOVERN one better and has cut $4.4 billion from the military bill. From my knowledge as a member of the Senate Appropriations Committee, the Senate committee will sustain that cut.

We have proved McGOVERN right—in spades. The President of the United States has been wrong in charging Congress with the big spending which he should attribute to himself.

SHOULD CUT MORE

From my own point of view, I would cut even more—in space spending, highway spending, wasteful public works and water reclamation projects, for impacted school aid, and from the $63 billion annual bill for subsidies for big farmers, big shippers and others.

But we have the right and duty to set the record straight. When all the figures have been added up, Congress has made the President's charge of a "drunken sailor Congress going on a wild spending spree" look absolutely ridiculous. We have cut the President's budget requests by $4.4 billion. I hope we can cut them even more before we adjourn."

Mr. President, I ask unanimous consent that an editorial from the Thursday, September 21 issue of New York Times entitled "Resetting Priorities" be printed at the end of my remarks. At the time the editorial was written, Congress had acted on only $169 of the $172 billion Presidential requests.

I also ask unanimous consent that a table prepared September 21 by the House Committee on Appropriations, giving the details of the $4.4 billion cut by Congress, be printed in the RECORD.

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

RESETTING PRIORITIES

It is impossible to divorce politics from the cat-and-mouse game Congress and the White House are playing on Federal appropriations for health, education, welfare and labor. But, once that fact of Washington election-year life is acknowledged, it must be recognized that the sounder priorities in these areas are now being followed on Capitol Hill.

In passing a scaled-down substitute for the funding bill President Nixon vetoed last month, the House has made an earnest effort to balance its own conviction that more money is needed for schools and health services against the Administration's pressure for a holddown on domestic spending. However, the House decision to cut in half the $1.8 billion Congress originally added to the H.E.W.-Labor Department budget request goes a bit too far toward meeting the pressure for economizing in the wrong places. There is every reason to suppose that the Senate will favor restoration of some sacrificed items.

An analysis of House action on the appropriations measures sent to it by the White House this year indicates that the legislators have shown considerable responsibility in recognizing the need for trimming governmental expenditures without ignoring the need for facing up to pressing governmental obligations.

Even with the $836-million increase the House still proposes for the H.E.W.-Labor outlay, the over-all record shows a cut of more than $4 billion in the $169 billion of Administration requests acted on thus far. The reductions have been almost totally in the swollen defense budget, highly susceptible to sound cutting, and in the Appropriations Committee recommendation for foreign aid, a more questionable area for trims—especially since most of the cuts are in economic, as against military, assistance.

The central direction of budget changes on Capitol Hill has been toward greater emphasis on meeting neglected needs at home—a shift that has been much too long in coming. The revised bill enacted by the House to finance education and other vital domestic services represents a minimal estimate of what the Federal Government should provide in these fields.

ACTIONS ON BUDGET ESTIMATES OF NEW BUDGET (OBLIGATIONAL) AUTHORITY CONSIDERED IN APPROPRIATION BILLS, 92D CONGRESS, 2D SESS., REVISED TO SEPT. 21, 1972

[Does not include any "back-door" type budget or spending authority in legislative bills; or any permanent (Federal or trust) authority, under earlier or "permanent" law,[1] without further or annual action by the Congress]

Bill and fiscal year	House actions			Senate actions			(+) or (−), latest action compared with budget request
	Budget requests considered	Reported by committee	Approved by House	Budget requests considered	Approved by Senate	Enacted	
A. Bills for fiscal 1973:							
1. Legislative (H.R. 13955)	$433,627,004	$427,604,764	$427,604,764	$519,347,899	$514,722,880	$513,787,980	−$5,559,919
2. State-Justice-Commerce-Judiciary (H.R. 14989)	4,687,988,600	4,585,054,350	4,587,104,350	4,704,326,600	4,820,717,769	----------	+116,391,169
3. HUD-Space-Science-Veterans (H.R. 15093)	20,173,185,000	19,718,490,000	19,718,490,000	[4] 20,258,183,000	20,583,370,000	20,125,951,000	−132,232,000
4. Transportation (H.R. 15097)	3,040,362,095	2,891,060,095	2,922,795,095	3,040,362,095	3,038,175,095	2,999,188,095	−41,244,000
Fiscal year 1973 amounts only	(2,909,181,095)	(2,759,879,095)	(2,791,614,095)	(2,909,181,095)	(2,906,994,095)	(2,867,937,095)	(−41,244,000)
5. District of Columbia (Federal funds) (H.R. 15259)	343,306,000	332,306,000	332,306,000	343,306,000	313,706,000	316,393,000	−26,913,000
6. Labor-HEW (H.R. 15417, Vetoed)	[27,327,323,500]	[28,239,346,500]	[28,603,179,500]	[28,767,633,500]	[31,354,930,500]	[30,538,919,500]	[+1,771,286,000]
7. Labor-HEW (H.R. 1664, New bill)	28,767,633,500	29,603,448,500	29,603,448,500	----------	----------	----------	+835,815,000
8. Interior (H.R. 15418)	2,520,340,000	2,529,558,200	2,529,558,200	2,527,154,000	2,550,922,800	2,548,935,300	+21,781,300
9. Treasury-Postal Service-General Government (H.R. 15585)	5,066,603,000	5,057,145,000	5,057,145,000	5,066,603,000	5,057,186,000	5,057,827,000	−8,776,000
10. Public Works—AEC (H.R. 15586)	5,489,058,000	5,437,727,000	5,437,727,000	5,489,058,000	5,571,696,000	5,504,914,000	+15,856,000
11. Agriculture-Environmental and Consumer Protection (H.R. 15690)	12,952,177,400	12,897,010,900	12,897,010,900	12,952,190,400	13,561,055,800	13,434,032,700	+481,842,300
12. Disaster Relief Supplemental, 1973 (H.R. 16254)	1,569,800,000	1,587,300,000	1,587,300,000	1,569,800,000	1,587,300,000	1,587,300,000	+17,500,000
13. Defense (H.R. 16593)	79,594,184,000	75,227,048,000	75,227,048,000	----------	----------	----------	−4,367,136,000
14. Foreign Assistance (H.R. 16705)	5,163,024,000	4,195,155,000	[5] 4,195,155,000	----------	----------	----------	−967,869,000
15. Military Construction (H.R. ———)	2,661,384,000	2,278,675,000	[5] 2,278,675,000	----------	----------	----------	−382,709,000
16. Supplemental, 1973 (H.R. ———)	----------	----------	----------	----------	----------	----------	----------
Total, bills for fiscal 1973	172,462,672,599	166,767,582,809	166,801,367,809	56,470,330,994	57,598,852,344	52,088,259,075	−4,443,253,150
B. Bills for fiscal 1972:							
1. Urgent Supplemental (H.J. Res. 1097)	957,476,059	957,476,059	957,476,059	957,476,059	957,476,059	957,476,059	----------
2. 2d Supplemental (H.R. 14582)	4,775,261,477	4,124,123,358	3,954,453,358	4,865,943,389	5,063,517,439	4,347,698,270	−518,245,119
3. Special Resolution, Gold Revaluation (H.J. Res. 1174)	[3] 1,600,000,000	[3] 1,600,000,000	[3] 1,600,000,000	[3] 1,600,000,000	[3] 1,600,000,000	[3] 1,600,000,000	----------
4. Supplemental, Disaster Relief (H.J. Res. 1238)	100,000,000	200,000,000	200,000,000	100,000,000	200,000,000	200,000,000	+100,000,000
Total, bills for fiscal 1972	7,432,737,536	6,881,599,417	6,711,929,417	7,523,419,448	7,820,993,498	7,105,174,329	−418,245,119
C. Cumulative totals for the session:							
1. House	179,895,410,135	173,649,182,226	173,513,297,226	----------	----------	----------	−6,382,112,909
2. Senate	----------	----------	----------	63,993,750,442	65,419,845,842	----------	+1,426,095,400
3. Enacted	----------	----------	----------	59,289,423,842	----------	59,193,433,404	−95,990,438

[1] The budget for 1973, as submitted Jan. 24, tentatively estimated total new budget authority for 1973 at $294,813,000,000 gross ($270,898,000,000 net of some $23,915,000,000 interfund and intragovernmental transactions and certain so-called proprietary receipts handled as offsets for budget summary purposes only). Of this total, an estimated $109,754,000,000 does not require current action by Congress; it involves so-called permanent appropriations such as interest, various trust funds, etc., already provided for in various basic laws. The remainder, $185,059,000,000, is for consideration at this session (mostly in the appropriation bills). About $14,394,000,000 of this $185,059,000,000 was shown in the January budget as being "for later transmittal" for new or expanded legislation, pay increases, and contingencies, and about $45,817,000,000 of the remainder requires legislative reauthorization through various annual authorization bills or where the authorization expires periodically.

[2] Reflects deletion on House floor, by point of order, of $170,000,000 for Amtrak.

[3] "Not to exceed."

[4] Excludes the $490,000,000 proposal in the 1973 budget for "proposed legislation" for Urban Community Development Revenue Sharing which the Senate bill "considered".

[5] As reported.

Prepared Sept. 21, 1972, in the House Committee on Appropriation.

GROWING EXPORT OPPORTUNITIES FOR SOYBEANS

Mr. ROTH. Mr. President, I wish to extend a word of praise to the growers, processors, and exporters of soybeans and soybean products, and point to the growing export opportunities for this valuable agricultural crop. At a time when we need to improve our foreign trade performance, soybeans and their products have become a very bright spot in our total export picture. Not only are soybeans now the Nation's leading cash crop, replacing corn at the top of the list; they have also become our first agricultural commodity to have annual exports in excess of $2 billion in value. I am proud to report that Delaware farmers have been a part of this success story. Soybeans are Delaware's No. 1 agricultural export commodity and with exports of more than $5 million, account for more than one-third of the value of our State's agricultural exports.

There are a number of factors which have contributed to the bright prospects for soybean exports. Soybeans produce a high protein meal that is especially valuable for animal feed. Our largest soybean markets are the European community and Japan where meat production and consumption are rising rapidly. Secondly, there are relatively few artificial trade restrictions on soybean products. For example, soybeans enter the European community duty free and not subject to the variable levies that have crippled our exports to Europe of feed grains, poultry products, and dairy products. Finally, and perhaps most importantly, the United States is far and away the largest and most efficient producer of soybeans. It is a great credit to the soybean industry that our exports have grown rapidly without any need for export subsidies.

Because of the continuing buoyancy in the international soybean market, the Department of Agriculture is encouraging the expansion of American soybean acreage. The Department's publication, Foreign Agriculture, for September 18, contains two articles which delve in some detail into the market prospects for soybean products. Mr. President, because of their interest to American farmers, I ask unanimous consent that these two articles be printed in the RECORD.

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

U.S. SOYBEAN COMPLEX EXPORTS TOP $2 BILLION IN FISCAL YEAR 1972

(By Bruce Baker)

For the first time, the U.S. soybean crop has become the Nation's leading cash crop. In FY 1972, U.S. farmers reported higher cash receipts for soybeans than for corn, which has long been the leading cash earner.

The soybean crop also reached another important milestone when it became the first agricultural commodity to have total annual exports valued at more than $2 billion; the total export value of soybeans and soybean products hit an alltime high of $2.004 billion in FY 1972—a 5-percent gain over the preceding year.

Gains in the value of exports within the "soybean complex" (soybeans and soybean products) were mixed, however; the value of soybeans increased by 9 percent, soybean meal stayed about the same, while the value of soybean oil declined by 7 percent.

Most of the gain in the value of soybean exports does not reflect a proportionate rise in shipments; rather, the price of soybeans jumped by 7 percent—from an average of $3.00 per bushel in FY 1971 to $3.22 per bushel in FY 1972. The total volume of exports in FY 1972, at 431,436,000 bushels, was up only 2 percent over the previous year.

The considerable price gain reflects a demand for soybeans which has outstripped production for the two previous seasons, considerably reducing the carry-in stocks for the 1972 season. Tighter supplies and a continued strong demand have pushed prices to their higher levels for this season.

Although the export market for soybeans remained strong during FY 1972, it was distorted by several factors, including the east and gulf coast dock strikes, the slowed growth of West European and Japanese livestock production, a substantial gain in European wheat output, and the Indo-Pakistani war.

The market was also affected by increased competition from foreign-produced oilseeds and protein, including palm oil, copra, palm kernels, rapeseed, linseed, and fishmeal and oil.

Of all the distorting factors perhaps the one destined to have the most lasting impact on the competitiveness of soybeans in world markets will be the international currency realinement.

The devaluation of the U.S. dollar lowered the price of a bushel of U.S. soybeans in terms of many foreign currencies. The price was reduced most for Japan and the European Community—which together take 65 percent of total U.S. soybean exports; consequently, soybeans should have an even better competitive position in these markets in the future.

U.S. soybean exports had a good year in the EC, which took almost 40 percent of total shipments in FY 1972. The volume of shipments (168,708,000 bushels) was up 9 percent, while the average price per bushel also gained (up to $3.20 per bushel); consequently, the total value of soybean exports to the EC gained by 16 percent over the preceding year.

Within the EC, the Netherlands was the leading market for U.S. soybeans. Total volume rose by over 13 million bushels—or 25 percent—a gain nearly equal to the gain of the EC as a whole. Part of this substantial gain reflects the increased use of this country as a transshipment point for U.S. soybeans destined for other EC countries. Smaller increases in imports by West Germany, Italy, and France more than offset the 6-million-bushel decline in direct shipments to Belgium-Luxembourg.

Japan, the second largest market for U.S. soybeans, took about 25 percent of total exports in FY 1972. The volume of shipments (110,223,000 bushels) was up 9 percent over the previous year. Most of this gain came immediately before and after the U.S. dock strikes, as precautionary or catch-up purchases.

Japanese importers delayed purchases until the second half of the fiscal year, in order to take advantage of the 18-percent currency adjustment (completed on December 18, 1971), and the trade liberalization which removed the Japanese 21-cent-per-bushel duty on soybeans (April 1, 1972).

Spain, the third largest market for U.S. soybeans (after the EC and Japan) had a reduced growth rate in its soybean import requirements in FY 1972. A drought in FY 1971 reduced pasture and led to accelerated slaughter of red meat animals. Pasture was more plentiful in FY 1972, animal numbers were lower, and poultry production slackened. Nevertheless, the volume of Spain's imports of U.S. soybeans rose 2 percent, to 39,949,999 bushels.

Three of the four EC applicants—the United Kingdom, Denmark, and Norway—are also important markets for U.S. soybeans.

Shipments to the United Kingdom dropped 20 percent in FY 1972, down to 4.4 million bushels. Several factors contributed to this reduction: The poultry industry was still recovering from the Newcastle disease epidemic of 1970–71; exceptionally favorable pasture conditions reduced cattle feed requirements; and imports of rapeseed and rapeseed meal were up 39 and 50 percent in FY 1971 over 1970.

Some of the decline in direct shipments to the United Kingdom was offset by transshipments through the Netherlands. Prospects for the coming months are brighter as new crushing capacity, geared almost exclusively to soybeans, comes into operation and as the poultry industry continues to recover.

Soybean shipments to Denmark declined by 9 percent in FY 1972, down to 18.2 million bushels; however, soybean meal shipments rose 45 percent to 109,000 short tons. If meal is figured on a soybean equivalent basis, then total soybean shipments declined by less than 2 percent.

The principal reason for this decline in U.S. soybean shipments was increased competition from rapeseed and rapeseed meal (both domestically produced and imported). Danish spring rapeseed area and production more than doubled between 1970 and 1971. At the same time, imports of rapeseed and rapeseed meal rose by 30 and 45 percent, respectively.

Although U.S. exports to Norway rose only 1 percent in FY 1972 (to 7.7 million bushels), the outlook for the future is good: soybean crushing capacity is now being doubled.

In other major markets for U.S. soybean exports, the FY 1972 export record was mixed. Exports to Taiwan expanded by 12 percent in volume (to 22,650,000 bushels), which value rose by 16 percent. Soybean shipments to Canada declined by 17 percent and exports of soybean meal were down by 10 percent—reflecting decreased transhipments and increased utilization of domestically produced rapeseed. U.S. soybean exports to Israel were also lower.

The total volume of fiscal 1972 soybean oil shipments was 1.562 billion pounds, 12 percent less than the previous year's total. However, the total oil equivalent of U.S. exports of soybeans and soybean oil was down only 2 percent due to the increase in exports of soybeans.

Most of the 210-million-pound decline in soybean oil exports occurred among the major foreign recipients. Yugoslavia, which was the second largest market for U.S. soybean oil in FY 1971, reduced its purchases by 34 percent, or 86 million pounds, as a result of balance-of-payments difficulties.

Combined soybean oil exports to India and Pakistan were lower by another 73 million pounds. Following the disruption of the Indo-Pakistani War, P.L. 480, shipments to India ceased. Although Pakistan (formerly West Pakistan) may some day be self-sufficient in vegetable oil, Bangladesh (formerly East Pakistan) will continue to be an oil deficit country by a substantial margin. During the last half of fiscal 1972, the United States provided Bangladesh with 78 million pounds of oil as an emergency relief measure.

Other important markets where sizable declines occurred were Israel, Egypt, and Taiwan. Tunisia and Morocco, both major importers of U.S. oil, maintained their purchases at about the previous year's level.

ARE U.S. FARMERS PLANTING ENOUGH SOYBEANS TO MEET WORLD MARKET OPPORTUNITIES

(Assistant Secretary Carroll G. Brunthaver addresses himself to this important issue—and restates U.S. opposition to an international oils agreement—in a speech before the National Soybean Processors Association August 21, 1972)

This is a particularly dynamic period for the farm industries.

On July 8, the United States completed an

agreement with the Soviet Union for the sale of at least $750 million in wheat and feedgrains over a 3-year period.

Within little more than a month it was evident that the Soviets had already made purchases of grain exceeding that entire 3-year commitment.

A major commercial sale of soybeans has been made to the Soviet Union—the first purchase of U.S. beans by the Soviets since 1965–66. The quantity has been unofficially estimated at 1 million tons.

There has also been a small but significant sale of linseed oil to the People's Republic of China.

Each of these developments is a reflection of major efforts by the United States to open up trade and other relationships with two immense countries comprising one-fifth of the world's land area and 28 percent of the world's people. The success growing out of these efforts can have enormous consequences for world peace and stability in years to come.

Aside from this, these sales are an immediate contribution to farm income, to the national economy, and to the Nation's trade position. In the 12 months that began July 1, we seem very likely to exceed the record exports of the year just completed. We are almost certain to expand the favorable balance in our agricultural trade, which was over $2 billion in 1971–72.

As for returns to farmers, net income in this calendar year will be at an alltime record with a rise of around $2 billion over last year. Soybean income is a major part of this growth; we now estimate the value of the 1972 soybean crop at $4 billion—compared with $2.4 billion in 1967 and 1968.

With all of these favorable signs in the soybean picture, a question we might well consider is why there is not more of an expansion in soybean acreage—and what can be done about it.

The August crop report indicates a soybean planting this year of 45.8 million acres for harvest—compared with 42.8 million acres harvested last year. It is estimated that this acreage would give us a crop of 1,270 million bushels—an increase of 9 percent or about 100 million bushels over the 1971 crop. Moreover, this increased supply is estimated to be produced and sold with no adverse effect on soybean prices and with a further improvement in the incomes of soybean growers.

This increase of 100 million bushels would continue the upward trend in soybean production that has been going on, almost without interruption, for two decades. But given the world situation, and the current growth in demand, an increase of 100 million bushels is certainly modest; it would seem to fall short of the marketing opportunity now ahead of us.

In the past 3 years, due to policy changes including the 1970 farm act, there has been a definite move toward permitting the market to operate more freely in agriculture. As a result, we now see substantial adjustments taking place in cropping patterns.

Some of these shifts affect soybeans. Under the old programs many grain and cotton farmers, restricted in their plantings, were able to plant soybeans as a substitute crop—a fortunate thing for them that soybeans were an adaptable crop that served an expanding need. This year, some of these farmers are returning to grain and cotton while others are expanding their plantings of soybeans. On the whole, this is a healthy adjustment.

This being true, we hestitate to put into effect program gimmicks that would artificially encourage the production of soybeans. Clearly, however, we have a marketing opportunity to ship more soybeans and utilize more beans than we will evidently produce this year, even with the 100-million-bushel increase.

This raises the question: Should we consider means of encouraging a more rapid expansion in soybean acreage that we have been getting in recent years. If so, how?

This is a question that is not easily answered. Yet there is a tremendous opportunity for the soybean production and processing industries—and we need to take advantage of it. We must think through ways to stimulate additional production without depressing prices to farmers.

With 60 million to 62 million acres being idled under Government programs, we are not getting sufficient acreage planted to soybeans. To the extent that Government may have slowed soybean expansion, by releasing other crops from their straitjacket, the Government may have an obligation to adjust its program to help get more soybean acres.

There is another serious matter—the world situation for oils and some of the issues being raised as other countries become concerned about overproduction of oil crops.

World production of oils and fats has been forecast at a record 42.9 million metric tons in 1972, due to foreign producers' response to above-average prices for vegetable oils in 1969 through 1971. Moreover, the bulk of the increase seems to be in edible oils, with a large expansion in palm oil and coconut oil, Brazilian soybeans, West African peanuts, and the sunflowerseed crops in a half dozen countries. A modest increase in cottonseed and large rapeseed acreage in Canada and the European Community last year added to supplies.

This all adds up in 1972 to a world export availability larger than the increase in world demand. Tentatively, we believe that a similar situation will prevail in 1973, with export supplies exceeding import demand, but probably by a narrower margin. It appears that much of this increase may already have been discounted in the market place.

In the next few months, we believe that import competition for foreign coconut and palm oils here in the United States may taper off. This respite would be only temporary, however, with the long-term trend continuing to be one of expanding palm and coconut oil production abroad.

There is reason to be concerned about the growth in palm oil production and some other oil crops. This has the potential for a really burdensome world supply situation, and it is important that all of us, through our international organizations, encourage our colleagues in other countries to gear their production to real markets. Otherwise, their investments will be lost, and their development hopes disappointed. The palm, since it is strictly an oil crop, is going to be up against increasing competition from those oils that are byproducts of the burgeoning protein industry all over the world.

Here in the United States, we continue to have marketing problems with soybean oil, and as in recent years, we can expect that P.L. 480 will continue to be an important mechanism for the export of this product. The Department of Agriculture is continuing to facilitate the movement of soybean oil under both Title I and Title II.

In fiscal 1969–70, we exported 736 million pounds of oil under P.L. 480, representing 8 percent of total shipments of all commodities under the two titles. Shipments under Titles I and II grew to 851 million pounds in 1970–71 and 876 million pounds in 1971–72 and in both years soybean oil accounted for over 11 percent of all P.L. 480 commodities.

It appears likely that there will be additional increases in exports of soybean oil under Titles I and II in the current fiscal year and on into next year.

With increasing concern being felt over particular surplus problems in certain countries, we are once again beginning to encounter the old proposal that trade in oils be organized by means of an international oils agreement. Most recently, the proposal came up in the foreign trade section of the European Commission.

The French representative raised the issue with a statement to the effect that, notwithstanding the views of the United States and the Soviet Union, there exist real and overriding reasons why an international agreement should be established. Such an agreement, he said, would protect the producers of peanuts and other oilseeds produced in poorer countries.

This issue has been quiescent for the last year or two, most nations seeming to recognize that the oil and meal trade is so complex as to make an international agreement unworkable. But the new statement, raised in the EC Commission, poses some new and interesting questions—the views of the United States and the Soviet Union, for example.

The United States does not want to have its soybean opportunities limited by an agreement allocating world markets. The Soviet Union does not want to have its sunflowerseed oil outlets limited by such an agreement.

The United States has an interest in bringing the Soviet Union, and China as well, into the international dialogue affecting fats and oils. Both of those countries are or have been important factors in oilseed production and trade. Both have made recent purchases in the United States—soybeans in the case of the Soviets and linseed oil in the case of the Chinese.

May I say, in the strongest terms possible, that the United States position remains unchanged with respect to any international oils agreement? We are still against it. Our view is that soybeans are a growth industry, and we do not favor any agreement that would force the trade in soybeans, meal, or oil into some predetermined pattern.

With the growing need for proteins and oils, as the world's people look to improved diets, the world oilseed industry should be thinking in expansive terms. It should direct its efforts toward building markets rather than creating a structure that would artificially restrict trade by some form of market allocation. That is the U.S. view.

Returning to the Soviet purchase of U.S. soybeans, I would emphasize that this development, while it no doubt reflects temporary crop conditions, also reflects longer term Soviet goals in livestock and poultry production. So this purchase may well have longer term implications, which we should take into account as we plan future soybean production. We need an expanded dialogue with our new soybean customers to help understand their needs and to adjust our supplies.

The goal of the Soviets' current 5-year plan is to increase the protein in Russian consumer diets by 25 percent. Secretary Earl Butz, in talks with the Soviets both here and in Moscow, repeatedly emphasized that the United States has the capacity and the ability to help the Russian people meet that goal through commercial sales of U.S. feedstuffs.

Not long ago, in a conversation with the Soviet Agricultural Attaché in Washington, I mentioned that at some point we would need a recognizable signal that his country was in fact seriously interested in buying U.S. soybeans. Once such a signal came to us, we would be able to take account of that market in planning production here in the United States.

It would appear that we now have such a sign and a tangible one in the cash purchase of a sizable quantity of soybeans. It seems reasonable to suppose that, as the Soveits expand livestock and poultry production, their awareness of the value of protein supplements will increase. They will become more sensitive to the contribution soybean meal

can make in boosting efficiency and extending short grain supplies.

The Soviet market is of course only one element in the growth of our export opportunities. And export growth is only one element in our need for additional soybeans, as the demand for meat and other livestock products expands here as well as in other countries. These opportunities being what they are, there would seem to be a certain inconsistency in a failure to produce enough soybeans, while at the same time holding out of production a large number of acres that could be used for this purpose.

This is the challenge we have before us—farmers, industry, and Government—as we plan for 1973.

GSA GRANTEE PROGRAMS

Mr. MONDALE. Mr. President, I ask unanimous consent to have printed in the RECORD some correspondence I have had with the General Services Administration.

The correspondence concerns the proposed discontinuation of the excess property program and GSA supply privileges for recipients of Federal grants.

Earlier this year GSA announced in the Federal Register its intention to terminate these programs. Interested parties were given until the end of June to comment on the proposed rule change. Later, after I had made a legislative attempt to stave off termination of the programs; and after vocational schools, colleges, and universities, anti-poverty agencies and other affected parties began to express their opposition, GSA extended the period for receiving comments to the end of July.

I and 22 other Senators have expressed to GSA our concern that policy was being made on these programs without the consultation of Congress and in the absence of complete factual information. In addition, I have introduced S. 3882, which would continue the excess property program, and S. 3887, which provides for a study of the GSA supply program for grantees by the General Accounting Office.

On July 31, I wrote to GSA requesting an accounting of the number of letters received on the grantee programs, and a breakdown of the positions taken by the correspondents.

I particularly invite the attention of Senators to the overwhelming response in favor of continuing the excess property program. GSA reports that 1,444 letters evaluated as of August 28 favored continuing the program; only 104 recommended the excess property program be terminated.

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

JULY 31, 1972.

Hon. ROD KREGER,
Acting Administrator, General Services Administration, Washington, D.C.

DEAR MR. KREGER: I am attempting to keep completely informed and up to date on the proposed termination of the eligibility of grantees for excess properly and GSA supply sources.

For this reason, I request that you provide me with the following information:

1. How many letters have been received in response to the GSA request for comments on the proposed rule change?

2. How many letters supported termination of the excess property program for grantees?

3. How many letters opposed termination of the excess property program for grantees?

4. How many letters supported termination of the use of GSA supply sources by grantees?

5. How many letters opposed termination of the use of GSA supply sources by grantees?

6. What procedure will be used by GSA in making its final decision on the proposed rule change? Please outline in detail.

I am looking forward to your prompt reply to these questions.

Sincerely,

WALTER F. MONDALE.

UNITED STATES OF AMERICA, GENERAL SERVICES ADMINISTRATION,
Washington, D.C., August 28, 1972.

HON. WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: Thank you for your letter of July 31, 1972, requesting up-to-date information on the proposed discontinuance of the General Services Administration (GSA) grantee program.

As the tabulation and evaluation of responses from interested persons is still in process, the following information will, of necessity, be subject to change at a later date.

As of August 21, 1972, we received approximately 3,550 letters in response to our request for comments from interested persons. Of the 2,517 responses evaluated to date, the tabulation of positions expressed is as follows:

104 recommend discontinuing the excess program;

1,444 recommend continuing the excess program;

547 recommend discontinuing the use of GSA supply sources; and

422 recommend continuing the use of GSA supply sources.

Evaluation of these responses will provide a basis for weighing the merits of the proposal and permit the exercise of proper judgment in this matter. When a decision is reached, it will be published in the Federal Register.

We trust this information will bring you up to date on the proposal to discontinue the grantee program.

Sincerely,

ARTHUR F. SAMPSON,
Acting Administrator.

THE PROPER EDUCATION OF OUR CHILDREN

Mr. MATHIAS. Mr. President, nothing is more vital to the future of this country than the proper education of our children. Yet nothing is more elusive if it is not administered with a combination of wisdom, knowledge, love, discipline, and consistency.

George Surgeon, the principal of the Brooklyn Park Elementary School in Anne Arundel County, Md., understands this. Earlier this year I had occasion to visit the Brooklyn Park Elementary School and observe how much patience and skill he brings to his job. Happily, others have also noted this. On September 7, the Anne Arundel Times carried an article by Elmer M. Jackson, Jr., about Mr. Surgeon which I would heartily commend to the attention of my colleagues. I, therefore, 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:

PATHOS, LIVELY INCIDENTS SHARE SERIOUS ACTIONS OF SCHOOL PRINCIPAL

(By Elmer M. Jackson, Jr.)

At least one Anne Arundel County School principal plans drastic action and prosecution for those who damage school property. As the official also reflects on several unusual incidents in his life.

George Surgeon, principal of Brooklyn Park Elementary School has notified parents, and those residents living in the vicinity of Morgan Road and 14th avenue, Brooklyn Park, that "if by chance you ever see anybody vandalizing or mistreating either the old and, or new Brooklyn Park School, or their grounds I would greatly appreciate it if you would call one or more of the telephone numbers listed below for action."

The principal lists the telephone of the Anne Arundel County Police, the Maryland State Police, himself and Frank Kluczynski, school custodian as people who would be contacted if unauthorized persons are seen breaking in or damaging school property.

Continuing further Surgeon says most emphatically:

"I guarantee each and every one of you that as Supervising Principal of the Brooklyn Park Elementary School that if any one whomsoever commit any act of vandalism or thievery upon either the old or new Brooklyn Park Elementary School that I shall personally swear out a warrant for the culprit or culprits for "destruction of public property" and that I shall pursue the case in court until the culprit or culprits is/are deemed either guilty or innocent of all charges. We will have action.

"I am sick and tired of the permissiveness which allows "meanness" and the use the taxpayers hard earned dollars for an act of needless folly. I seek your help in putting an end to all "vandalism and thievery" in the Brooklyn Park Community.

"This is your Brooklyn Park Elementary School. This is your Brooklyn Park Community. It is the moral obligation of each and every one of us to put an end once and for all to the "foolish, asinine permissiveness" which abundantly abounds in our society of today.

"Let's have some action for the betterment of our community."

Surgeon is an unbelievable principal in many respects. A large man and athlete of note in high school and college, then a coach, Surgeon has developed into a philosopher with strong determination and a heavy hand when wrong is committed, in addition to his administrative duties in the school.

Spending long hours at the school, and often far into the night Surgeon can relate some unusual experiences.

One time he heard a noise on the roof of the school, and investigating, found a youth there for purposes unknown. He grabbed the boy gave him a good shaking and sent him home saying: "Tell your mother and father I will be in my office until noon and I will be glad to have a visit from them." They didn't appear but the boy's behavior was exemplary later.

After much money had been spent on sodding the terrace around the school and Surgeon was proud of the outcome, he saw a youth on a motorcycle riding up and down the hill tearing the sod loose. He rushed out, pushed the boy aside, and confiscated the motorcycle as the lad protested loudly. "Go home and tell your parents exactly what happened" he said "and when the sod is put back in place and you promise never to ride over it again you can have the motorcycle back, otherwise you can go to the police and we can discuss the whole matter in court." Repairs were made and the motorcycle never reappeared.

In another incident, Surgeon was in the dark basement of the school one night when he heard a noise. Soon a kid mashed out the window and slid down inside the room where

Surgeon grabbed him and scared him half to death. He told the boy to go home but that at 12 noon the next day he would expect him to be sitting on the front porch with a $10 bill in his hand to pay for the glass and the cost of replacing it.

The next day Surgeon sat in his car, around the corner from the boy's home for a few minutes until it was exactly noon. Then he drove to the youth's house and noted the child sitting on the porch. As soon as he saw Surgeon he ran to the car and gave him not a $10 bill but $10 in change. The boy became a model child in the school and said he would never ever again commit a misdeed.

Surgeon believes spanking has a fine effect on a child and is among the spanking principals of the county school system.

Children, he opines, are ashamed of having it known that they were spanked and will be very good in the future to avoid another session and further kidding by school mates.

One time after talking with a lad about his misconduct Surgeon got around to the duty of spanking the child and swatted his rear end a couple of times and tears ran from the child's eyes as he turned his head and said: "Mr. Surgeon, I love you." The principal admits his heart melted and words ended the session that day. On another occasion Surgeon was all dressed up in yellow linen pants when a teacher deemed it necessary for him to spank a first grade child. After hearing the circumstances he turned the lad over his knees and gave him a not so hard wack. The child began crying and at the same time Surgeon felt something warm on his knees. With the second spank Surgeon felt even warmer and after the third smack Surgeon became aware he was getting wet. The child had thoroughly soaked Surgeon's trousers, and on this occasion the laugh was on the principal.

Surgeon tries to know the first names of every child in his school, a building that the federal government considers unsurpassed in the nation today. Surgeon refers to it as his castle.

Surgeon greets many of the pupils each morning when they arrive at school, sees them in the corridors where he spends his lunch hour, and overall his school sustains less damage than most any other school in Anne Arundel County. This is a tribute to Surgeon and the respect and popularity he enjoys with his pupils. Children have great pride in their school.

More gentle than severe for a large man Surgeon does many things with the children like going on bus trips with groups, and congratulating those who help around the school, and who excel, or try hard at their endeavors.

The hard way to attract a PTA member is told by Surgeon:

One day a husky father arrived at the principal's office and blurted out with considerable feeling: "Im going to whip the daylight out of you?"

A bit surprised Surgeon rocked back in his chair and said: "This is interesting, but first let me say we ought to settle the matter right now. We can go to a private section of the gym. And we ought decide before we go there that only one of us will walk out. The other will be on a stretcher.

"I predict I will be the one who will walk out and that you will be carried out. You being the challenger can have your choice of bare knuckles or boxing gloves."

The parent began stuttering as Surgeon continued: "You can throw the first blow and then I will have the excuse to wrack you up. I think you will feel that a buzz saw has gone up your back and come down your front. Come now lets go to the gym and settle your grievance." Surgeon stood up and headed for the door.

Greatly deflated the father said: "Now hold on, there is no use in being too excited about this matter." To this Surgeon said "you came in here threatening me and if you are going to whip me I want to get it over with so I won't go to sleep tonight worrying about someone beating me up tomorrow."

Slowly the man worked out of the original discussion, said he would like to join the PTA of the school, and Surgeon signed him up. The two men shook hands at the end of their conversation.

"Today this man is one of my best friends" said Surgeon. He never missed a PTA meeting while his child was in the school and one day walked into my office and remarked: 'I have been delegated by a group of admirers of yours to ask you to run for Governor.' " Surgeon relates.

Naturally the respected school principal was pleased and he said so but Surgeon's love for the Brooklyn School, perhaps the best in the entire Nation is so great that we won't ever accept a promotion within the school system. And, folks that is real dedication to a job.

THE PEOPLE OF NORFOLK, CONN., SPEAK OUT ON THE VIETNAM WAR

Mr. RIBICOFF. Mr. President, our Nation's continued involvement in the Vietnam war still remains a source of deep concern to many Americans. Some claim this is becoming a forgotten conflict, others that what the people feel about this war does not matter. But the citizens of Norfolk, Conn., recently met in their townhall to debate a stop the war resolution. After spirited debate, those assembled voted convincingly to endorse a call to end the Vietnam conflict. The resolution adopted read as follows:

THE RESOLUTION

In the highest traditions of American patriotism, and in our concern for the good of our country, we citizens of Norfolk, Connecticut, resolve that the United States declare an immediate end to all its military activities in Southeast Asia and begin at once the complete withdrawal of its naval, air, and land forces, its advisers, and its materiel.

We urge the government to adopt this action for the following reasons:

1—The fundamental right to decide whether the United States goes to war rests with the people of the United States just as the future government of Vietnam rests with its own people.

2—Vietnam is not vital to the strategic position of the United States, although our presence may be profitable to some.

3—Money being spent on munitions should be used on needed items within this country rather than implementing the ecocide being carried out in Southeast Asia.

4—Too great a portion of the United States national resources (such as our youth, and engineering and industrial effort) are being spent on this way. We are paying for this involvement with internal strife and a worsening of all levels of our life. The moral conscience of too many people is being violated.

5—Withdrawal of our troops will be the most expeditious way of affecting the return of our prisoners of war to their families, as the North Vietnamese will gain no advantage by retaining them once the American presence and power ceases in Southeast Asia.

Assistance should be offered to any South Vietnamese persons who feel endangered by the prospects of a negotiated solution to the war.

This resolution in no way diminishes our respect for th courageous and self-sacrificing men who have served in our armed forces.

This is a non-partisan statement and is not to be construed as supporting one or another political group.

I ask unanimous consent that a letter to me from Mr. Richard R. Hasbrouck of Norfolk Stop the War Committee and a report of the meeting as published in the Lakeville Journal be printed in the RECORD.

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

STOP THE WAR COMMITTEE,
Norfolk, Conn., September 6, 1972.

Senator ABRAHAM RIBICOFF,
Senate Office Building,
Washington, D.C.

DEAR SENATOR RIBICOFF: We trust you will be pleased to hear of the passage by the citizens of Norfolk, Connecticut of the enclosed Stop the War Resolution at the Norfolk Town Hall on the evening of Tuesday, August 29, 1972.

Dr. Philip C. Jessup, former Judge of the World Court at the Hague and the Ambassador-at-large in the Truman Administration, introduced the resolution. 62% of the Norfolk citizens present voted for adoption of the resolution. In normally conservative, rural Norfolk, this represents a significant victory for those who are opposed to the war.

Your attention is respectfully directed in particular to the sections calling for the immediate withdrawal of US troops and dealing with the POW issue.

Norfolk is proud to join the other Connecticut towns of New Haven, Westport and Torrington in voicing its opposition to U.S. military involvement in Southeast Asia.

We would be most gratified by your entering the results of this vote and the resolution into the Congressional Record thus giving widespread attention to the sentiments of your concerned constituents. We would hope, also, that this would encourage other communities, in Connecticut and elsewhere, to express their opposition to the continuing automated destruction occurring daily in Southeast Asia.

Enclosed is one of the many press reports resulting from our meeting.

Very Truly Yours,
RICHARD R. HASBROUCK.

STOP THE WAR RESOLUTION APPROVED IN PUBLIC MEETING

(By Kathryn Bickford)

"We're not going to end the war just by passing this resolution tonight, but hopefully by next year we will have peace." With these words Richard Bowers concluded a long and intense meeting which saw its participants confirm in two separate votes the resolution calling for the end of the Vietnamese conflict.

The meeting, held in the Norfolk Town Hall, was not an official town meeting and drew a number of visitors from surrounding communities. Two votes were taken so that Norfolk citizens would be sure that an accurate consensus of the feeling of Norfolk citizens attending was recorded.

The resolution was approved by a margin of 54 to 33 by Norfolk citizens and 85 to 34 when the entire body was polled.

Feeling ran high throughout the meeting. Anthony Gianscíracusa called loudly for an adjournment of the meeting before anyone had had a chance to speak. Later in the meeting he shouted at a speaker that he wished it "was 1942 so we could shoot people like you."

Prior to the discussion period, a slide show was presented on the automated war now being fought in Southeast Asia. The text accompanying the slides was allegedly based on such sources as the Pentagon Papers, Senate hearings, eye witness testimony and the like.

Dr. Philip Jessup, former ambassador to

the U.N. ambassador at large during the Truman Administration and World Court judge, read the resolution. He said that he was basing his support for the resolution on the experience he has had during his years of public service.

"I was sent as an ambassador in 1951 to try to convince the French to pull out of Vietnam," he said. "We tried to tell them then to get out, that you couldn't win a jungle war against guerilla troops with Western forces."

He said that he had had extensive experience in dealing with Communists during his career and that he felt that the resolution represented the best way to end our involvement in the war. "These people are not going to be beaten into submission by our bombing," he said.

Responding to hecklers in the crowd, he called out, "Dissent is in the American tradition. I'm entitled to my point of view on foreign policy, and no one will deny my right to assert my views."

C. Jeffry Williams, who also served in the State Department during the Truman Administration as a general counsel, disagreed with Mr. Jessup's opinion. He took exception to the portion of the resolution stating that a complete withdrawal would facilitate the return of American POWs.

He said, "I see two definite advantages to the Communists in keeping our prisoners of war after America withdraws. The first is money. They have asked for $20 million dollars already in reparations. There is nothing to stop them from asking $50 million for the POWs if we withdraw."

He suggested that secondly the Communists might use public executions of the prisoners to humiliate the United States in the future.

Dr. Mario Lazo, who escaped from Cuba a number of years ago, said, "I am probably the only person at this meeting that can tell first hand of the terror of a Communist takeover. I saw Che Guevera three times when I was in Cuba to plead for the lives of boys who were to be killed. He laughed at me; they relished in death. The rule of morality for Communists is simple, anything that aids the Communist takeover is good, anything that stands in its way is bad."

He predicted a bloodbath in Vietnam if the forces are withdrawn. "It is naive to assume that you can offer asylum to all persons in danger when the Communists take over," he said. "There are 18 million people in that country, about half of whom have resisted the invasion."

A woman in the crowd noted that France had not been dishonored when it withdrew its forces.

Andrew Casale, a resident of Lime Rock and teacher of history at Housatonic Valley Regional High School, drew applause when he said, "People here have been saying that we've lost 50,000 men killed, 300,000 wounded, and therefore we should continue so that they haven't sacrificed for nothing. That's like leaving Chicago for California, driving 500 miles before you find that you're headed for New York, and saying "We've come this far so we should keep going."

In response to Mr. William's contention that the prisoners would not be released if the United States pulled out, Mr. Casale said, "They don't release prisoners until after the war. When did they change the rules?" He said that he would be willing to pay increased taxes if the Communists ransomed the men.

Tim Childs, who has served in the State Department as desk officer in the Office of Iranian Affairs, and will soon take over the position of deputy examiner on the Board of Examiners for the Foreign Service, said that he opposed the passing of the resolution. "There are limits," he said, "to what the United States can hope to do in foreign policy in stopping the expansion of the Communists. We couldn't stop the Russian take over in Hungary in 1956, but I'm glad that we've stopped them in Southeast Asia."

Joseph Bickford, new housemaster at the Regional School in Winsted, commented "If we want to make our way of life viable, we have to make it into something honorable, rather than resorting to a paranoic patriotism. I want to be proud of my country, want to be part of a country that I can participate in. This meeting is not subversive. The worst subversion is to turn over the honor of our country for power. It is better to lose for a good cause."

A representative of the VFW and the American Legion attended to ask that the resolution be amended to eliminate the reference to Norfolk and the words "in the highest tradition of patriotism." He said that if the two references were dropped the veterans' organizations would do nothing further to oppose the resolution. "If they are not removed," he said, "we will take further action to remove the stain from our town. We will not be part fo giving aid to the enemy."

The amendment was defeated by a vote of the gathering. The members of the VFW and the American Legion boycotted the meeting.

Following the defeat of the amendment several persons left the hall in protest against the consideration of the resolution.

CRIME CONTROL—COMMENTS AND SUGGESTIONS

Mr. JAVITS. Mr. President, much has been said about the need to control crime more effectively and to reform our criminal justice system. Indeed since the Safe Streets Act was passed in 1968 thousands of persons have been at work at the State, local, and Federal level confronting the issues which relate to the failures of that system. We have seen the beginning of a critically important commitment to devote energy, money and a more informed determination to get at the root of these problems. One of the questions that has been debated over the past several years is related to the impact of certain Supreme Court decisions upon the crime problem generally. Also of great concern has been the relationship of narcotics addiction to street crime and the need for new approaches in this area.

On June 4, 1972, the Honorable Samuel R. Pierce, Jr., General Counsel of the U.S. Treasury Department, discussed these and other important questions relating to this subject in an address at the John Jay College of Criminal Justice in New York City.

Although I cannot agree with Mr. Pierce's view concerning the utilization of a heroin maintenance program, and with some implied criticism of the Warren Court—a court which I rate very highly—it is necessary to hear all points of view in this area.

I ask unanimous consent that the text of Mr. Pierce's remarks be printed in the RECORD.

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

CRIME CONTROL: SOME COMMENTS AND SUGGESTIONS

(By Samuel R. Pierce, Jr.)

Since the prohibition era, when the seeds of organized crime were first sown, crime has been a major problem in the United States. How to control crime effectively—how to eliminate it or reduce it to an absolute minimum—has received a great deal of attention from legislators, law enforcement officials, judges, criminologists, penologists, and other students of human behavior in this Country over the past half century.

I first became interested in crime control some 20 odd years ago when I was a young Assistant District Attorney in Frank Hogan's office here in New York County. It is a fascinating subject and my interest in it has continued through the years. When I was invited to speak here, I could not help but think about the many changes that had taken place in crime control since I first became interested in it.

CHANGES EFFECTED BY SUPREME COURT DECISIONS

One of the first things I thought about was the effect of Supreme Court decisions on crime control. The prevention and detection of crime as well as punishment for the commission of crime are fundamental to crime control. Each of those elements were affected by the criminal law revolution that took place between 1960 and 1970. During those years the Supreme Court, with Chief Justice Warren at its helm, revolutionized the criminal law by extending to the States the application of various guarantees under the Bill of Rights of the Federal Constitution.

The revolution began when the Warren Court ruled in *Mapp v. Ohio* (367 U.S. 643) that evidence secured in violation of the Fourth Amendment, relating to unreasonable searches and seizures, could not be introduced at a State trial. Thus, the Court, for the first time, applied to the State, the Federal exclusionary rule on evidence obtained through illegal search and seizure in violation of the Fourth Amendment.

The *Mapp* case had a sharp impact on law enforcement. I can recall when I was an Assistant District Attorney it was quite common for the police to search for and seize evidence without a search warrant. Before the *Mapp* case, such evidence was not excluded and could be introduced against a defendant at his trial. After that case, of course, this could not be done. Consequently, while guaranteeing an important individual right against State action, the case made the job of law enforcement in many States a bit more difficult.

The *Mapp* case was followed by a multitude of cases during the decade of the 1960's in which the Supreme Court extended various Bill of Rights guarantees to the States. By the end of that decade nearly all of the guarantees of the Fourth Amendment (which protects against unreasonable searches and seizures), the Fifth Amendment (which protects against double jeopardy, self-incrimination and guarantees due process), and the Sixth Amendment (which guarantees an accused a fair and speedy trial) had been made binding upon the States.

The criminal law revolution that was effected by the Warren Court resulted in forcing the States to give defendants in criminal cases far more protection than they had ever had in the past. Not only did the Court rule that individual rights guaranteed by certain amendments to the Federal Constitution were enforceable against the States, but, in interpreting those amendments, the Court strengthened and expanded them to the benefit of those charged with the commission of crimes.

For example, the Court, in its interpretation of the Sixth Amendment—which relates to fair trials—held that a defendant had the right to counsel during the preparation and trial stages of his case. Subsequently, it extended that right to the interrogation room, and held that any suspect in the custody of the police had the right to consult with his attorney before he was interrogated by the police. (See *Gideon*

v. Wainwright, 372 U.S. 335 and *Escobedo v. Illinois* 378 U.S. 478).

The Warren Court's handling of the privilege of self-incrimination provides a further illustration. The Court decided that the Fifth Amendment Privilege against self-incrimination applied to the States (*Malloy v. Hogan*, 378 U.S. 1). Subsequently, it went further. In one of its most famous and, indeed, most controversial cases—*Miranda vs. Arizona* (384 U.S. 436)—the Warren Court held that from the moment a suspect is taken into custody he must be warned by the police of his privilege against self-incrimination and of his right to counsel during interrogation.

Another example is that Court's interpretation of the Fourth Amendment in such a manner as to give greater protection against electronic eavesdropping to criminal suspects and defendants. The Court considered electronic eavesdropping to be an unlawful invasion of privacy in violation of the Fourth Amendment unless the eavesdropping was carried out pursuant to a court order issued under certain, very strict requirements as defined by that Court in the case of *Berger* v. *New York* (388 U.S. 41). The effect of the *Berger* case and other decisions of the Warren Court on eavesdropping was to curtail drastically the use of electronic eavesdropping as a legitimate means of law enforcement (see *U.S. v. Katz*, 389 U.S. 347, *Lee* v. *Florida*, 392 U.S. 378, *Alderman v. U.S.*, 394 U.S. 165, Cf. *Osborne v. U.S.*, 385 U.S. 323).

The criminal law revolution came to an end in 1969. In retrospect, some might say that the decisions of the Warren Court in the area of criminal law during the decade of the '60's were bold, extremely imaginative, and very necessary to protect the civil liberties of individuals against improper actions by the States. Others might argue that the Court was too liberal in its construction of law and this resulted in numerous decisions which helped criminals, encouraged crime, and made the job of law enforcement unnecessarily more difficult. Whether one agrees or disagrees with what the Warren Court did to criminal law, he would have to admit that the decisions of that Court had a very substantial and profound impact on crime control. In fact, many people blamed the substantial increase in crime in the late sixties on the decisions of that Court.

Since Chief Justice Burger became head of the Supreme Court about three years ago, defendants have gained some additional protections, but in several important instances, the Court has ruled in favor of Federal and State positions. For example, just recently—on May 22 of this year—the Court held that unanimous jury verdicts are not required for convictions in criminal cases in State courts (*Johnson v. Louisiana*, 40 L.W. 4524). On the same date, it decided that the United States Government may compel testimony from an unwilling witness, who invokes the Fifth Amendment privilege against compulsory self-incrimination, even though that witness may be later convicted on the basis of *other* evidence for committing the crime he was forced to discuss. (*Kastigar v. U.S.*, 40 L.W. 4550).

It is too early to state exactly what overall effect the Burger Court will have on crime control, but I believe it is fair to predict that it will be more conservative—more strict—in construing the law than the Warren Court.

OTHER CHANGES

Aside from the effect Supreme Court decisions have had upon crime control, several other changes in crime control have taken place over the years that are worthy of comment. There have been significant changes in methods and practices used by police. Some of these changes have been forced upon the police by Supreme Court decisions. For example, the requirement that a person taken into custody must be warned against self-incrimination and of his right to counsel before he is interrogated. Others, which I shall stress here, were primarily brought about by the police themselves.

When I was an Assistant District Attorney the emphasis of the police was upon arrest—upon detection of crime. Police relied primarily upon punishment to deter people from committing criminal acts. The gist of the thinking was that if a person thought he would get caught and put in jail for committing a crime, he probably would not do it.

The role of police in society has changed markedly since then. Police have found that it takes more than police science—such as fingerprinting, ballistics, etc.—and technical police skill—such as knowledge of the laws for which a person can be arrested, ability to handle firearms, competence in self-defense, knowledge of what to do when placing a suspect under arrest, etc.—to prevent and detect crime effectively.

Among other things they have found that training in community relations is important; that such training results in reducing hostilities between the police and the communities in which they operate; and that leads to greater community cooperation with the police which is helpful in both crime prevention and detection. The Brandeis University Center for the Study of Violence has cited better training in community relations as one reason for the decline in disorders over the past five years.

Today, more and more police in the United States realize that to achieve optimum effectiveness, they must perform many tasks in addition to identifying and apprehending persons committing serious criminal offenses. Such other tasks include, for example, the protection of Constitutional guarantees such as the rights to speak and to assemble; participation either directly or in conjunction with other public and social agencies in the prevention of criminal and delinquent behavior; resolution of conflict between individuals or among groups of individuals; and assistance to citizens in need of help such as a person who is mentally ill; the chronic alcoholic; or the drug addict.

Since police must engage in a multitude of complicated tasks in order to be most effective in their jobs, it is generally agreed that they should be as broadly trained as possible. Some years ago, it would have been considered unnecessary, and by some even a waste of time, to train a police officer in such subjects as sociology, psychology, constitutional law, political science, English, Spanish, and public relations. Yet, today, these and other subjects—which do not directly relate to basic police skills, but which better prepare an officer to perform his many responsibilities—are considered highly appropriate in the education of a police officer.

In the late 1960's there were enormous increases in crime. This led the Federal Government to acknowledge that it had a direct responsibility to help state and local governments combat crime. As a consequence, Congress passed the Omnibus Crime Control and Safe Streets Act of 1968 committing the Federal Government to provide substantial financial assistance to police and other state and local agencies in the criminal justice system. Well over a billion dollars has already been spent on this program.

The program has had problems. For example, a common criticism is that too much of the money is spent to maintain the status quo. For instance, much of the Federal aid has gone for such traditional items as helicopters, weapons, and communications systems. It is felt that more should be spent experimenting with new crime reduction methods. Although the program may not be as effective as it should be, I think all would agree that it has—to some extent at least—had a positive impact on crime control.

In 1965 President Johnson established a Commission on Law Enforcement and the Administration of Justice—generally known as the Crime Commission. Among other things, the Commission recommended a shift from the use of prisons to community treatment of offenders as one of the means of reducing crime.

The Commission reasoned that if a person, whose criminal conduct shows that he cannot manage his life, is locked up with others like himself, there will be an increase in his frustrations and anger, and that it will take away from him any responsibility for planning his life. Consequently, he is almost certain to be more dangerous when he gets out than when he went in.

On the basis of that rationale, the Commission urged that only the very dangerous should be held in prison. It called for the development of halfway houses, programs to send offenders home under intensive supervision, special school and employment programs, and other forms of nonprison treatment.

To date, only two states, California and Massachusetts, have made substantial progress along the lines suggested by the Commission. A few other states are moving cautiously in the same direction, but on the whole, the Country has continued to place heavy emphasis on prisons.

As time goes on, however, I believe that more and more states will follow the lead of California and Massachusetts and the recommendations of the Crime Commission in this area. Some states will move in this direction out of a sense of humanity and a belief that such action will reduce crime. Others will move in this direction out of fear of prison riots or for fiscal reasons. The programs suggested by the Crime Commission cost less than maintaining prisons, and in these years of the "fiscal squeeze", this may be enough to cause a state to seek ways to reduce its prison population and close prisons.

For many years, even before I was an Assistant District Attorney, persons interested in criminal justice have been urging reorganization of and various changes in criminal courts in large cities so that they might cope more efficiently with the huge volumes of cases they have to handle. Many lower criminal courts in big cities look more like factories than halls of justice. Under such circumstances, whatever deterrence of crime the threat of penal sanctions might exercise is undermined as thousands of defendants go free or are permitted to plead guilty to lesser crimes than they have been charged with, not because they deserve such treatment, but because courts and prosecutors are too overwhelmed by their workload to give fair and just consideration to their cases.

Cities have increased the number of courtrooms, judges, and prosecutors, but still have not been able to keep up with the ever growing volume of traffic in criminal cases. It is clear that something more than an increase in facilities and staff must be done in order to reduce this traffic. It is an area that needs bold, imaginative, and creative action. The Crime Commission recommended that most cases involving drunks, first offenders, persons in need of psychiatric treatment, and non-dangerous offenders should be handled outside the criminal system. It was also suggested by the Crime Commission that courts adopt modern administrative and business management methods that would avoid repeated appearances and continuances. I believe that the recommendations of the Crime Commission, and similar creative suggestions, must be adopted if there is to be meaningful reduction in the congested calendars that currently exist in the criminal courts of the major cities of this Nation.

SUGGESTIONS

I have spent a good deal of time today discussing certain changes that have occurred

over the years relating to the prevention and detection of crime as well as to the punishment for crime, and the effect these changes have had upon crime control. On the whole, I believe the changes I discussed are encouraging as for as improvement in crime control is concerned.

Recent statistics show that the war against crime is beginning to be won. There has been a net decrease in local crime rate in over one-third of the major cities in the United States. The national crime rate increase for 1971 is the lowest it has been for the past six years. Convictions obtained against organized crime increased by 50% and the indictments doubled between 1969 and 1971. Seizures of narcotics and dangerous drugs increased by over 400% between 1969 and 1972.

Of course, the war against crime certainly has not yet been won. While improvement in law enforcement, corrections and penal systems, and reduction in congested criminal court calendars are very important and must continue, I do not believe success in those areas alone will reduce crime to a point where it will no longer be a major problem in this Country. The root causes of crime must be attacked and destroyed. Two of the most significant causes of crime in this Country are drugs, and the poverty and discrimination suffered by nonwhites residing in large cities.

Today, in most major cities of the United States, drug addicts, who are forced to commit crimes in order to raise money to support their habit, are responsible for most of the crime committed in those cities. More specifically, heroin addicts are the drug users responsible for the vast majority of crime committed by drug addicts.

Many believe that if the money factor could be taken out of heroin, the number of addicts and the amount of crime committed by them, would be drastically reduced. They argue that if the huge profits from selling heroin were no longer available, there would be very few people who would be willing to risk selling drugs, and this could be accomplished through clinics which would dispense heroin to users for nothing, or would require them to pay a few cents per dose for it.

As you know, this is called heroin-maintenance. It is highly controversial. For instance, some think that by making heroin easy to get, the number of addicts would be greatly increased. Others argue that it is morally wrong to give such a highly destructive drug to another human being.

There are three key factors which lead me to the conclusion that we should start to experiment with heroin-maintenance programs through various pilot studies. One is the fact that England adopted a heroin-maintenance program a number of years ago and, as a result, the number of addicts has stabilized at less than 3,000. (There are probably more than 40 times that number in New York City alone.) Furthermore, there appears to be little crime committed in England by addicts.

The second factor is that in spite of the tremendously great work done by federal, state and local law enforcement agencies in the narcotics area, drug addiction continues to rise, the supply of drugs remains plentiful, and the amount of crime committed by addicts continues to increase.

Finally, methadone programs alone have not proved too successful, and I doubt if they will as long as heroin remains plentiful, because heroin is clearly the drug of choice among heroin addicts. This does not mean that methadone could not be made part of a heroin-maintenance program. This is one of the reasons for suggesting pilot projects. Perhaps it will be found that it is best to use both of these drugs. Some addicts may respond to methadone. Others may not.

If, through experimentation, a feasible heroin-maintenance program could be developed, I believe it would result in a drastic reduction in crime and, over the long run, in a substantial decrease in the number of heroin addicts in this Country.

I also believe that the crime rate in this Country could be substantially reduced if the economic and social conditions of nonwhites residing in major cities were vastly improved. Nonwhites are responsible for a substantial amount of crime committed in the major cities of this Nation. In a society which continues to deny a nonwhite opportunity, where he is forced to live in slums, and where his life has been reduced to little more than a struggle to survive with no hope for anything better in the future, it is not amazing that such a person considers crime as his best route to a decent life. It is only when people have decent enough lives that they are unwilling to risk arrest and conviction by committing crime.

The Crime Commission unanimously stated that it had "no doubt whatever that the most significant action that can be taken against crime is action designed to eliminate slums and ghettos, to improve education, to provide jobs, to make sure that every American is given the opportunities and freedoms that will enable him to assume his responsibilities".

I realize that what I am suggesting is a long term project. It will require careful planning, skillful execution, and will take substantial time and millions and millions of dollars. In Washington, we speak of the order of priorities in spending money. In my judgment, I can think of no priority of greater importance because not only would such action dramatically reduce crime in this Country, but it would also result in millions of people becoming much more productive economically and much more responsible socially. A combination of those factors would be of great and lasting benefit to all the people of this Nation.

CONCLUSION

My suggestions culminate in this: Law enforcement alone, no matter how efficient, will not effectively eliminate crime. The root causes of crime, such as drugs, and the poverty and discrimination nonwhites suffer, particularly in large cities, must be substantially destroyed. Such action must be taken if crime in the United States is to be reduced to the point where it is no longer a major problem and the streets of our cities are to be safe again.

ADDRESS BY GRAHAM W. WATT, PRESIDENT, INTERNATIONAL CITY MANAGEMENT ASSOCIATION

Mr. MUSKIE. Mr. President, last week it was my privilege to attend the conference of the International City Management Association in Minneapolis. The opening speech of the conference was given by my good friend, Graham W. Watt, the association's president and the Deputy Mayor of the District of Columbia, as well as the distinguished former city manager of Portland, Maine.

Mr. Watt's enlightening address discussed the changes in management and particularly the new stress on activism and involvement of city and town managers in leading their municipalities. I believe that Senators will benefit from reading Mr. Watt's address; therefore, I ask unanimous consent that it be printed in the RECORD.

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

REMARKS OF GRAHAM W. WATT, ICMA PRESIDENT, DEPUTY MAYOR OF WASHINGTON, D.C., BEFORE THE 58TH ANNUAL CONFERENCE OF THE INTERNATIONAL CITY MANAGEMENT ASSOCIATION, MINNEAPOLIS, MINN., SEPTEMBER 18, 1972

The paradoxical times we live in are well characterized by the opening lines of *A Tale of Two Cities:*

"It was the best of times, it was the worst of times," Dickens wrote, "it was the age of wisdom, it was the age of foolishness; . . . it was the season of light, it was the season of darkness; it was the spring of hope, it was the winter of despair."

Dickens was writing about the time of the French Revolution, but he could have been setting the stage for this Conference.

On the one hand, our citizens are enjoying more material wealth than any other people in history. More of our young people are in colleges and universities than have ever gone on to higher education anywhere. We have walked on the moon and touched the stars. In these respects we are living in "The Best of Times . . . The Season of Light . . . The Spring of Hope.

On the other hand, unemployment and inflation have been an unmitigated disaster for tens of millions of Americans. Our educational system teeters on the brink of bankruptcy. Never have our cities seemed in such bad shape.

In these respects, ours seems "The Worst of Times . . . The Season of Darkness . . . The Winter of Despair.

As a nation, we traditionally have not been given much to despair. Carl Sandburg once said in a most eloquent paragraph, "I see America not in the setting sun of a black night of despair ahead of us. I see America in the crimson light of a rising sun, fresh from the burning, creative hand of God. I see great days ahead, great days possible to men and women of will and vision.

President Kennedy was fond of the story of a French Marshal who asked his gardener to plant a tree. "It will take 100 years to grow," the man observed. "In that case," said the marshal, "there is no time to lose. We must plant it this afternoon."

In a similar vein, we are reminded of Lincoln, a practical man, toiling and hoping during a dark time in history, queried by a friend as to whether he might be working on some fresh plan to save the country. "No" the reply came, "There is only one thing to do, keep plugging away."

So I address you today as "men and women of will and vision," impatient to plant your tree, destined to keep plugging away, confident that these can indeed be "the best of times."

MEN AND WOMEN OF WILL AND VISION

A year ago, I came to this position as President of I.C.M.A. with a fear and a hope.

My fear was that a popular stereotype of City Managers as shadow-persons, cautious, often dull, apolitical, passive might be truly based.

My hope was that this stereotype was a myth; that it is not accurate today, if, indeed, it ever was.

What have I found about myths, fears and stereotypes?

I'm relieved to tell you now that my fear was unfounded and delighted to tell you that my hope has been sustained completely.

As I have traveled to meetings with you all across the nation, I have come to identify a growing group of action-oriented managers—a new breed of Managers—leaders and risk-takers. In our profession, we have many men and women who see themselves involved in shaping the future of our urban society and *making things happen.*

I've put a label on them. They are third generation City Managers.

How do these third generation Managers differ from their predecessors?

The first generation of City Managers were custodians of the public trust. They were the men who first brought business-like practices into local government. By their success they established the role of the professional administrator in local government.

The second generation Managers (which is the way I would have characterized most of us five years ago) are the men who added sophistication to the earlier model; they experimented with new financing techniques to accomplish physical improvement programs, they utilized computer technology, and they have institutionalized program budgeting.

But I have found in my past year of meeting with Managers across the country that there is a cadre of third generation managers working in our towns, cities, and counties—what's more important, it's a large and significant group. Just as the Cookinghams, the Ridleys, and the Brownlows were reformers and change agents in their time and in their way, the third generation Manager is a new reformer in this time.

Early municipal reform was concerned with "how to do it better." Today, this is still our concern, but we are also very much involved in the debate over what it is that cities ought to be doing.

The third generation Manager is concerned with concepts and purposes as well as operations and process. He accepts the advice of former HUD Secretary, Robert Weaver, that:

"Action without program, program solving without problem analysis, day-by-day decisions without a philosophy are a travesty of public administration. They are inexcusable and dangerous in the modern world where public policy is so vital to the well-being of all citizens."

What else sets the third generation Manager apart? It is that he has added to his formal training qualities which can't be taught in the university—*the quality of humanity and the quality of leadership.*

A principal characteristic of the third generation Manager is his humanism. To paraphrase Charles Reich, he is a man enjoying a new relationship to other men, to society, to nature, and to the land.

It is of more than passing interest that an increasing number of third generation Managers are entering the profession from new but allied fields, like the model cities program and community development, and through mid-career transitions. This new career development ladder leading to the Manager's chair produces a Manager with a humane sense of community. Managers who are leading their cities to effective participation in these new social programs share this humane quality. These Managers are accustomed to listening to the citizens they seek to serve, to getting to know them and to meeting them on their turf. They are finding out what the real needs are.

How important this is, is illustrated in one scene in the movie "The Public Will". Hal Holbrook, the actor who narrates that film, talks about priorities and how city governments must be responsive to what the people want. "Ask a man if he wants housing," Holbrook says, "and if that's the only question you ask, you're apt to go off half cocked and get his house started. But ask the same man which he wants more, a house or a job, and you're likely to get a totally different answer." If American Local Government is to be truly responsive, then the people who run the government have got to get to know those who don't.

I know that you are listening, and I know many of you are up to your elbows in making your cities better places by working with community groups and by serving as catalysts to make things happen. That is part of being a third generation Manager. Yet there is more.

The third generation Manager displays his humanism in his management style as well. He seeks to create a government which responds more sensitively to the needs of those who are a part of that system. He works to overcome the impersonality of the organization; he believes that hierarchy must concern itself with the individual. He effects a style of management which encourages this transformation of his own organization as a worthy, though difficult, goal.

Another distinguishing characteristic—perhaps the most significant—of the third generation Manager is his quality of leadership.

More than 20 years ago, Clarence Ridley told a group of Texas Managers, "To be a Manager, you must first be a man." That's what this Conference is about: The Man in Management.

The Individual.

The human being who alone, and who with his brothers everywhere, makes and will always make all the difference in the world.

Leadership is an intensely personal characteristic. Men lead and women lead. Organizations, systems, agencies cannot lead. A Manager, armed with ideas that have come to fruition exerts infinitely greater influence over progress than any management science system. Progress results from action upon a few good ideas, action which more and better techniques and technology can support, but never initiate.

Think what this means.

In 1957, a committee of citizens working under the Chairmanship of John Gardner observed:

"There is a premium on men and women with a talent for innovation, for individuals who can move beyond the limits of present fashion. In a time of breathtaking technological and social changes there is a need for people who understand the process and the nature of change and who are able to cope with it."

Men and women who will exercise courageous leadership in these times of change still command a premium.

Change can be planned and directed for the benefit of our communities. And each of us has the opportunity and the obligation to bring about in our community the kinds of changes that our vision embraces.

I say each of us, for if not the Public Manager, to whom shall we look. To whom has the community entrusted executive direction of the powers of local government? Who in the community has greatest opportunity to communicate with elected officials and with leaders of the many organizations within the community? Who has been engaged to bring professional expertise to the job of community development?

To see need, to identify a problem, to possess idealism: even these are not enough. It is the solution that we strive for. Remember Robert Kennedy's oft quoted words: "Some men see things as they are and say why? I dream of things that never were and say, why not?"

We cannot wait for others to dream, look for others to act; we must not relegate solutions to the national level and then throw up our hands in despair at the immensity of it all.

To dream the impossible dream, and to make things happen, takes more than long days at work. It takes commitment. Our new Miss America, Terry Anne Meeuwsen said it so simply in her interview two weeks ago: "Commitment is the most important word in my vocabulary, for I firmly believe that one man *is* no more than another if he *does* no more than another." Energy and commitment also distinguish the third generation Manager.

Sometimes I think that our country has been afflicted by an unrecognized plague that could be called "urban problemitis." The symptoms of the epidemic can still be detected: myriads of people in every field fretting endlessly about "urban problems," and applying that worrisome label to every variety of real or imagined ill. Sometimes, too, it has seemed that even municipal Managers have not been immune to "urban problemitis."

Certainly it is necessary to perceive the imperfections and wrongs about us, to be informed of problems. Yet I am reminded of Robert Frost's observation that "The reason worry kills more people than work is that more people worry than work."

Doing the job, as all of you know, means that from time to time you are going to be shot at, about which Winston Churchill remarked, "Nothing in the world is so exhilarating as to be shot at without result."

PLANTING AND HARVESTING—THE FERTILE SOIL OF ICMA

So far, I've been talking about the individual, personal role of Managers and managership. What about our collective characteristics, expressed by and through our Association?

Since the Goals Project of 1968 and 1969, we have become a unified profession. We are increasingly numbering as ICMA members, the COG Directors and the county administrators. Within our Association, both are accommodated as subgroups, as are Managers of large cities and Managers of our smallest communities. Perhaps it is time for us even to consider what should be our relationship with those Mayors who are the chief urban administrators in their cities, as well as with model cities, planned variation program and community development administrators who exercise broad management responsibilities.

Ours is an open profession, too. In my opinion, this is another strength which we should preserve. We ought not close the door to those who wish to join us, whose jobs qualify them for membership, and who are willing to abide by our reasonable standards of professional conduct and our Code of Ethics. We cannot close our doors any more than we can close our minds. To close either would shut out light, new vistas, and the energizing breeze of change.

Our diverse membership, unified in the Association, gives ICMA strength and it provides us the unique opportunity to speak to many new issues as we now are doing through our National Urban Issues Project.

Through ICMA and our National Urban Issues project we are developing a proper professional approach to national decision-making and priority-setting as they relate to cities and local government.

I am convinced that as a profession, we have always had a greater capability, a larger potential, than we demonstrated. Some of our most severe critics have recognized this and their criticism has been founded in our failure to apply our full potential to accomplishing the things we profess to believe in.

Now we are changing that. We are taking an historic step for our profession. Through our National Urban Issues Project we can have major impact on basic policies which determine the quality of urban life in America. This new activity will make our Association a direct participant in the discussions and decisions relating to national urban policy at the legislative and executive levels.

The national government is becoming the leading force in our society's efforts to cope with urban problems. For us, this has meant trying to deal at home with problems and difficulties affecting the citizens to whom we are responsible, while the development of the policies and the mobilization of resources to combat those problems has been out of our hands. We have desperately needed to become a part of a decision system which is national in its character. We are doing that.

We are not alone in this effort. The National League of Cities has pioneered the strategy of developing comprehensive mu-

nicipal policy statements as the basis for an action program.

The work of the Committee for Economic Development is well known to all of us. More recently, the American Institute of Architects published its National Policy Task Force Report which closes with these words that have much meaning for us:

If we are to achieve some coherence and not let freedom vanish into chaos, we have no alternative but to deal with all the tumbling forces and facts of here and now, and then find levers that have the power not only to move but to win majority consent."

This is more than a "clean concern" as I'm sure you realize. Our experience in the 60's points up our need for better predictive capacity about what the future holds and a greater ability to deal more directly with the development of that future. Not only must cities be better able to anticipate the implications of such policies as model cities, employee labor relations, manpower development, neighborhood involvement, and grants review, they must be able to respond in pro-active fashion.

Our National Urban Issues Project will bring our urban expertise and our managerial point of view to bear on policies as they are being developed at the national level. The result will be more rational and reasonable programs for us to manage at the city level.

As we continue our pursuit of a glimpse into the future, remember Albert Schweitzer, a great humanitarian who served his fellow men in a remote locality in Africa, and yet through his ideas, he served people everywhere. Schweitzer was no longer a young man when he reminded us, "It is through the idealism of youth that man catches sight of truth, and in that idealism he possesses a wealth which he must never exchange for anything else."

While our profession is the product of its past, it is a young profession.

While we build on the tradition inherited from those who have gone before, I know from our work together over the years that there is a great deal of youthful idealism within all of you who serve your communities in public management.

So we listen to the youth among us. We seek to know their minds and their hearts, else we cannot know the future. That future will soon be in their hands.

True we all run along the ragged edge of that broad generalization which would say that all our young are of a single mold. There are those who have made no inquiry into the past nor examined the present and whose judgment we need not report. However, we should listen carefully to the youth who bring to the examination of our society the vision of idealism, the foresight of the informed, and the wisdom of a trained intellect.

Those who have submitted to an intellectual discipline speak with a wonderful wisdom. Listen to one young professional as he lays it out for us:

"We are not today what we were yesterday. Tomorrow we will have turned again to something else. This inherent quality of change, of constant adaptation to a changing community environment, is the essential ingredient in the recipe for our future success.

"Life is a quest to know the unknown, to make certain the uncertain future. As Managers, we must continue to develop personal curiosity, imagination, a sense of humor, distrust of dogma, and self-understanding as alternative to an all-embracing ideology; the future demands of us flexibility and not a rigid structure that breaks when hit by the unexpected.

"The Manager is an individual who alone must respond in his own way to a tomorrow much different than today."

This young professional comes out with Clarence Ridley: Management begins with a man; and with the theme of this Conference: Man in Management.

PLUGGING AWAY

One final thought, before I bring these remarks to an end. This Conference is a time when we should ask ourselves whether the unspoken values and assumptions we all carry around with us still reflect the world we really live in.

Even truth changes. What we once *knew* to be a fact just isn't any more.

Only 400 years ago,
the world was flat.
It was a fact
that people lived by.
It was true.

But even so
the round earth
spun in space.

Today,
the world is a sphere.
It is a fact
that we live by.
Now.

(But even now
there is a "Flat Earth Society.")

That
in a nutshell
is the dilemma of man:
The truth
we think we know
changes
(constantly).

I believe we face a dilemma of belief in our profession. I can express it best as questions which reflect an unknown quality inherent in our concern.

Has the stress of this decade disclosed a weakness in our form of government?

Do City Managers really *do* anything about the problem of racial discrimination? Or unemployment? Or inadequate housing? Or education?

Is our goal recovery from urban ills or is it to cushion the impact of urban decay?

Have our efforts really contributed to the improvement of our cities?

Have Mayor-Council-Manager teams in Council-Manager cities been courageous and innovative?

How often do you feel like the Red Queen in *Alice in Wonderland* who was obliged to run ever faster to stay where she was?

I have no answers for these questions, and I know many Managers are uneasy about such basic issues. Our record *is* good—on a relative scale—but we can't escape the fact that our problems today are essentially the same as those of 5 years ago—and some are even more serious today than before.

Martin Meyerson, President of the University of Pennsylvania, has this discouraging view:

"Local government, which had been in the forefront of administrative innovation has lost that vitality. The City Manager movement had once been an inspiration for all government . . . . The steam seems gone. Perhaps the malaise is a general one of our country and our world."

Another commentator, Nicholas von Hoffman, writing in the *Washington Post* exclaims:

"The long run is here. We've been buying their whimpy plans, programs and pilot projects for decades. The due date has come and gone on all of them, and there's nothing to show for it but new proposals to decentralize or centralize, to coordinate or to better utilize our resources. None of it has saved the cities or seems to have anything to do with whatever it is that has destroyed them."

Could it be that we have been so overwhelmed by the need to do things that we have had too little time left to *think* about what we are doing? Today operations seem to dominate purpose. The practical has taken over from the ideological, and while this seems to have many advantages, pragmatism may be misleading us.

Are we performing a ritual rain dance which won't necessarily bring rain even though it does make the tribe feel better?

Have we become entrapped in a snare of belief that since society is increasingly complex, then the problems of that society and their solution must be equally complex?

A central challenge before us must be the constant effort to simplify, to develop clean lines of attack, to ferret out complexity, to seek basic issues and focus on them.

One of our members has said:

"More stress must be placed on the moral edge of management. Neutrality and bargaining for their own sakes can be an illusion. A good Manager must have the capacity and confidence to lead."

Complexity and change, pragmatism and philosophy, establish a cordial climate in which the third generation Manager may function. We have these Managers in increasing number; we have opportunity for them to display their effectiveness. This fortuitous combination is ample reason for optimism about our urban future.

Recently at a meeting of ICMA's Urban Corps Advisory Committee, one of the members said of her involvement in the community, "Where you are is where it's at." A profundity so simply stated that its message to us may be missed.

Where you are is where it's at.

Not only do we not have to look for the center of urban activity, we cannot escape it. It is part of us and we of it.

There hangs on the wall of my office a poster by Sister Corita with these words found on Adlai Stevenson's night stand after his death. I suggest that they apply as aptly to you as to those whose likenesses illustrate the poster: John and Robert Kennedy, and Dr. Martin Luther King:

"It can be said of him, as of few men in like position, that he did not fear the weather and did not trim his sails, but instead, challenged the wind itself to improve its direction and to cause it to blow more softly and more kindly over the world and its people."

And when you—and those who strive with you—have caused the wind to blow more kindly over the world's people, remember then what we are told in the Book of Tao: "When the best leader's work is done, people say 'We did it ourselves!' ".

REVENUE SHARING

Mr. PERCY. Mr. President, I am today releasing a breakdown of the funds which local governments in Illinois will receive this year and next under the revenue-sharing legislation agreed by the House-Senate conference committee.

My report, which follows, includes figures for each municipality in Illinois with a population of over 2,500 and for each county governmental body, as well as a total figure for each of the State's 102 counties.

The report was prepared by my own Senate staff after the Treasury Department told them that it was unable to supply the figures.

Two of my legislative assistants, using a pocket calculator, were able to give me in 20 hours what the Treasury Department, with its vast resources, was unable to provide in 10 days.

First the Treasury said that the revenue-sharing figures for Illinois were too complicated to program. Then my staff was told that the computer had broken down.

In calendar 1970, the executive branch of the Federal Government operated 5,277 computers, at a cost of $2.2 billion. Of these computers, 77 were located in the Treasury Department alone, and given the inexorable growth of Government, I am sure that number has risen in the last 2 years. I am equally sure that all of the computers did not collapse at once.

The delay in processing revenue-sharing figures demonstrates again the overriding need for passage of legislation that would modernize and streamline the executive branch, just as we need to modernize and streamline the operations of Congress itself.

A report issued by the Joint Economic Committee showed that Federal agencies utilize their computers between 50 and 60 percent of the time.

A business that used such expensive equipment so inefficiently would soon go bankrupt. We should make the same effort to save taxpayers' dollars that a business employs to cut costs. There is no excuse for doing less.

The Joint Economic Committee report notes that the functions for which Federal agencies have used computers includes storing telephone directories and managing parking spaces for Federal employees.

I believe that the Government could afford to store a few less directories and make a much larger effort to provide vital data.

Municipalities and county governments throughout the country have been awaiting passage of revenue-sharing legislation for 4 years, and have been anticipating final action by Congress since the House passed the measure earlier this year.

Many governments have counted heavily on the funds to finance their operations for calendar 1972, and to project their operations in 1973.

Thus the amounts they receive under the final conference measure are extremely important to them and to the people who are being denied needed services. Treasury should have moved faster to provide this information so vital to formulating city and county budgets.

I ask unanimous consent that the estimated amounts of Federal revenue-sharing funds to be distributed to county and city governments in Illinois in calendar years 1972 and 1973 be included in the RECORD at this point.

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

ESTIMATED AMOUNTS OF FEDERAL REVENUE SHARING FUNDS TO BE DISTRIBUTED AMONG COUNTY AND CITY GOVERNMENTS IN ILLINOIS, IN CALENDAR YEARS 1972 AND 1973

County	Total 1972 grant	Total 1973 grant
Adams—Area	$1,576,083	$1,776,616
Adams—Government	471,231	531,188
Quincy City	725,479	817,785
Alexander—Area	286,632	323,102
Alexander—Government	134,043	151,098
Cairo City	130,066	146,615
Bond—Area	334,274	376,805
Bond—Government	123,460	139,168
Greenville City	47,376	53,404
Boone—Area	315,465	355,604
Boone—Government	131,999	148,794
Belvidere City	$101,313	$114,204
Brown—Area	133,260	150,216
Brown—Government	45,188	50,937
Bureau—Area	875,087	986,429
Bureau—Government	294,146	331,572
Princeton City	79,284	89,372
Spring Valley City	61,252	69,046
Calhoun—Area	86,748	97,785
Calhoun—Government	68,722	77,466
Carroll—Area	416,120	469,065
Carroll—Government	132,796	149,693
Savanna City	70,272	79,213
Cass—Area	339,211	382,371
Cass—Government	124,294	140,108
Beardstown City	68,362	77,060
Champaign—Area	1,945,152	2,192,644
Champaign—Government	605,471	682,508
Champaign City	492,651	555,333
Village of Rantoul	134,068	151,126
Urbana City	261,477	294,746
Christian—Area	857,585	966,699
Christian—Government	295,346	332,925
Pana City	94,530	106,557
Taylorville City	81,833	92,243
Clark—Area	329,900	371,875
Clark—Government	105,848	119,316
Casey City	30,039	33,861
Marshall City	28,415	32,030
Clay—Area	351,521	396,247
Clay—Government	200,196	225,123
Flora City	50,507	56,933
Clinton—Area	675,490	761,436
Clinton—Government	201,015	226,591
Breese City	64,462	72,664
Carlyle City	50,502	56,928
Centralia City (part)	30,019	33,839
Coles—Area	995,059	1,121,655
Coles—Government	196,413	221,404
Charleston City	197,543	222,688
Mattoon City	339,888	383,134
Cook—Area	97,444,332	109,842,659
Cook—Government	16,658,568	18,778,121
Alsip Village	36,659	41,323
Arlington Heights Village	248,211	279,792
Village of Barrington	36,657	41,321
Bartlett Village (part)	8,258	9,309
Bellwood Village	177,854	200,483
Bensenville Village (part)	11	13
Berkeley Village	13,110	14,779
Berwyn City	316,501	356,771
Blue Island City	115,347	130,023
Bridge View Village	60,208	67,869
Broadview Village	48,328	54,477
Village of Brookfield	89,863	101,297
Burnham Village	13,938	15,712
Calumet City	178,466	210,173
Calumet Park Village	37,595	42,379
Chicago City	69,335,285	78,157,158
Chicago Heights City	418,368	417,599
Chicago Ridge Village	13,110	14,779
Cicero Town	615,838	694,195
Crestwood Village	18,985	21,401
Deerfield Village (part)	29	33
Des Plaines City	327,599	369,281
Dixmoor Village	34,782	27,935
Dolton Village	120,912	136,296
East Chicago Heights Village	62,823	70,816
Elgin City (part)	42,528	47,939
Elmwood Park Village	115,083	129,726
Evanston City	515,191	580,742
Evergreen Park Village	118,604	133,695
Flossmoor Village	25,817	29,101
Forest Park Village	99,214	111,837
Franklin Park Village	190,282	214,493
Glencoe Village	34,689	39,102
Glenview Village	81,868	92,284
Glenwood Village	14,749	16,626
Harvey City	273,251	308,018
Harwood Heights Village	33,141	37,358
Hazel Crest Village	39,896	44,972
Hickory Hills Village	20,212	22,784
Hillside Village	86,941	97,496
Hinsdale Village (part)	7,433	8,374
Hometown City	28,802	32,467
Homewood Village	67,163	75,708
Justice Village	20,212	22,784
Kenilworth Village	9,805	11,053
Village of La Grange	74,193	83,633
La Grange Park Village	51,417	57,947
Lansing Village	96,334	108,591
Lemont Village	21,821	24,598
Lincolnwood Village	42,543	47,956
Lyons Village	70,726	79,725
Markham City	107,509	121,188
Matteson Village	31,343	35,331
Maywood Village	272,882	307,603
Melrose Park Village	273,160	307,915
Midlothian Village	79,761	89,910
Morton Grove Village	117,218	132,133
Mount Prospect Village	144,652	163,057
Niles Village	229,427	258,618
Norridge Village	60,736	68,464
Northbrook Village	89,821	101,249
Northfield Village	16,485	18,583
North Lake City (part)	113,350	127,772
North Riverside Village	36,223	40,832
Oak Forest Village	58,801	66,283
Village of Oak Lawn	277,042	312,283
Oak Park Village	370,223	417,328
Olympia Fields Village	11,444	12,900
Orland Park Village	$26,091	$29,411
Palatine Village	89,835	101,265
Palos Park Village	10,849	12,229
Park Forest Village	171,888	193,758
Park Ridge City	188,606	212,603
Phoenix Village	47,006	52,987
Posen Village	29,743	33,529
Richton Park Village	11,442	12,898
Riverside Village	55,785	62,882
River Forest Village	44,099	49,710
River Grove Village	45,522	51,314
Riverside Village	34,326	38,694
Robbins Village	124,008	139,786
Rolling Meadows City	72,411	81,624
Roselle Village (part)	218	245
Rosemont Village	29,217	32,935
Schiller Park Village	109,234	123,133
Skokie Village	331,035	373,154
South Chicago Heights Village	24,534	27,655
South Holland Village	80,470	90,719
Steger Village (part)	18,199	20,515
Village of Stickney	38,889	43,837
Stone Park Village	39,649	44,694
Village of Summit	92,642	104,429
Thornton Village	19,610	22,105
Tinley Park Village	44,146	49,762
Westchester Village	70,986	80,018
Western Springs Village	39,970	44,816
Wheeling Village	48,522	54,695
Willow Springs Village	12,876	14,515
Wilmette Village	105,737	119,191
Winnetka Village	46,497	52,414
Worth Village	54,189	61,083
Barrington Hills Village	8,923	10,059
Buffalo Grove Village (part)	19,841	22,366
City of CO Club Hills	25,351	28,577
Elk Grove Village (part)	136,648	154,035
Hanover Park Village (part)	38,614	43,531
Sauk Village	32,624	36,774
Streamwood Village	59,808	67,418
Schaumburg Village (part)	60,976	68,735
City of Palos Hills	26,344	29,696
Palos Heights City	32,625	36,776
Hoffman Estates Village	73,174	82,484
City of Countryside	31,559	35,574
Crawford—Area	285,002	321,265
Crawford—Government	110,853	124,958
Robinson City	51,149	57,657
Cumberland—Area	233,123	262,784
Cumberland—Government	86,658	97,684
De Kalb—Area	1,137,607	1,282,351
De Kalb—Government	374,789	422,475
De Kalb City	239,429	269,892
City of Genda	37,485	42,255
Sandwich City (part)	867,298	977,649
Sycamore City	71,914	81,064
De Witt—Area	385,402	434,438
De Witt—Government	99,339	111,979
Clinton City	65,374	73,692
Douglas—Area	453,203	510,866
Douglas—Government	125,625	141,609
Tuscola City	60,643	68,359
Villa Grove City	27,710	31,236
Du Page—Area	3,627,191	4,088,697
Du Page—Government	1,466,936	1,653,582
Addison Village	101,353	114,249
Bartlett Village (part)	3,261	3,676
Bensenville Village (part)	84,436	95,180
Bloomingdale Village	9,794	11,040
Clarendon Hill Village	22,867	25,776
Downers Grove Village	154,520	174,181
Elk Grove Village (part)	737	831
Elmhurst City	294,346	331,797
Glen Ellyn Village	72,092	81,264
Hinsdale Village (part)	46,635	52,569
Hanover Park Village (part)	595	671
Itasca Village	19,472	21,949
Lisle Village	24,219	27,301
Lombard Village	144,396	162,769
Naperville City	120,805	136,176
North Lake City (part)	201	227
Roselle Village (part)	15,289	17,234
Schaumburg Village (part)	654	734
Villa Park Village	194,060	218,752
West Chicago City	98,115	110,602
Westmont Village	30,976	34,917
Wheaton City	138,436	156,061
Winfield Village	16,986	19,147
Wood Dale Village	32,975	37,170
Oak Brook Village	19,422	21,894
Carol Stream Village	22,772	25,670
Woodridge Village	36,287	40,904
Glendale Heights Village	39,365	44,373
Edgar—Area	515,080	580,617
Edgar—Government	200,480	225,988
City of Paris	125,686	141,678
Edwards—Area	133,122	150,060
Edwards—Government	85,159	95,995
Effingham—Area	587,055	661,749
Effingham—Government	216,168	243,672
Effingham City	120,975	136,368
Fayette—Area	495,065	558,055
Fayette—Government	208,930	235,513
Vandalia City	61,910	69,787
Ford—Area	390,813	440,538
Ford—Government	133,013	149,937
Gibson City	44,315	49,954
Paxton City	32,957	37,151
Franklin—Area	914,387	1,030,729

ESTIMATED AMOUNTS OF FEDERAL REVENUE SHARING FUNDS TO BE DISTRIBUTED AMONG COUNTY AND CITY GOVERNMENTS IN ILLINOIS, IN CALENDAR YEARS 1972 AND 1973—Continued

County	Total 1972 grant	Total 1973 grant
Franklin—Government	$289,881	$326,764
Benton City	76,279	85,984
Christopher City	18,221	20,539
West Frankfort City	140,521	158,400
Fulton—Area	866,364	976,596
Fulton—Government	299,135	337,195
Canton City	154,773	174,466
Farmington City	32,264	36,369
Lewistown City	26,999	30,434
Gallatin—Area	176,965	199,481
Gallatin—Government	59,819	67,430
Greene—Area	400,585	457,533
Greene—Government	153,189	172,681
Carrollton City	33,123	37,337
White Hall City	26,633	30,022
Grundy—Area	361,291	407,260
Grundy—Government	109,549	123,487
Coal City Village	29,022	32,714
Morris City	57,309	64,601
Hamilton—Area	206,714	233,016
Hamilton—Government	81,993	92,425
McLeansboro City	19,435	21,901
Hancock—Area	564,534	636,363
Hancock—Government	198,837	224,136
Carthage City	33,729	38,020
Hamilton City	30,966	34,906
Hardin—Area	100,536	113,327
Hardin—Government	63,081	71,107
Henderson—Area	201,609	227,261
Henderson—Government	83,977	94,662
Henry—Area	817,665	921,700
Henry—Government	211,696	238,631
Galva City	32,053	36,131
Geneseo City	36,011	40,592
Green Rock City	12,184	13,734
Kewanee City	179,063	201,846
Iroquois—Area	799,948	901,729
Iroquois—Government	274,162	309,045
Waiseka City	54,781	61,751
Jackson—Area	1,045,263	1,178,257
Jackson—Government	376,017	423,860
Carbondale City	313,588	353,487
Murphysboro City	109,792	123,825
Jasper—Area	187,411	211,256
Jasper—Government	99,469	112,125
City of Newton	24,131	27,201
Jefferson—Area	624,280	703,711
Jefferson—Government	223,738	252,205
Mt. Vernon City	189,639	213,768
Jersey—Area	355,311	400,519
Jersey—Government	187,377	211,218
Jerseyville City	23,490	26,479
Jo Daviess—Area	519,255	585,323
Jo Daviess—Government	208,450	234,972
Galena City	39,586	44,623
Johnson—Area	146,584	165,234
Johnson—Government	83,230	93,819
Kane—Area	2,682,061	3,023,315
Kane—Government	653,382	736,515
Aurora City	740,764	835,015
Batavia City	52,179	58,818
Carpentersville Village	155,271	175,027
East Dundee Village	18,706	21,086
Elgin City (part)	459,820	518,325
Geneva City	41,351	46,612
Montgomery Village (part)	13,770	15,522
North Aurora Village	20,965	23,633
St. Charles City	73,812	83,203
South Elgin Village	17,016	19,181
West Dundee Village	9,287	10,468
Kankakee—Area	1,412,592	1,592,323
Kankakee—Government	551,333	621,482
Bourbonnais Village	19,443	21,917
Bradley Village	91,152	102,750
Kankakee City	341,613	385,078
Manteno Village	18,922	21,330
Momence City	51,147	57,654
Kendall—Area	336,174	378,938
Kendall—Government	136,031	153,339
Montgomery Village (part)	66	74
Plano City	43,856	49,436
Sandwich City (part)	95	107
Knox—Area	1,289,015	1,453,023
Knox—Government	371,539	418,812
Abingdon City	53,847	60,698
Galesburg City	578,221	651,791
Knoxville City	19,291	21,752
Lake—Area	3,056,398	3,445,279
Lake—Government	957,806	1,079,673
Antioch Village	24,261	27,347
Buffalo Grove Village (part)	3,649	4,114
Deerfield Village (part)	62,322	70,251
Fox Lake Village	25,166	28,368
Grayslake Village	16,146	18,201
Gurnee Village	25,283	28,500
Highland Park City	106,162	119,669
Highwood City	16,363	18,445
Lake Bluff Village	16,478	18,575
Lake Forest City	56,223	63,377
Lake Zurich Village	24,300	27,391
Libertyville Village	38,446	43,337
Mundelein Village	90,469	101,980
North Chicago City	264,846	298,535
Round Lake Beach Village	26,619	30,036
Round Lake Park Village	18,310	20,618
Wauconda Village	$29,771	$33,559
Waukegan City	638,659	719,918
Winthrop Harbor Vilg. Off.	25,406	28,638
Zion City	152,686	172,113
Lincolnshire Village	8,323	9,382
Village of Lindenhurst	10,335	11,650
Park City	9,394	10,589
La Salle—Area	2,190,847	2,469,600
La Salle—Government	713,640	804,440
La Salle City	179,372	202,194
Marseilles City	29,792	33,583
Mendota City	73,206	82,520
Oglesby City	43,329	48,842
Ottawa City	233,815	263,564
Peru City	120,786	136,155
Streator City (part)	254,933	287,370
Lawrence—Area	418,009	471,195
Lawrence—Government	168,485	189,922
Lawrenceville City	83,697	94,346
Lee—Area	905,274	1,020,456
Lee—Government	326,826	368,410
Dixon City	264,229	297,848
Livingston—Area	877,509	989,158
Livingston—Government	296,307	334,007
Streator City (part)	1,025	1,156
Dwight Village	77,700	84,980
Fairbury City	60,091	67,737
Logan—Area	800,091	901,891
Logan—Government	300,837	339,114
Lincoln City	192,017	216,448
McDonough—Area	810,149	913,228
McDonough—Government	266,466	299,644
Bushnell City	45,246	51,002
Macomb City	212,230	239,234
McHenry—Area	1,042,937	1,175,635
McHenry—Government	361,717	407,740
Algonquin Village	16,276	18,347
Cary Village	22,470	25,330
Crystal Lake City	72,935	82,215
Harvard City	38,206	43,067
Vil. of Lake in the Hills	33,711	38,000
McHenry City	53,589	60,407
Marengo City	19,936	22,453
Woodstock City	79,338	89,433
McLean—Area	1,767,440	1,992,320
McLean—Government	565,651	637,622
Bloomington City	490,930	553,394
Normal Town	222,579	250,899
Macon—Area	1,369,809	1,544,097
Macon—Government	395,290	445,585
Decatur City	663,693	748,138
Macoupin—Area	885,304	997,945
Macoupin—Government	273,549	308,354
Carlinville City	69,247	78,058
Gillespie City	20,035	22,585
Staunton City	46,524	52,444
Virden City	19,203	21,646
Madison—Area	3,637,328	4,007,664
Madison—Government	740,197	834,376
Alton City	797,288	673,284
Bethalto Village	28,494	32,119
Collinsville City (part)	113,849	128,334
East Alton Village	146,107	164,663
Edwardsville City	96,550	108,834
Granite City	491,745	554,312
Highland City	57,621	64,952
Madison City	43,962	49,555
Venice City	111,647	125,852
Wood River City	150,856	170,050
Marion—Area	862,363	972,085
Marion—Government	252,196	284,285
Centralia City	154,695	174,378
Salem City	140,436	158,304
Marshall—Area	317,053	358,945
Marshall—Government	125,690	141,683
Henry City	22,918	25,834
Mason—Area	288,093	324,748
Mason—Government	110,683	124,765
Havana City	44,185	49,806
Mason City	19,357	21,820
Massac—Area	331,339	373,497
Massac—Government	217,487	245,158
Metropolis City	92,771	104,575
Menard—Area	182,192	205,373
Menard—Government	132,961	149,879
Petersburg City	23,797	26,825
Mercer—Area	412,570	465,064
Mercer—Government	178,763	201,508
Aledo City	34,958	39,406
Monroe—Area	177,658	200,262
Monroe—Government	69,349	78,173
Columbia City	39,272	44,269
Waterloo City	54,788	61,760
Montgomery—Area	721,891	813,740
Montgomery—Government	233,115	262,775
Hillsboro City	32,762	36,931
Litchfield City	79,729	89,874
City of Nokomis	30,570	34,459
Morgan—Area	862,976	972,777
Morgan—Government	238,540	268,891
Jacksonville City	236,038	266,071
Village of South Jacksonville	9,706	10,941
Moultrie—Area	316,405	356,663
Moultrie—Government	130,776	147,415
Sullivan City	40,907	46,112
Ogle—Area	669,417	754,590
Ogle—Government	242,882	273,786
Mount Morris Village	15,434	17,398
Oregon City	36,901	41,596
Polo City	28,404	32,018
Rochelle City	92,135	103,858
Peoria—Area	$2,776,231	$3,129,465
Peoria—Government	711,284	801,784
Bartonville Village	47,115	53,155
Chillicothe City	32,548	36,689
Peoria City	1,650,332	1,860,312
Peoria Heights Village	35,460	39,972
Pekin City (part)	44	47
Perry—Area	340,574	383,907
Perry—Government	208,182	234,670
Du Quoin City	70,062	78,977
Pinckneyville City	38,711	43,636
Piatt—Area	326,060	367,546
Piatt—Government	105,749	119,204
Monticello City	39,739	44,795
Pike—Area	457,682	515,915
Pike—Government	179,834	202,715
Pittsfield City	34,597	38,999
Pope—Area	63,411	71,479
Pope—Government	51,058	57,555
Pulaski—Area	208,527	235,059
Pulaski—Government	140,833	158,752
Putnam—Area	112,740	127,084
Putnam—Government	36,543	41,192
Randolph—Area	454,092	511,869
Randolph—Government	254,573	286,964
Chester City	47,223	53,231
Red Bud City	26,437	29,801
Sparta City	49,486	55,783
Richland—Area	401,476	452,558
Richland—Government	130,248	146,820
Olney City	129,715	146,220
Rock Island—Area	2,606,010	2,937,586
Rock Island—Government	633,187	713,750
Coal Valley Village	10,160	11,453
East Moline City	264,511	298,167
Milan Village	55,377	62,423
Moline City	577,693	651,196
Rock Island City	694,267	782,602
Silvis City	39,240	44,232
St. Clair—Area	4,609,066	5,195,500
St. Clair—Government	1,392,352	1,569,508
Alorton Village	22,944	25,863
Belleville City	351,265	395,958
Cahokia Village	108,531	122,340
Caseyville Village	19,571	22,061
Collinsville City (part)	1,804	2,033
Dupo City	14,279	16,096
East St. Louis City	1,669,843	1,882,306
Village of Fairmont City	9,111	10,270
Lebanon City	23,794	26,822
Mascoutah City	38,888	43,836
O'Fallon City	37,491	42,261
Swansea Village	17,873	20,147
Washington Park Village	31,339	35,326
Centreville City	100,848	113,679
Saline—Area	454,828	512,698
Saline—Government	171,128	192,902
Eldorado City	49,665	55,984
Harrisburg City	91,544	103,192
Sangamon—Area	2,125,583	2,396,031
Sangamon—Government	666,614	751,431
Auburn City	29,364	33,100
Chatham Village	9,174	10,341
City of Springfield	895,275	1,009,185
Schuyler—Area	194,071	218,763
Schuyler—Government	56,031	63,160
Rushville City	18,725	21,107
Scott—Area	140,011	157,825
Scott—Government	108,301	122,081
Shelby—Area	538,889	607,454
Shelby—Government	196,933	221,990
Shelbyville City	38,958	43,915
Stark—Area	179,160	201,955
Stark—Government	78,508	88,497
Stephenson—Area	954,022	1,075,407
Stephenson—Government	317,456	357,847
Freeport City	334,716	377,303
Tazewell—Area	1,479,655	1,667,919
Tazewell—Government	438,874	494,714
Creve Coeur Village	40,867	46,067
East Peoria City	184,017	207,431
Marquette Heights City	9,075	10,230
Morton Village	53,538	60,350
Pekin City (part)	326,423	367,955
Washington City	41,257	46,506
Union—Area	216,514	243,473
Union—Government	120,207	135,502
Anna City	52,094	58,722
Vermilion—Area	1,429,091	1,610,922
Vermilion—Government	383,669	432,485
Village of Bollingbrook (part)	1,358	1,531
Danville City	502,106	565,992
Georgetown City	17,433	19,651
Hoopeston City	70,263	79,204
Tilton Village	27,153	30,605
Westville Village	15,592	17,576
Wabash—Area	256,142	288,732
Wabash—Government	139,534	157,288
Mount Carmel City	104,258	117,523
Warren—Area	515,176	580,724
Warren—Government	174,840	197,086
Monmouth City	123,378	139,077
Washington—Area	328,739	370,566
Washington—Government	149,763	168,818
Nashville City	24,162	27,236
Wayne—Area	405,651	457,265
Wayne—Government	128,041	144,332
Fairfield City	65,133	73,420
White—Area	412,999	465,547
White—Government	146,878	165,166
Carmi City	61,283	69,067

County	Total 1972 grant	Total 1973 grant
Whiteside—Area	$1,170,823	$1,319,793
Whiteside—Government	368,546	415,438
Fulton City	86,598	97,616
Morrison City	29,185	32,899
Rock Falls City	101,240	114,122
Sterling City	294,699	332,195
Will—Area	2,558,005	2,883,472
Will—Government	820,840	925,280
Village of Bollingbrook (part)	11,121	12,536
Crete Village	34,508	38,899
Joliet City	846,673	954,399
Lockport City	60,578	68,276
New Lenox Village	9,394	10,589
Plainfield Village	17,377	19,587
Romeoville Village	41,703	47,010
Steger Village (part)	35,190	39,668
Wilmington City	24,607	27,738
Crest Hill City	57,833	65,191
Williamson—Area	936,971	1,056,187
Williamson—Government	481,085	542,296
Carterville City	31,831	35,881
Herrin City	115,684	130,403
Johnston City	45,615	51,419
Marion City	180,544	203,515
Winnebago—Area	3,519,565	3,967,377
Winnebago—Government	751,473	847,086
Loves Park City	89,201	100,550
Rockford City	2,019,620	2,276,586
South Beloit City	90,749	102,296
Woodford—Area	568,751	641,116
Woodford—Government	187,518	211,377
Eureka City	31,339	35,326
Totals in millions:		
Total, Illinois share	274.638	309.57
Illinois State government	91.546	103.19
Illinois local governments share	183.092	206.38

NOTES

These data showing distribution of revenue sharing funds among Illinois local governments are based on the formula for intrastate distribution contained in the Senate-passed bill. But the amount of funds distributed among these governments is the amount Illinois receives under the Conference Committee compromise. These figures are thus net of the social services funds added extraneously by the Senate.

Amounts are separately indicated for all municipalities over 2,500 population. Separate data have not been tabulated by the Treasury Department for communities under 2,500 population, or for townships.

Where municipalities are located in 1 or more counties, the notation "part" appears in the tabulation next to the name of the place.

The larger figures for 1973 represent the 1st year (of the total 5 years of the bill, calendar 1972 through calendar 1976) in which the full amount of $301,800,000 distributed to Illinois under the Conference compromise becomes available. This is increased by Illinois' share of an additional $150,000,000 allocated for 1973, and for each of the last 3 years of the bill. Thus these estimates for 1973 are subject to later correction in data to be issued by Treasury based on official computations.

THE MOST DANGEROUS PROFESSION

Mr. MATHIAS. Mr. President, the most dangerous profession in America today is that of fireman. It does not have to be so. In many other modern countries it is not so.

The Washington Post on September 23, published an editorial commenting on this problem and its solution. I ask unanimous consent that it be printed in the RECORD.

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

THE FORGOTTEN SERVICE

Fire chiefs around the country are unhappy. With crime getting most of the public attention and police departments getting massive federal support ($1.6 billion in 1969 to 1972 funding), they feel that theirs is "the forgotten service," according to a recent survey conducted by "Nation's Cities," the magazine of the National League of Cities.

Fire service salaries and fringe benefits, to be sure, have generally risen to keep pace with private industry and other municipal wages, the magazine found. But fire chiefs nevertheless complain about the lack of manpower. A third of the 797 city fire departments that responded to the survey say they are understaffed. Many of them would like to abandon the traditional 24-hour shift with 24 to 48 hours off and switch to eight-hour shifts and a 40-hour week. "We should throw out the beds in the fire stations and utilize the manpower to better advantage—we can use them as building inspectors along with fire inspections," one chief suggested.

Another complaint is that, in contrast to law enforcement, fire-fighting technology is improving only slowly. Much of the equipment is not much different from what it was a century ago, except that it has been motorized. What is most needed, however, is better protection for firemen as they battle flames and smoke: turnout coats, breathing apparatus, boots, gloves and helmets. What firefighters expect most of all from space-age technology, is well-insulated, fire-retardant, lightweight protective clothing rather than the traditional duck with rubber lining.

For most fire chiefs, however, improvements in fire prevention are even more urgent than improvements in fire-fighting technology. They would do away with "Miss Flame" contests, "Sparky the Dog" and fire-prevention-week gimmicks and have the cities get down to the guts of the matter: Stronger fire codes and enforcements of these codes. Highrise buildings in particular, they say, are a menace all over the country because they lack adequate sprinkler systems and other fire protection devices. These add to the cost of the building, of course. But they would save on the armies of men needed to subdue fires and save lives.

That cost is fearful. More than 12,000 men, women, and children have been killed by fire in each of the past six years. Although the nation spends about $2.7 billion a year on fire protection, the value of property loss last year was $2.8 billion—about $215 million more than in 1970.

The city fire departments need help—federal help—for the cities can no longer be expected to carry this burden alone. A bill introduced by Sen. Charles Mathias (R-Md.) and Rep. Robert H. Steele (R-Conn.) would come to their rescue. It would create a national fire academy to serve as a national center for fire research, along with funds for such research as well as training and improved fire-fighting equipment. But the prospects for its passage are slim this year. In fact, it seems likely that there will be no congressional action until after the President's National Fire Prevention and Control Commission makes its report next July.

Considering that the death rate due to fire in the United States is twice that of Canada, four times that of the United Kingdom and 6½ times that of Japan, that will be none too soon.

GEN. BERNARDO DE GALVEZ DAY IN NEVADA

Mr. BIBLE. Mr. President, with the American Revolution Bicentennial close at hand, our Nevada Gov. Mike O'Callaghan issued a proclamation commemorating the signing of the Constitution of the United States. The proclamation also recognizes "the brilliant contribution made to the American cause by the Spanish General, Bernardo de Galvez, in establishing a second front during the Revolutionary War by engaging and destroying the enemy in the Battle of Pensacola, as well as other victories at Mobile, Baton Rouge, and Natchez."

In honor of these accomplishments, the State of Nevada has designated today "General Bernardo de Galvez Day." This special recognition comes at a very opportune time.

We Nevadans are proud to number among our citizens thousands of persons of Spanish and Latin American descent. Their language gave our State its name—Nevada is Spanish for "snow clad"—and Spaniards have contributed greatly to the growth and development of our State and our country. So as we approach the bicentennial, we are proud to extend this special recognition to the important role of Spain and her distinguished son, Don Bernardo de Galvez, in the American Revolution.

OREGON'S JOURNEY TO A BETTER ENVIRONMENT

Mr. PACKWOOD. Mr. President, the remarkable State of Oregon has taken another first step in this long journey to a better environment. It has challenged this image of a "throwaway society" that has been imposed upon America. The flip-top can has been outlawed and a 5-cent retail deposit on all standard size beer and soft drink cans and bottles sold in Oregon has been instituted by State law.

Oregon's courage in dealing with one of our most troublesome solid waste problems is historic and precedent setting. While our roadsides, parks, forests, countryside, city streets and backyards were "literally" inundated, and an apathetic U.S. Congress chose to look the other way, Oregonians stepped forward to be counted. Once again in the leadership position on environmental issues, Oregon is beckoning to hundreds of thousands of American citizens to follow in its steps, to not lose heart. They can change the apathetic attitude here in Washington and clean up the Nation.

In last Saturday's Washington Post, Oregon's actions and the Nation's problem were noted on the editorial page. Mr. President, I ask unanimous consent that the Post editorial, entitled "Throwing Out the Throwaways," be printed at this point in the RECORD.

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

THROWING OUT THE THROWAWAYS

Fewer messages have been better heeded by the public than the throwaway label on beer and soft drink cans and bottles. Nonreturnable containers are a major blight on the environment, from roadsides and sidewalks trashed with beer cans to parks and beaches uglified by soda bottles. Concern, Inc., a national environmental group, notes that in 1969 some $3.5 billion was spent handling 190 million tons of collected solid wastes that included 30 billion bottles and 60 billion cans. Rather than passively wait for this inundation by garbage, the Oregon legislature that year passed a tough anti-litter law that would require a 5-cent deposit on beer and carbonated soft drink bottles and cans; in addition, the beverages are outlawed in non-returnable bottles.

The container industry, which argued against the bill—it would cause unemployment among its workers, the public doesn't want to be inconvenienced and prices will rise—sought to have the new law declared unconstitutional. Last week, an Oregon circuit court judge ruled that the law was not only valid but it was a "bold and forceful action" against the menace of bottle and can litter.

It is too early to tell whether the Oregon law will confirm the high expectations held out for it. It is the first statewide law of its kind. A similar program has been operating for two years in British Columbia and officials reported it is working well. The issue is complicated, as hearings before the Sen-

ate Subcommittee on the Environment last spring revealed. Sen. Charles Mathias (R-Md.) proposed a bill to ban non-returnables, but the legislation is not expected to get out of committee.

It's too bad. Evidence grows—aside from the excessive trash citizens can see with their own eyes—that the public knows it has been misled into thinking throwaways are convenient and cheap. The Crusade for a Cleaner Environment, a group that helped get the Oregon's law passed, reports that the difference in price per bottle between a throwaway and a returnable is 3.6 cents; the saving per six pack of 12 ounce returnables is 20 cents. As for convenience, George R. Stewart in "Not So Rich As You Think" writes that we "throw worthless objects away, and then, through taxes, pay fantastic amounts to have the worthless objects picked up."

Until Congress takes the initiative, state and local legislatures will have to choose for themselves whether or not to act. Oregon has shown that despite pressure from parts of the beverage industry, the situation is not impossible.

Mr. PACKWOOD. Mr. President, I believe details regarding Oregon's bottle bill, the court suit which followed, and other circumstances surrounding this historic event, are of extreme importance to Congress, the administration, and to the general public. I, therefore, ask unanimous consent that the complete text of the September 1, 1972, decision of Marion County Circuit Judge Val Sloper be printed in the RECORD, to be followed by several news accounts from the September 2, 1972, Eugene Register-Guard, by Jerry Uhrhammer, the Oregon Statesman, of September 2, 1972, by Janet Davies, an editorial from the Oregon Statesman of September 4, 1972, and an article from the Salem Capital Journal of September 4, 1972.

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

[Circuit Court of the State of Oregon, Third Judicial District—Marion County, Salem, Oreg.]

AMERICAN CAN COMPANY, ET AL. PLAINTIFFS, V. OREGON LIQUOR CONTROL COMMISSION, ET AL., DEFENDANTS, NORTHWESTERN GLASS COMPANY, ET AL., INTERVENORS

[No. 75567]

Gentlemen: This is a suit seeking a declaratory judgment of the Court that Chapter 745, Oregon Laws 1971, hereinafter referred to as the "Act", is unconstitutional, void and unenforceable, and for an injunction, restraining the defendants from applying, or in any manner enforcing the statute.

The plaintiffs include (1) manufacturers of metal cans who supply beer and soft drink manufacturers; (2) brewers who manufacture beer which is shipped into and sold on the Oregon market; (3) contract canners who are located outside of Oregon and who package various soft drinks for the Oregon market, and for soft drink wholesalers who sell soft drink beverages in the State of Oregon; and (4) soft drink manufacturers who sell their products on the Oregon market.

The intervenors are various manufacturers of glass beverage containers.

The plaintiffs' complaint and the complaint of the intervention seek identical relief.

The defendants are the Oregon Liquor Control Commission and State Department of Agriculture which are the departments and agencies of the State government that are charged by the provision of the Act with the implementing and enforcing of said Act.

Defendants Gration, Hudson, and Young are the commissioners of the defendant Oregon Liquor Control Commission. Defendant Martin is the Administrator of the Commission and defendant Mann is the Director of the State Department of Agriculture.

The allegations of the complaint and the complaint in intervention are quite lengthy, and since most of them had been admitted in the answer to each, I will attempt to summarize the pertinent parts of each rather than to set them out in great detail.

(1) The plaintiffs in group #1 above, manufacture and sell metal cans and closures to the manufacturers of beer and soft drink beverages. The number of metal containers used annually has risen sharply in the United States in recent years. At the same time, the use of cans on the Oregon market had also increased significantly.

The plaintiffs in group #2 are brewers who are engaged in the manufacturing and packaging of beer products at breweries outside the State of Oregon for the distribution and sale on the Oregon market, as well as the national market. A large percentage of their manufacturing system is devoted to the one-way merchandising and a very large percentage of the sales of this group of plaintiffs are one-way, no-deposit containers.

The plaintiffs in group #3 are contract canneries who pack various soft drinks in plants which are located outside of Oregon for distributors and retailers in Oregon, and who sell the soft drink beverages within the State of Oregon. Again, a very large percentage of these plaintiffs' production is the one-way, non-returnable convenience containers.

The 4th group of plaintiffs are soft drink manufacturers who package and sell their own products on the Oregon market, and who also use a very high percentage of one-way, non-returnable containers in their distribution system.

Under the provisions of the Act, the plaintiffs can-manufacturers' market for metal containers would be substantially reduced, resulting, no doubt, in the closing of some portions of some of these plaintiffs' plants, or at least curtailing their production.

The brewers would be required by the provisions of the Act to prepare a new package for the Oregon market and would, by the terms of the Act, be unable to use the package mix now used by them.

The contract canners' manufacturing business for the Oregon soft drink bottlers would be greatly curtailed as would some contract canners' business because their distribution system would probably be eliminated. The soft drink manufacturers would incur additional capital and operating expense because of a restructuring of their present system of production, distribution and sales from the one-way, non-returnable containers to returnable bottles.

The intervenors' allegations in these matters are similar to the soft drink can manufacturing companies. Plaintiffs and intervenors further allege that the Act will not result in any material reduction of litter or solid waste, and that there are other alternative methods by which litter and solid waste could be more effectively handled.

The Court has had the benefit of trial memorandums from the plaintiffs, intervenors and the defendants. Amicus curiae briefs have been submitted by the Oregon Environmental Council, the Natural Resources Defense Council and the People's Lobby against non-returnables. The Court has also received post-trial briefs from the plaintiffs, the intervenors and defendants, as well as a supplemental memorandum, from amicus curiae Oregon Environmental Council.

The Court has carefully examined each and all of the memorandums and the authorities therein cited, as well as having conducted an independent research into the applicable law. The citations which are to follow herein are taken in a large degree from one or more of the memorandums referred to.

The stated purpose in Section 6 and Section 8 of the Act is to promote the use in this state of reusable beverage containers of a uniform design and to facilitate the return of such reusable containers to the manufacturers for reusage. Among other things, the Act requires a minimum refund value of not less than five cents on all non-certified malt beverage and soft drink containers sold in the state. (Sec. 2, (1). This five cent minimum refund value is reduced to the sum of two cents for any beverage container that is certified for reuse. (Sec. 2, Par. 2, and Sec. 6). Every beverage container offered for sale shall clearly indicate its refund value by having the refund value affixed on the container with certain exceptions. (Sec. 5, (1), (2), subsec. 1).

The refund value of the empty beverage container, upon being returned by the consumer to the dealer, shall be paid to the consumer and the dealer should, in turn, be paid the return value by the distributor. (Sec. 3, (1), (2).

Any person, upon approval by the defendant Oregon Liquor Control Commission, may establish a redemption center to facilitate the return of beverage containers. (Sec. 8, Subsection 1). The sale of all metal beverage containers so designed and constructed that can be opened without the aid of a can opener is prohibited. (Sec. 5, Subsection 3). This, of course, refers to the popular pull-top can.

The plaintiffs' and intervenors' attack against the Act is based upon a three-pronged constitutional challenge: (1) That the Act violates the commerce clause of the United States Constitution by imposing an undue burden on interstate commerce. (Art. I, Sec. 8, Clause 3.) (2) The Act violates the equal protection clause of the United States Constitution and the privileges and immunities clause of the Oregon Constitution. Amendment XIV, Sec. 1. (3) That the Act violates the due process of the United States Constitution and Section 18 of Article 1 of the Oregon Constitution.

During the opening statement, Mr. Leahy for the first time, presented an issue concerning plaintiff brewers under the Twenty-first Amendment of the United States Constitution and that matter has been given special treatment by counsel for the plaintiffs and intervenors in their post-trial Briefs.

I have concluded that the defendants' position is untenable, and that under more recent, better and more logical reasoned decisions, the Twenty-first Amendment no longer, if it ever did, completely insulated any alcoholic beverage regulation from the constitutional claims of interference with federal commerce, equal protection, and due process clauses.

The Twenty-First Amendment Versus The Commerce Clause, 55 Yale Law J 815 (1946):

"If the twenty-first amendment be examined in its historical matrix, no intent to vest an unlimited jurisdiction in the states is discernible. The sole function of Section 2 was to render an iron-clad protection to the 'dry states' against any possible influx of intoxicants from non-prohibition areas. * * * " (pp. 816–817)

Sail'er Inn, Inc., v. *Kirby*, 95 Cal. Rptr. 325, 485 P2d 525 (1971):

"Although some early cases painted state powers under Section 2 of the Twenty-first Amendment with a broad brush, later decisions have taken a position more in keeping with the original intent of the Amendment." (485 P2d at 535)

And as the Oregon statute might be paraphrased—plaintiffs' Brief, p. 4:

"* * * is not even tangentially related to 'transportation or importation' of liquor into [Oregon], and therefore does not fall within the literal language of the Twenty-first Amendment. The statute merely regulates [used beverage containers] at the [retail and wholesale] level, and has nothing to do with

the flow of alcoholic beverages into the state." (485 P2d at 536)

Because the Act herein does not in any manner attempt to regulate alcoholic beverages but is a regulation of the containers in which the alcoholic beverage may be sold, the Twenty-first Amendment does not deprive the plaintiff brewers herein the opportunity to raise the constitutional issues presented herein.

Assuming, but not deciding, that the corporate and nonresident plaintiffs have standing to raise the equal privileges and immunity claims, the plaintiffs and intervenors, under the due process attack, allege that the Act is arbitrary, unreasonable, oppressive and that it lacks a real and substantial relationship to the objective sought. Plaintiffs and intervenors urge that the Act will not accomplish the goals for which it was enacted and will in no way assist or lessen the litter and solid waste problem but will worsen its problems and will place an unreasonable and catastrophical financial burden upon each of the various classes of plaintiffs.

The burden, of course, is upon the plaintiffs to prove their contention that the Act is unconstitutional in any respect. There is a strong presumption that any legislative act proposed to regulate business and economic matters does not violate federal standards of due process. The test to be employed is similar to the test of the equal protection challenge.

Nearly forty years ago, the United States Supreme Court in the case of *Nebbia* v. *New York*, 291 U.S. 502 (1933); defined the due process standard:

"(A) state is free to adopt whatever economic policy may reasonably be deemed to promote public welfare, and to enforce that policy by legislation adopted to its purpose. The courts are without authority to either to declare such policy, or, when it is declared by the legislature, to override it."

And in the case of *Williamson* v. *Lee Optical of Oklahoma*, 348 U.S. 483, 488 (1955), the Court said:

"The day is gone when this Court uses the Due Process Clause of the Fourteenth Amendment to strike down state laws regulatory of business and industrial conditions because they may be unwise, improvident, or out of harmony with a particular school of thought."

And in the case of *Ferguson* v. *Skrupa*, 372 U.S. 726 (1963), the Court decided:

"We refuse to sit as a super-legislative to which the wisdom of legislation," and we emphatically refuse to go back to the time when courts used the Due Process Clause "to strike down state laws, regulatory or business and industrial conditions, because they may be unwise, improvident, or out of harmony with a particular school of thought."

Neither does an allegation that as economic regulation violates due process simply because an additional financial burden is imposed. *Northwest Laundry* v. *Des Moines*, 239 U.S. 486 (1915), is which the Court refused the plaintiffs' contention that it would be necessary in order to comply with the city ordinance to remodel their existing furnaces, the Court said:

"Nor is there any valid Federal Constitutional objection in the fact that the regulation may require the discontinuance of the use of property, or subject the occupant to large expense is complying with the terms of the law or ordinance."

And in the case of *Phillips* v. *City of Bend*, 192 Or. 143, is which the Oregon State Supreme Court upheld the validity of a city ordinance under due process attack which prohibited solicitations by door-to-door peddlers.

The Oregon Court on Page 149 quotes from 341 US 622, *Jack H. Breard* v. *City of Alexandria:*

"* * * This case calls for an adjustment constitutional rights in the light of the particular living conditions of the time and place. Everyone cannot have his own way and each must yield something to the reasonable satisfaction of the needs of all . . ."

And again on Page 151,

"The Constitution's protection of property rights does not make a state or a city impotent to guard its citizens against the annoyance of life because the regulations may restrict the manner of doing a legitimate business. " * * * we think that even a legitimate occupation may be restricted or prohibited in the public interest . . ."

The plaintiffs and intervenors, under the due process attack, cite Art. I, Sections 10 and 18, Oregon Constitution. Section 10 guarantees a remedy for an injury to person, property or reputation and with open and speedy justice.

Section 18 is the constitutional guarantee of just compensation when private property is taken for a public use.

The Act, of course, in no way denies or prevents any claim that the plaintiffs or intervenors may have for the taking of any private property for a public use, nor does it deny to them any remedy for injury or access to the courts. The provisions as set forth in the Act, supra, show on their face that they bear a rational relationship to the purpose for which the Act was enacted, i.e., problems of litter and solid waste disposal, and certainly this is a matter of legitimate and proper government concern. The attack, based on the alleged failure of constitutional due process, must fail.

Turning next to the claim that the Act violates the equal protection clause of the U.S. Constitution and the privileges and the immunitive clause of the Oregon Constitution.

The plaintiffs and intervenors urge that the Act creates a number of classifications which violate these clauses, and that, therefore, these provisions are unreasonable, arbitrary and constitutionally prohibited. They say that these classifications invidiously discriminate against the plaintiffs and which have no rational basis when viewed in light of the purposes of the Act, and that the Act makes an express designation of products to be singled out for arbitrary treatment without any objective criteria for the designations.

Further, that the alleged discriminatory treatment in these classifications are prohibited by the privileges and immunity provisions of the Oregon Constitution in that the Act excludes some indistinguishable group of persons from regulation, thus creating a favored group who are given immunity from the Act.

Again, there is a strong presumption, in determining equal protection claims, of the validity of legislative enactments, and when the law is challenged, as it is in this case, a regulation which does not infringe on the specially protected rights of free speech, voting and freedom from racial discrimination, this presumption of legislative validity may be overcome only by a conclusive showing of arbitrariness: (Omicus curiae brief—National Resources Defense Council).

Appellate Courts have in deciding equal protection claims repeatedly held as they have in due process cases, that the Courts should not sit as some kind of a super-legislature and to review the wisdom of the laws enacted or the policy that may have been behind the enactment and which is most aptly expressed by Mr. Justice Frankfurter:

"Most laws dealing with economic and social problems are matters of trial and error. That which before trial appears to be demonstrably bad may belie prophesy in actual operation. It may not prove good, but it may prove innocuous. But even if a law is found wanting on trial, it is better that its defects should be demonstrated and removed than that the law should be aborted by judicial flat." *A.F.L.* v. *American Sash Co.*, 335 U.S. 553.

Other examples of judicial deferment to the legislative judgment are found in *Railway Express Agency* v. *New York*, 336 U.S. 106 (1949):

"The local authorities may well have concluded that those who advertised their own wares on their trucks do not present the same traffic problem in view of the nature or extent of the advertising which they use. It would take a degree of omniscience which we lack to say that such is not the case."

* * *

"We cannot say that that judgment is not an allowable one. Yet if it is, the classification has relation to the purpose for which it is made and does not contain the kind of discrimination against which the Equal Protection Clause affords protection. It is by such practical consideration based on experience rather than by theoretical inconsistencies that the question of equal protection is to be answered." 336 U.S. at 110.

". . . [T]he fact that New York City sees fit to eliminate from traffic this kind of distraction but does not touch what may be even greater ones in a different category, such as the vivid displays on Times Square, is immaterial. It is no requirement of equal protection that all evils of the same genus be eradicated or none at all." 336 U.S. at 110.

And in Williamson v. Lee Optical of Oklahoma, supra, 348 U.S. 483 (1955)

"Evils in the same field may be of different dimensions and proportions, requiring different remedies. Or so the legislature may think. *Tigner v. Texas*, 310 U.S. 141. Or the reform may take one step at a time, addressing itself to the phase of the problem which seems most acute to the legislative mind. *Semler v. Dental Examiners*, 294 U.S. 608. The legislature may select one phase of one field and apply a remedy there, neglecting the others. A. F. of L. v. American Sash Co., 335 U.S. 538.

"Certainly the need of such legislation rests primarily upon the judgment of the legislature. It is only when a legislative act clearly appears arbitrary, capricious, and without reasonable relation to the object sought to be attained that courts will interfere. The presumption is in favor of the validity of the act . . ."

And finally, in the very recent case of *James* v. *Strange*, 92 U.S. 2027, 2031 (1972):

"We turn therefore to the Kansas statute, aware that our reviewing function is a limited one. We do not inquire whether this statute is wise, or desirable, or 'whether it is based on assumptions scientifically substantiated.' . . . Misguided laws may nonetheless be constitutional. It has been noted both in the briefs and at argument that only $17,000 has been recovered under the statute in its almost two years of operation and that this amount is negligible compared to the total expended. Our task, however, is not to weigh this statute's effectiveness but its constitutionality. Whether the returns under the statute justify the expense, time, and efforts of state officials is for the ongoing supervision of the legislative branch."

For a contrary holding see Society of The Plastic Industry, Inc., vs. City of New York, 326 N.Y. S 2d, 788.

The Court thus fails to find that there has been any invidious discrimination against any selected industries and that each of the alleged six discriminatory classifications on pages 14 and 15 of the plaintiffs' trial memorandum must fail.

There is one precedent which deals especially with throw-away containers. In *Anchor Hocking Glass Corp. v. Barber*, 105 A 2d 271 (1954), a Vermont statute which prohibits the sale of malt products in non-returnable glass containers was attacked by the glass manufacturers and beer wholesalers by declaratory judgment that alleged that State and Federal constitution provisions were

violated. The Court sustained the demurrer and dismissed the plaintiff's action; and in so doing, held that the fact that there was litter other than beer bottles did not invalidate the Vermont law and that requiring non-returnable bottles is within police power of the Vermont Legislature.

The Court also set a standard for legislative classification as follows:

"The equal protection clause of the Fourteenth Amendment, U.S.C.A. Const., does not prohibit legislative classification, and the imposition of statutory restraints on one class which are not imposed on another. * * * The State possesses a wide discretion in exercising this phase of its police power with the qualification

that the classification must not be purely arbitrary or irrational, but based upon a real and substantial difference, having a reasonable relation to the subject of the particular legislation. * * * 'A particular classification is not invalidated by the Fourteenth Amendment merely because inequality actually results. Every classification of persons or things for regulation by law produces inequity in some degrees; but the law is not thereby rendered invalid * * * unless the inequality produced be actually and palpably unreasonable and arbitrary.' * * * The burden of proving that legislative classification is essentially arbitrary and rests upon no reasonable basis is upon the party who asserts it, and it will not be declared invalid 'unless, viewed in the light of facts made known or generally assumed, it is of such a character as to preclude the assumption that the classification rests upon some rational basis within the knowledge and experience of the legislators. A statutory discrimination will not be set aside as the denial of equal protection of the laws if any state of facts reasonably may be conceived to justify it.' * * * 105 A. 2d at 275.

The Legislature is simply not required to legislate upon all possible litter problems or to attempt to solve the State's entire solid waste problem in one statute.

Because the Oregon State Legislature could have concluded and did conclude that there was, in fact, a rational relationship between the classifications in the Act and the legislative purposes. The Act is invulnerable to the plaintiffs and intervenors second constitutional attack. This is true, regardless of whether the Court believes that the Act or policy behind the Act to be wise or whether experts agree or disagree as to the results which might be reasonably anticipated by the Act.

Turning finally to the major thrust of the plaintiffs' and intervenors' case that the Act violates the Commerce Clause—Art 1, Sec. 8, Clause 3, of the Federal Constitution; this clause gives to the Congress the power to regulate commerce among the several states. Because the national "common market", which is intended by the Commerce Clause, does not absolutely prohibit State legislation in the area of commerce, a state may regulate in a constitutionally accepted manner. A state may not, however, give preferential treatment to in-state sources at the expense of out-of-state sources and a free trade that is intended by a national "common market" must be without protectionist barriers and restrictive discrimination of one state against another state's product. The Commerce Clause further protects the very instrumentalities of interstate commerce, i.e., the railroads, truck lines, buses, etc., where in the national interest it is imperative that there must be a uniform treatment among the several states. *Southern Pacific* v. *Arizona*, 325 US 761 (1945):

"[E]ver since *Gibbons* v. *Ogden* 9 Wheat. (US) 1, 6 LEd 23, the states have not been deemed to have authority to impede substantially the free flow of commerce from state to state, or to regulate those phases of the national commerce, which, because of the need of national uniformity, demand that their regulation, if any, be prescribed by a single authority." (325 U.S. 767)

Plaintiffs and intervenors principally rely for their authority, for the proposition that the Act violates the interstate Commerce Clause, on the case of *Pike* v. *Bruce Church*, 397 U.S. 137 (1970).

"Although the criteria for determining the validity of state statutes affecting interstate commerce have been variously stated, the general rule that emerges can be phrased as follows: Where the statute regulates evenhandedly to effectuate a legitimate local public interest, and its effects on interstate commerce are only incidental, it will be upheld unless the burden imposed on such commerce is clearly excessive in relation to the putative local benefits. Huron Cement Co. v. Detroit, 362 US 440, 443, 4 LEd 2d, 852, 856, 80 S Ct 813, 78 ALR 2d 1294. If a legitimate local purpose is found, then the question becomes one of degree. And the extent of the burden that will be tolerated will of course depend on the nature of the local interest involved, and on whether it could be promoted as well with a lesser impact on interstate activities. * * * (397 US at 142)

The Pike case is clearly distinguishable to the case at hand. Pike involved a challenge against an Arizona statute which required that all cantaloupes grown in Arizona be packaged in the state. The obvious legislative intent in the Pike case was a law which would further the financial interest of local farmers by restricting exports from the state. The state's interest in the matter was economic. It is obvious that the Act herein is not for an economic purpose.

A case, which the Court feels is a judicial precedent in this case is an Oregon case of *Pacific States Box & Basket Co.* v. *White* in which the U.S. Supreme Court sustained, against a burden of interstate commerce attack, a regulation of the size and shape of berry containers to be used in Oregon. The containers were to be of a certain prescribed dimension, and the regulation was attacked by a California manufacturer under the due process clause, equal protection clause, and the interstate commerce clause. The Supreme Court sustained the Oregon regulation against the plaintiffs' contentions, and Justice Brandeis stated:

"Different types of commodities require different types of containers; and as to each commodity there may be reasonable difference of opinion as to the type best adapted to the protection of the public. Whether it was necessary in Oregon to provide a standard container for raspberries and strawberries; and, if so, whether that adopted should have been made mandatory, involve questions of fact and of policy, the determination of which rests in the legislative branch of the state government. The determination may be made, if the Constitution of the state permits, by a subordinate administrative body. With the wisdom of such a regulation we have, of course, no concern. We may inquire only whether it is arbitrary or capricious. That the requirement is not arbitrary or capricious seems clear. That the type of container prescribed by Oregon is an appropriate means for attaining permissible ends cannot be doubted. . . .

[7] Fourth. The order does not unduly burden interstate commerce. It is aimed, not at the importation or sale of other type of containers, but at their use in Oregon by packers of raspberries and strawberries and the later transportation and sale of the packages. The prohibition of other types involved in prescribing the standard is nondiscriminatory. It applies regardless of the origin of the containers. The plaintiff is a manufacturer of containers, not a packer or shipper of berries. It is not prohibited from shipping its tin top containers into Oregon; nor from selling them there. The operation of the order is intrastate, beginning after the interstate movement of the containers has ceased, and after the original package has been broken. To sustain this contention of the plaintiff would be to hold that its containers, because of their origin, are entitled to immunity from the exercise of the state regulatory power. Compare Packer Corporation v. Utah, 285 U.S. 105, 111, 112, 52 S Ct. 273, 76 L Ed. 643, 79 A.L.R. 546."

Another case which is a strong precedent to sustain the validity of the Act is *Huron Portland Cement Co.* v. *Detroit*, 362 U.S. 40. In Portland Cement case, the Supreme Court upheld the validity of the City of Detroit Smoke Abatement ordinance which prohibits the firing of boilers on the plaintiff's ships which were engaged in interstate commerce on the Great Lakes even though these boilers had been approved by the United States Coast Guard.

"Legislation designed to free from pollution the very air people breathe clearly falls within the exercise of even the most traditional concept of what is compendiously known as the police power. In the exercise of that power, the states and their instrumentalities may act, in many areas of interstate commerce, concurrently with the federal government." 362 U.S. at 442.

And in the case of *Brotherhood of Locomotive Firemen & Enginemen* v. *Chicago, Rock Island & Pacific Railroad*, 39 U.S. 129, in which the Supreme Court dismissed the plaintiff's contention that a state law requiring a "full crew" violated the Commerce Clause, and was oppressive because the increase in costs exceeded any possible benefits.

"We think it plain that in striking down the full-crew laws on this basis, the District Court indulged in a legislative judgment wholly beyond its limited authority to review state legislation under the Commerce Clause * * * *

The District Court's responsibility for making "findings of fact" certainly does not authorize it to resolve conflict in the evidence against the legislature's conclusion or even to reject the legislative judgment on the basis that without convincing statistics in the record to support it, the legislative view point constitutes nothing more than what the District Court in this case was pure speculation." 393 U.S. at 136, 138–39.

In the very recent case of *Soap and Detergent Association v. Clark, et al*, which was decided on September 8, 1971, by U. S. District Court, Southern District, Florida. That Court held that the plaintiffs were not entitled to a preliminary injunction and that the legislation was not an unreasonable burden on interstate commerce, and thus did not violate the Commerce Clause of the U.S. Constitution.

In the Soap and Detergent Association case, the plaintiffs brought the action seeking a declaratory judgment that a county ordinance prohibiting the sale of detergents from on and after a certain date was unconstitutional and was an unreasonable burden on interstate commerce. The Court held plaintiffs were not entitled to a preliminary injunction unless there is a substantial likelihood that the ordinance would be declared to be unconstitutional. (330 Federal Supplement, 1218)

"To adequately grasp the breadth of the issues presented it is necessary to examine the history of phosphate detergents as well as their present day effect on water quality. Detergents containing phosphates have been marketed nationally for more than 23 years. They are used for an increasingly wide variety of household and industrial cleaning purposes. The annual sales of detergents containing phosphates exceed one billion dollars nationwide and more than 5.5 million dollars in Dade County. Of the total amount of detergents marketed for use in automatic home washing machines, more than 90%

contain phosphates. Experts for the detergent industry testified that non-phosphate detergents are not as effective cleaning agents as their phosphate counterparts, and non-phosphate detergents may be more hazardous to children in case of accidental ingestion or contact with their eyes or other sensitive parts of the anatomy . . ."

". . . The detergent industry claims both in testimony and memorandum of law that in order to comply with the County ordinance it will have to expend hundreds of thousands of dollars to make the necessary changes in product formulation and to deliver these new products in new and different labeled containers to Dade County. These large expenditures will be totally wasted if the plaintiffs prevail on the merits of the case, and the ordinance is ruled unconstitutional. Conversely, if the detergent industry chooses to refrain from complying with the ordinance and abandon the Dade County market, the resulting loss in sales and good will to them would run into the millions of dollars. Even though the detergent industry can show financial loss if the effective date of the ordinance is not enjoined, the detergent industry must also show that there is a substantial likelihood the ordinance will later be held unconstitutional.

"The judicial power cannot be invoked to invalidate the judgment of the County's citizens speaking through their elected representatives as to the price society should pay to promote health and safety in their community. Balancing the uniform agreement of the County's experts that a total ban on phosphates in detergents will substantially improve the quality of the County's waters, against the financial harm to the detergent industry from complying with such a ban, the scales are strongly tipped in favor of the legislative pronouncement by Dade County's Board of County Commissioners."

Or, as is reported in a recent Federal District Court case involving a challenge to an Indiana law regulating phosphates and detergents:

"Perhaps it [the statute] will do no good, but basically what is being asked of this Court is to say that the Indiana Legislature has no right to try this and see whether or not the experiment will work . . . . [I]f the people of Indiana prefer to wear gray shirts and have a little hardness distilled on their glasses . . . . as a price for obtaining cleaner water, or for obtaining a chance of having lesser phosphate content which in turn may produce . . . lesser amounts of algae, that is a choice which we feel the people of Indiana should make through the Indiana Legislature." *Soap and Detergent Assoc. v. Offutt*, 3 ERC 1117, 1120 (S.D. Ind. 1971) (denying a preliminary injunction).

Cases in which it has been found that a state regulation is an unreasonable burden on interstate commerce generally are those where the state regulation seeks to regulate the very instrumentalities of interstate commerce, such as trucks, trains and buses as earlier referred to. It is in these areas that the Supreme Court has found that uniformity on a national basis required and has invalidated state regulations which attempted to do so. *Bibb v. Navajo Freight Lines, Inc.*, 359 U.S. 520. *Southern Pacific v. Arizona*, 325 U.S. 761.

The other major type of case, in which state regulations have been found to be constitutionally deficient, is in which a state regulation attempts to treat intrastate commerce differently from interstate commerce, and where the regulation seeks to serve an economic purpose of some of the citizens of the state. *Pike v. Bruce Church*, 397 U.S. 1970.

It cannot be seriously contended but that Federal legislation accurately expresses the national policy when it is said that the national transportation system should be regulated by the Federal Congress.

"[The Arizona train law] materially impedes the movement of appellant's interstate trains through that State and interposes a substantial obstruction to the national policy proclaimed by Congress to promote adequate, economical, and efficient railway transportation service." 325 U.S. at 773.

The states have the right under the Commerce Clause of the Constitution to regulate local trade, manufacturing, marketing and sale of local products, consumer and environmental protection. When the purposes of a state regulation favor the health, safety and welfare of the citizens, the regulation has historically been sustained on the basis of the 'State's Police Power', and the 'State's Police Power' is one of the supporting structures that is cited in cases which determine whether or not a state regulation violates the Commerce Clause.

In determining the validity of the Act it is most relevant that the Act be consistent with the expressed Federal policy, which favors the state's exercise of its own authority over the environment. This Federal policy can be detected in The Federal Solid Waste Disposal Act of 1965 which begins:

(a) The Congress finds—

(1) that the continuing technological progress and improvement in methods of manufacture, packaging, and marketing of consumer products has resulted in an ever-mounting increase, and in a change in the characteristics, of the mass of material discarded by the purchaser of such products;

* * * * *

(4) that inefficient and improper methods of disposal of solid wastes result in scenic blights, create serious hazards to the public health, including pollution of air and water resources, accident hazards, and increase in rodent and insect vectors of disease, have an adverse effect on land values, create public nuisances, otherwise interfere with community life and development;

* * * * *

(6) that while the collection and disposal of solid wastes should continue to be primarily the function of State, regional, and local agencies, the problem of waste disposal as set forth above have become a matter national in scope and in concern and necessitate Federal action through financial and technical assistance and leadership in the development, demonstration, and application of new and improved methods and processes to reduce the amount of waste and unsalvageable materials and to provide for proper and economical solid-waste disposal practices.

Pub. L. 89–272, Title II, § 202, 79 Stat. 997, 39 U.S.C. § 3251.

The Environmental Quality Improvement Act of 1970 states:

(b) * * * (1) The Congress declares that there is a national policy for the environment which provides for the enhancement of environmental quality. This policy is evidenced by statutes heretofore enacted relating to the prevention, abatement, and control of environmental pollution, water and land resources, transportation, and economic and regional development.

(2) The primary responsibility for implementing this policy rests with State and local governments.

Pub. L. 91–224, Title II, § 202, 84 Stat. 114, 42 U.S.C. § 4371.

Similarly, in the Federal Water Pollution Control Act,

(b) * * * it is declared to be the policy of Congress to recognize, preserve, and protect the primary responsibilities and rights of the states in preventing and controlling water pollution, to support and aid technical research relating to the prevention and control of water pollution, and to provide Federal technical services and financial aid to State and interstate agencies and to municipalities in connection with the prevention and control of water pollution.

The attack by the plaintiffs and intervenors against the Act, under the Commerce Clause, does not appear to the Court to be supported by judicial precedent and violates sound, time tested legal principles as well as common sense and judgment.

The Act does not regulate any instrumentalities of interstate commerce, does not discriminate in favor of local commerce, is consistent with the announced national policy of environmental control and protection and is a valid exercise of the 'State Police Power'.

In addition, the Act does not discriminate against any out-of-state beer or soft drink manufacturer to the advantage of any in-state manufacturer nor does it impose any special requirement on beverage containers which are manufactured outside of the state or grant any special exemptions to any produced in the state.

I have not herein discussed the voluminous evidence offered in the course of the trial, although I will review very briefly a portion.

It is sufficient to observe that the evidence demonstrates that the use of malt beverages and soft drinks has increased tremendously annually in the United States in recent years. A large part of this increase is reflected in and attributed to the use of the new convenient packages both in cans and non-returnable bottles. The evidence further demonstrates that there may be an adverse economic impact, at least upon some of the plaintiffs and intervenors as a result of the Act.

As I have previously found, the fact that there may be new or additional costs incurred by the plaintiffs and intervenors, does not in and of itself invalidate the Act. *Huron Portland Cement Co.* v. *Detroit*, supra. *Soap and Detergent Association* v. *Clark, et al*, supra.

The evidence was marshaled most completely by the plaintiffs and intervenors and was presented in a skilled and workmanlike manner, and while the Court is unable to agree with counsels' interpretation of what the evidence means when applied to the law of the case, is not to indicate in any way that the evidence was not given due and deliberate consideration by the Court.

What could be more appropriate and perhaps anticipated than the State of Oregon . . . the State which has demonstrated in many ways its concern for its environment and the happiness and well-being of its citizens; the State which has the largest area percentage-wise of its beaches in the public domain; the State which has recognized the dangers of esthetic pollution, and is a leader in the removal of bill-boards from our highway system; the State which has demonstrated its concern for a way of life by enacting laws preventing air pollution and protecting our water supply, would be the first State to enact major legislation directed at the litter and solid waste disposal problems. While Oregon may be considered to be first in this field, it is no longer a lonely voice crying out in the wilderness of pollution, waste and litter, because many other states have embarked on their own perilous journeys through these troubled waters as is evidenced by intervenors' Exhibits 162 and 165, inclusive, and plaintiffs' Exhibits 255 and 256.

Plaintiffs' Exhibit 254A and defendants' Exhibits 338 and 339, which are a part of plaintiffs' Exhibit 254A demonstrates to the satisfaction of the Court that roadside litter so far as it pertains to glass and tin containers comes from malt beverage and soft drink cans and bottles and not from other types of food and beverage containers which account for only a small portion of roadside litter.

It is also informative as is seen in plaintiffs' Exhibit 106 that the buying habits of the citizens of Oregon are far different than his brother on the national market. For ex-

ample, on the national market, popular priced malt beverages represent 61.7% of the market. In Oregon it is 91.21% of the market. On the national market, premium malt beverage represents 36.59% of the market but in Oregon premium malt beverage represents only 8.4% of the state market. Another significant fact, found in plaintiffs' Exhibit 107, is that returnable bottles on the national market represent 19.15%, while on the Oregon market returnable bottles represent 32.11%.

It is the obvious conclusion that the Oregon consumer is more interested in the economy of his purchase than in its convenience than is his fellow citizen on the national market, and admittedly, the cheapest way to purchase on a per-ounce basis either a malt beverage or a soft drink is in a returnable container.

It is the opinion of the Court that the Act, when judged by relevant constitutional standards, is valid in every respect and should be, and hereby is, sustained by the Court.

This bold and forceful action taken by the Fifty-Sixth Legislative Assembly in 1971 reflects and is, I believe, a major response to the concern that the citizens in Oregon feel and have demonstrated concerning their environment and its pollution and the problems presented by roadside litter and disposal of solid waste and the Court would be ill-advised to interfere in any manner in this timely and necessary endeavor.

Respectfully submitted,

VAL D. SLOPER,
Presiding Judge.

[From the Eugene, Oreg., Register Guard, Sept. 2, 1972]

BOTTLE BILL RULING CHEERED, JEERED

(By Jerry Uhrhammer)

So far as Oregon is concerned, the flip-top can is about to go the way of the buggy-whip—unless a test case decision upholding the state's new "bottle bill" is overturned on appeal.

And it definitely will be appealed, a Eugene bottling company executive promised Friday.

"Whether you're for it or against it, we should welcome an appeal to find out whether it is constitutional in the higher courts," said Jack Foster, president of the Coca-Cola Bottling Co. and Emerald Canning Corp. Foster is a member of the board of the Oregon Soft Drink Assn.

Earlier in the day, in a ruling with considerable national significance, Marion County Circuit Judge Val Sloper rejected a challenge to the controversial bill from bottle and can manufacturers, brewers and soft drink bottlers.

They argued in a non-jury trial last month that the law—which goes into effect Oct. 1—was unconstitutional, interfered with interstate commerce and will not help solve the state's litter and solid waste problems. But Sloper, in a 34-page decision, rejected the industry contentions and declared the 1971 law "valid in every respect."

The bill requires a five-cent retail deposit on all standard-size beer and soft drink cans and bottles sold in Oregon after Oct. 1, and a two-cent deposit on the smaller "stubby" bottles. Intent of the law is to eliminate the "throwaway" or nonreturnable cans and bottles.

The bill also bans use of the flip-top or pull tabs on beverage containers.

Gov. Tom McCall, who signed the bill into law last year, called the ruling "a well-written, soundly reasoned decision that recognizes the importance Oregon citizens attach to their state's super-livability.

"It is heartening to know that implementation of the law will occur on Oct. 1 as scheduled—a goal that, all along, I have directed the Oregon Liquor Commission and other affected state agencies to prepare to meet," the governor said.

Atty. Gen. Lee Johnson said: "This legislation is a pioneering effort on the part of the Oregon Legislature which has been upheld by the example of creative approach to the environmental problems of the country."

"This certainly is a great day for Oregon . . . once again we're the leader in environmental protection with a precedent that will probably be repeated throughout the country," said Larry Williams, executive director of the private Oregon Environmental Council, which spearheaded the citizens' lobbying effort that led to adoption of the bill by the 1971 Legislature.

"I think states across the country have been waiting for this," Williams said. "That's why the bottling industry challenged it . . . if we got away with it here in Oregon, it would spread all over."

The "Bottle Bill" was one of the most controversial bills argued before the 1971 session and the object of an impassioned lobbying attack by national breweries and bottlers, who apparently feared passage would spur similar legislation in other states.

George Muth, executive director of the Carbonated Beverage Container Manufacturers Assn., said, "I feel that the evidence clearly shows that this bill, if allowed to go into effect, will cause severe economic dislocation and unemployment without lessening the problems of litter and solid waste."

Eugene bottler Foster said he was "flabbergasted" at the decision.

"I just can't believe that this bill is constitutional," Foster said. "I felt people had a choice, and if people didn't want cans they shouldn't buy them." He said he didn't think government should be making such a choice for people.

During the trial, evidence was introduced suggesting the Foster's Emerald Canning Corp., which produces about 96 percent of its soft drink production in cans, would go out of business if the bill goes into effect. "It could," Foster said Friday, "but we don't know what's going to happen."

[From the Statesman, Salem, Oreg., Sept. 1972]

OREGON BOTTLE LAW UPHELD

(By Janet Davies)

Financial losses expected to be incurred by industries affected by Oregon's "bottle bill" do not, in themselves, invalidate the law, Marion County Circuit Judge Val D. Sloper ruled Friday.

Representatives of the beer, carbonated soft drink and beverage container industries had emphasized the financial effects—termed catastrophic in some cases—that imposition of the bill Oct. 1 would have on their businesses.

The two-week trial on the constitutionality of the bill ended Aug. 4, and Sloper ruled Friday the law, which will prohibit the sale of nonreturnable beer and carbonated soft drink containers in the state, is valid.

In his 34-page opinion, Sloper ruled on various contentions made by the industries, which filed the lawsuit last January.

Among the arguments was that the law's purpose of reducing the litter problem would not be accomplished.

Sloper said whether the bill, in fact, does not reduce litter is not an issue for the court to determine.

He added that testimony and exhibits about surveys taken had convinced him that "roadside litter so far as it pertains to the glass and tin containers comes from malt beverage and soft drink cans and bottles and not from other types of food and beverage containers which account for only a small portion of roadside litter."

Opponents also had contended the bill singles out their industries without regulating other products in containers.

Sloper said he failed to find there has been "any invidious discrimination against any selected industries."

He cited a Vermont statute prohibiting the sale of malt products in non-returnable glass containers that was attacked by the affected industries.

The Vermont court held that "the fact that there was litter other than beer bottles did not invalidate the Vermont law and that requiring non-returnable bottles is within police power of the Vermont Legislature," the judge said.

Part of the Vermont decision he quoted said, " 'The equal protection clause of the 14th Amendment . . . does not prohibit legislative classification and the imposition of statutory restraints on one class which are not imposed on another.'

"The Legislature is simply not required to legislate upon all possible litter problems or to attempt to solve the state's entire solid waste problem in one statute," Sloper said.

Turning to the major thrust of the opponents' case—the alleged violation of the U.S. Constitution's commerce clause—Sloper ruled the argument "does not appear to the court to be supported by judicial precedent and violates sound time-tested legal principles as well as common sense and judgment."

He cited another Oregon case which he felt was "judicial precedent in this case." In Pacific States Box & Basket Co. vs. White, the U.S. Supreme Court upheld, against a burden of interstate commerce attack, the regulation of the size and shape of berry containers to be used in Oregon.

The Supreme Court's opinion, in part, as quoted by Sloper, was " 'Whether it was necessary in Oregon to provide a standard container for raspberries and strawberries; and, if so, whether that adopted should have been made mandatory, involve questions of fact and of policy, the determination of which rests in the legislative branch of the state government . . . With the wisdom of such a regulation we have, of course, no concern. We may inquire only whether it is arbitrary or capricious.' "

With respect to other court cases of state regulations found to be an unreasonable burden on interstate commerce, Sloper ruled the Oregon law "does not regulate any instrumentalities of interstate commerce (such as trucks, trains or buses), does not discriminate in favor of local commerce, is consistent with the announced national policy of environmental control and protection and is a valid exercise of the 'state police power.' "

It would appear almost certain that a court appeal will be made of the circuit court decision upholding Oregon's so-called "bottle bill." Industry sources are not likely to let such legislation stand without an ultimate challenge.

It is less than a month—on Oct. 1—when the measure takes effect and non-returnable cans and bottles for soft drinks and beer will be banned.

Judge Val Sloper, in his reasoned decision spelled out the same defenses of the bill which The Statesman has been extolling since before the bill's passage by the Legislature.

Testimony at the trial revealed that many distributors are prepared or preparing for the law, others have adopted a "wait and see" attitude.

If the law takes effect on Oct. 1, some brands of soft drinks and beer may be in short supply or will vanish, at least temporarily. The "bottle bill" imposes hardships on the stores and distributors which must recycle the containers. The court had the responsibility of deciding whether the Legislature had the right to impose those hardships under the police powers of the state, for the public good.

Judge Sloper noted the determination of Oregon people to preserve the appearance of

the environment and decided the measure is justified.

The "bottle bill" and the other environmental control measures already have made a marked change in Oregon's appearance. "Education" couldn't do the job alone. It took action—the invoking of laws. The highways are far cleaner, thanks to extra state funds dedicated to more frequent cleanups. Littering along highways is decreasing as the public is responding to the cleaner roads.

Judge Sloper's decision is important, not just because of discarded cans and bottles but because of the principle involved. It is but one small step along the road to reuse of materials. If this first step were to be blocked, it would be harder to take the steps which must follow. Many materials must be recycled instead of being dumped into overflowing solid waste landfills. The nation's natural resources must not be sacrificed to the insatiable demands of a throw-away society.

[From the Capital Journal, Salem, Oreg., Sept. 4, 1972]

BOTTLE BILL DECISION SOLID

There's a lot of agreement among lawyers that Val Sloper, Marion County's presiding circuit judge, has one of the best minds in the business. He not only runs a good trial, but he writes an opinion that misses little.

A good example of his workmanship is the bottle case, which he just decided in favor of the state. This means that the bill requiring returnable containers is valid, not unconstitutional.

He let the trial run on. After the first couple of days most of the testimony was subjective trivia that didn't seem to bear on the legal points. Watchers wondered if Sloper was being misled by the sheer mass of talk.

He wasn't.

His written opinion shows that he was turning on and off at the right times.

For example, one of the drink industry's points was that the bottle bill is unconstitutional because it seeks to regulate only one part of the litter problem (beer and soft drinks) and ignores other causes such as strewn paper packages, other canned and bottled goods, etc. This, the industry maintained, is discriminatory and therefore unconstitutional.

So Sloper cited previous cases here and in other states and said, "The legislature is simply not required to legislate upon all possible litter problems or to attempt to solve the state's entire solid waste problem in one statute."

He went on to deal with each of the industry's points in like fashion, citing case after case and then synthesizing the meaning.

If he left a single hole we can't find it. It seems abundantly apparent that a legislature has the authority to specify what kind of containers can be used in a state. We can't imagine that an appeal to the Oregon Court of Appeals would result in a different finding. In fact, a jump from there to the U.S. Supreme Court would seem to be futile, for Sloper's key citation is an Oregon case regarding packaging of berries which was appealed to the highest court. The U.S. Supreme Court found that Oregon has the authority to regulate containers in interstate commerce.

The bottle bill is to go into effect Oct. 1. We hope the industry will be wise enough to save everyone time and expense by not appealing the case. Instead, it should concentrate its efforts on the next session of the legislature. The bottle bill was the result of a hard-fought battle and lots of compromises. This usually means that there is the possibility of improvements in detail when pressure is less.

CUSTOMS PORT SECURITY LEGISLATION—SPEECH OF ASSISTANT SECRETARY OF THE TREASURY EUGENE ROSSIDES ON CARGO THIEVERY

Mr. BIBLE. Mr. President, the theft, pilferage, and loss of cargo being transported by public carrier has been an unpleasant reality since man has shipped commodities by public conveyance. However, hearings before the Senate Small Business Committee over the last 3½ years covering the $1½ billion direct price tag on cargo thievery from air, truck, rail, and maritime carriers the last several years has made this criminal activity something every American consumer helps to pay for out of his pocketbook.

Two years ago at maritime thievery hearings before our committee, the Honorable Eugene T. Rossides, Assistant Secretary of the Treasury, outlined the beginning of a major new program being inaugurated by the Treasury Department to strengthen the role of the Bureau of Customs in protecting goods moving in international commerce and geared and primarily targeted to ports of entry for air and maritime carriers.

On September 25, the Senate Finance Committee reported as an amendment to H.R. 9463 an amended version of the proposed Customs Port Security Act originally introduced by the distinguished senior Senator from Utah (Mr. BENNETT) on April 26, 1971.

The recognition of this problem by the Finance Committee and its affirmative action guided by the distinguished committee chairman (Mr. LONG) and the bill's sponsor (Mr. BENNETT) are to be highly commended, in my judgment. I heartily applaud this measure as another key step in dealing with the broad problem posed by the impact of criminal activity on our commercial transport system. It is my understanding that the private carrier modes, realizing they need the Government's help in dealing with the sophisticated and increased activity of cargo thieves, have pledged their support to the Customs Port Security proposal.

Certainly, Assistant Secretary Rossides, who will be charged with enforcing provisions of this new legislation, has long been a dedicated foe of criminal forces preying on cargo moving in international commerce. Shortly after his testimony before our committee on June 24, 1970, he embarked on a program to establish pilot security projects at various ports and airports handling international commerce in an attempt to increase protection and security for goods under customs jurisdiction.

One such project, which has shown considerable success, is located at John F. Kennedy Airport and was designed to curb the extraordinary theft and pilferage from that airport cited at congressional hearings in recent years.

Some measure of the extent of the pilferage at JFK can be found in testimony by William J. Cotter, Assistant Postmaster General, before the Permanent Subcommittee on Investigations of the Senate Government Operations Committee, in which he stated that losses from U.S. mails alone between 1967 and 1970 were in excess of $70 million.

The pending bill would strengthen the role of the Treasury Department in protecting goods moving in international commerce. I commend this legislation to Senators and hope that the Senate will pass it so that the Federal war on cargo thieves can be pushed in earnest.

During the next Congress, I intend to push for additional Federal legislation which will protect cargo moving in domestic commerce in the other modes of transportation, including air, truck, and rail. It is imperative that all Federal agencies having responsibility for the safe and secure movement of goods in transportation be involved in the fight against the modern cargo thief.

Mr. President, I ask unanimous consent that the remarks of Assistant Secretary Eugene T. Rossides before the National Customs Brokers and Forwarders Association of America, Inc., on May 16, 1972, which will provide a detailed explanation of the Treasury Department's program to curb theft of international cargo, be printed in the RECORD at this point. Some changes in the legislation as reported by the committee and Mr. Rossides' remarks are evident.

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

TREASURY'S ACTION PROGRAM TO COMBAT THEFT OF INTERNATIONAL CARGO

(Remarks of Eugene T. Rossides, Assistant Secretary of the Treasury)

This Administration, I am pleased to report, has made substantial progress in the fight to curb theft of international cargo. While the tide is turning, more needs to be done. Let's look at the record of what Treasury has accomplished.

Early in this Administration, President Nixon directed an all-out drive against drug smuggling and organized crime. These became Treasury's highest priorities in the area of law enforcement. It became evident in 1969 that the long-neglected problem of cargo theft fell into both these priority areas; Treasury, therefore, developed an action program and charged the Bureau of Customs with implementing it.

The Treasury program has two main thrusts—prevention of theft by improving cargo security and deterrence of theft by intensifying our law enforcement efforts.

THE PREVENTIVE PROGRAM

There are four separate but interrelated parts to our preventive program.

First, we issued several regulations to improve security of high risk cargo and to obtain data on cargo losses, by commodity and location.

Second, we instituted pilot programs in New York, San Francisco and Oakland to demonstrate that, if a few basic security measures are adopted, cargo theft can be significantly reduced.

Third, Treasury, on behalf of the Administration, proposed legislation to Congress which would give Customs the additional tools it needs to combat cargo theft and pilferage effectively.

The passage of this legislation (H. R. 8476, the Mills-Byrnes Bill and the identical S. 1654, the Bennett Bill), known as the Customs Port Security Act, would, in my judgment, result in the reduction of cargo theft to a *minimum* at all airports of entry throughout the United States within 6

months to one year and a *substantial* reduction of cargo theft at all seaports of entry within one year.

Fourth, we published the *Standards for Cargo Security* to stimulate carriers and other operators of cargo terminals to improve voluntarily the physical and procedural security of their facilities. These standards, where implemented by industry, will produce a marked reduction in cargo theft.

Although the Treasury Department's preventive program centers on international cargo at ports of entry, an important by-product is improved security for the large amounts of domestic cargo flowing through or temporarily stored at the same facilities. Furthermore, the measures we are urging as a minimum response to this problem are equally applicable to terminals handling domestic cargo.

THE LAW ENFORCEMENT PROGRAM

In March of this year I ordered a step-up in our law enforcement efforts against cargo theft and we are already beginning to see some results.

Nationwide in the last two months we have apprehended a total of 189 individuals and recovered cargo valued at $280,000. In the Port of New York alone during that period, we have apprehended 28 individuals on cargo theft charges and recovered merchandise valued at $230,000.

The close relationship between this drive against cargo thieves and Customs' other law enforcement missions can be readily seen in the following cases. In New York, Treasury Agents working with the New York Police Department were able to crack two truck hijacking rings, arrest a total of 7 individuals and recover two truck loads of electronic equipment and general merchandise valued at $105,000. In both cases, the "hijacks" proved to be phony—that is, the truck driver simply gave up his load to accomplices. The role of organized crime in these cases is being investigated further.

In Miami, Customs Patrol Officers on a routine cargo security patrol of the seaport observed a crew member acting suspiciously. He left his ship carrying a suitcase which he loaded into a vehicle parked on the dock. When the car attempted to leave the dock, it was stopped and a search of the suitcase revealed 70 plastic bags containing twenty-two pounds of pure heroin having a wholesale value of $2.5 million. The crew member and two other persons in the car were arrested.

In addition to added pressure against drug smuggling and organized crime, one of the goals of this stepped-up enforcement campaign is to put the brakes on petty thievery which, when multiplied over and over again, constitutes an insidious and dangerous drain on commerce.

Senator Bible deserves a great deal of credit for focusing attention on the nationwide nature of the cargo theft problem through the hearings held by the Senate Select Committee on Small Business beginning in 1969. Senator Bible's estimate that cargo theft amounts to $1.5 billion annually has received much attention and it does underscore the magnitude of the problem.

In fact, the depredations of cargo thieves cost much more; in lost sales, markets, and jobs, in swollen insurance rates, and especially in unfair competition to the honest businessman. The Federal Government is directly affected. Treasury may not be able to collect customs duties and excise taxes on imported merchandise that has vanished, and income taxes are lost because the importers have lower incomes and claim deductions for their uninsured theft losses. And the loss of cargo hurts our balance of payments position.

As a result of the hearings held by Senator Bible's Committee, the Interagency Committee on Cargo Security was formed in 1971 to coordinate the response of the various agencies of the Federal Government. Customs, which has been active in this area since 1969, spearheads this effort at all seaports and airports of entry.

The following is a brief report on the substantial progress that Treasury has made so far and what still needs to be done.

1. The cargo security regulations

The first phase of the Treasury cargo security program involved writing regulations to increase the physical protection given cargo in international trade and to tighten up carriers accountability for cargo in their custody. Most of these regulations became effective on April 1, 1971.

The physical security regulations require all carriers to have special areas for the storage of high value and broken-packaged merchandise and, at airports, an adequate number of lockable vehicles to transport such cargo from aircraft to terminal. Failure to comply can result in the denial of a permit to unlade international cargo. These regulations have resulted in a substantial improvement in the security of high-risk, easily pilfered cargo.

As you are aware, the cargo accountability regulations require that discrepancies between delivered and manifested quantities be reported to Customs (on U.S. Customs Form 5931 or by submitting an amended copy of the manifest). A recent review of this reporting program revealed that in New York some carriers are filing inaccurate or unsubstantiated reports in many cases. In addition, some carriers are not reporting losses. Apart from the fact that the carriers involved may be violating the law and subjecting themselves to penalties, it is in the best interest of the importing community to report accurately and fully the extent and location of the cargo theft problem. I, therefore, strongly urge importers and customhouse brokers to comply with Customs' appeal that reports be filed immediately when shortages are discovered.

I have also directed Customs to develop a special theft loss report which is to be filled out whenever any Customs officer learns of the theft or unexplained loss of international cargo. Data from this form, which should be distributed to the field shortly, will provide us with a cross-check on the accuracy of the reporting system.

While the loss reporting system is still not functioning adequately, particularly in New York, I can assure you that we are reviewing our regulations and their enforcement and we intend to take every reasonable step to ensure that all losses of imported cargo in Customs custody are accurately reported to Customs. Your views and suggestions on how to improve the program are invited.

2. The pilot projects

The cargo security regulations, which merely apply sound security measures where laxity had become a tradition, were developed partly out of Customs' experience with a pilot project still in progress at New York's JFK International Airport. Measures prescribed in the regulations have been put into practice there, plus others recommended by Customs for greater cargo security, such as locked boxes to keep papers out of unauthorized hands and the use of cameras which simultaneously photograph the person who receives the merchandise, his identification card and a special pick-up form.

The program has been getting results. In the program's first year, reported cargo thefts at JFK declined by 28% and the dollar value of stolen goods by 69% (from $3.3 million). For the ten-month period ending March 31, 1972, further reductions of 21% in number and 41% in value, were achieved. I must point out that these figures were obtained from the Airport Security Council and that it deserves a great deal of credit for the success of this program.

Similar pilot projects have been undertaken at selected piers in New York, San Francisco, and Oakland. Customs has finished its comprehensive security surveys of these piers and the terminal operators who have received our recommendations are commencing to implement them. It is too early to tell if we are going to have as dramatic results on the New York and San Francisco waterfronts as we had at JFK Airport, but the initial results on the New York waterfront have been encouraging.

3. Treasury's legislative proposal

An important part of the Treasury Department program was to develop Federal legislation that would plug the loopholes still existing in Customs' control of the movement of international cargo so that it could tackle the cargo theft problem with full effectiveness. This Administration legislation was referred one year ago to the Senate Finance and the House Ways and Means Committees. Known as the Customs Port Security Act, the bill's main features are the establishment of national standards for cargo security, the screening of persons seeking access to high-risk areas, and the restructuring of certain penalties to facilitate prosecution of cargo theft cases.

A most important provision in the Customs Port Security Act is the one giving the Secretary of the Treasury authority to establish national standards for cargo security at all ports of entry. These standards will relate to matters such as special storage areas for high-value merchandise, lighting, fencing, alarm systems, patrols and guards, and separate private parking areas. I would like to emphasize that we are talking about measures as basic as putting up fences and locking doors. The lack of these basic physical and procedural safeguards is responsible for a large portion of the cargo theft problem today.

Because issuing these national standards may not be sufficient to curb theft in all instances, the bill also authorizes the Secretary to designate special "Customs-security areas" within ports where he finds there is an unusual risk of theft. Customs-security areas would be subject to more stringent security measures. The Secretary could require businesses whose employees sought access to these areas to be licensed, and anyone entering would have to display an approved identification card or badge. Customs officers would carry out these procedures and control the restricted areas.

However, the main thrust of the bill is to empower the Secretary of the Treasury to make certain that minimum security measures are adopted at all international ports of entry. By requiring the same minimum security standards at all ports and terminals, the proposed legislation avoids any port obtaining a competitive advantage over another—a major defect of some regional programs to combat cargo theft. At the same time, it provides flexibility and controls costs by spotting "Customs-security areas" only where and when they are needed; not an entire port if a dock area could be specified as especified vulnerable to theft, not an entire airport if a particular carrier terminal could be pinpointed. Treasury, in fact, expects that few "Customs-security area" will be established and that those that are will not be needed long.

The Treasury Department views passage of the Customs Port Security Act as an appropriate development of Customs' inherent strength. Customs is the only enforcement agency with a presence, and over 180 years of experience, in all of the nation's ports of entry. To carry out its mission to collect revenue and to intercept contraband, it has acquired a tremendous expertise in cargo security matters.

The proposed legislation is supported by groups which know about international cargo, including:

American Importers Association, Inc.

American Institute of Marine Underwriters.
American Watch Association, Inc.
Airport Security Council.
Air Transport Association of America.
Commerce & Industry Association of New York.
Foreign Commerce Club of New York, Inc.
National Customs Brokers & Forwarders Association of America, Inc.
New York City Chamber of Commerce.
New York State Council of Retail Merchants, Inc.
Security Bureau, Inc.
Transportation Association of America.
Transportation Cargo Security Council.

We are still hopeful there will be hearings on the bill in this session of Congress.

4. The voluntary program and the standards for cargo security

In the meantime, to provide guidance to industry and Customs officers in locating and correcting security problems, Customs developed and issued in January, 1972, the *"Standards for Cargo Security."* These standards, which will form the basis for the national standards to be issued pursuant to the Customs Port Security Act, constitute the physical and procedural security measures which we believe should be implemented by most terminal operators to provide a minimum level of cargo protection.

Underneath each standard in this pamphlet there is set forth some "recommended specifications" or suggested ways of meeting it. There may be alternate means of meeting some of these general standards and each terminal operator should determine what remedial action is most appropriate. Reactions from industry indicate it has found these guidelines useful. Our Regional Commissioners report that industry is taking steps to observe these standards and we expect that there will be significant reduction in cargo theft as a result. You can help by insisting that terminal operators observe these standards.

While Customs can lead the way, businesses engaged in handling cargo have the primary responsibility for achieving good cargo security. The joint Customs-industry effort was the key to success at JFK Airport. Customs helped develop a few common sense rules and saw to it that all airlines participated. The airlines at JFK—under the guidance of their own Airport Security Council—then pitched in with determination to implement the protective measures needed at each terminal. This is the sort of venture that succeeds. I am confident that, with the cooperation of your Association, Customs and industry can achieve similar results at all ports of entry.

CONCLUSION

This is an action program which has made maximum use of the limited resources available. It also ties in with two top priority concerns of President Nixon—the drive to stop smuggling of narcotics and dangerous drugs into the United States and the campaign against organized crime.

If the drug smuggler can remove packages containing narcotics before entry is made, he does not have to fear the more rigorous inspection of cargo which Customs has implemented in order to reduce the influx of illegal drugs into this country.

For organized crime, cargo theft has become a profitable business, especially at large deep-water ports and at major airports. For example, there was considerable evidence that organized crime was responsible for the substantial losses experienced at JFK before the institution of the pilot project.

In my judgment, the tide is turning in the war on theft of international cargo. With the cooperation of the cargo handling and only a modest addition of funds and authority in Treasury, we should be able to reduce cargo theft at our major airports and seaports to a minimum within a very short time. While I am optimistic, passage of the Customs Port Security Act and your full cooperation are needed if we are to succeed.

NATIONAL COACHES DAY—OCTOBER 6

Mr. BAYH. Mr. President, Friday, October 6, has been proclaimed by the President as National Coaches Day in recognition of the usually unacknowledged role which coaches play in the successes of amateur and professional athletes.

The fact that coaches do not receive proper recognition is probably a logical consequence of the fact that athletes' exploits are what capture the public fancy, and the hard work and coaching which goes into those exploits is far less glamorous.

But we must never lose sight of the fact that it does take great patience and effort to prepare a winner, whether it be a high school football team or an individual Olympic gold medalist. And there is a coach behind every winner.

This country very properly has a great respect and appreciation of athletics for providing a sense of teamwork, a measure of self-discipline and a spirit of competition which is helpful in the maturing process of young people. The crucial role which coaches play in this process is certainly deserving of similar respect and appreciation, which is why I was pleased by the President's determination to set October 6 aside as National Coaches Day.

I am happy to join in recognizing the valuable role which coaches play in the full range of athletics and to express my appreciation for the great job coaches are doing across this country every day in helping to develop young men and women who will be tomorrow's leaders. I request consent that the Presidential proclamation on National Coaches Day be printed in the RECORD so that we might have the full recognition of this deserved tribute.

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

NATIONAL COACHES DAY

(A proclamation by the President of the United States of America)

Over the years, we as a Nation have become increasingly sportsminded. We are intensely aware of the achievements of our professional athletes and have given them well-deserved recognition. We are especially proud this year of the members of our Olympic teams. And we are also enthusiastic about the fine athletes in our high schools, colleges, and universities.

Yet, despite the talent of these men and women and their initial promise, many of them could not have risen to their current performance levels without the guidance and encouragement of those who have coached them at every stage of their progression. Whether or not they achieve athletic distinction, most of those who participate in organized sports will become better citizens because of the lessons they have learned from their coaches and because of the example which their coaches have set for them.

Coaches are highly qualified teachers—in highly specialized fields. But more than that, they are friends and counselors who help to instill in their charges important attitudes that will serve them all their lives. I know from my own experience how much an understanding coach can do to shape the life of a young person. For a coach can help to teach a student the value of teamwork, discipline, and a healthy attitude toward competition. A coach can help a young person learn how to win gracefully and how to grow from defeat. A coach can help build that moral fiber on which our future as a Nation depends.

The coaches of America, in sports and in many other fields of endeavor, do not work for personal glory. Their satisfaction usually comes through the achievements of others whom they have helped. It is appropriate that our Nation join in according them the recognition and honor which they so richly deserve, for they represent the finest elements in the American character.

Now, therefore, I, Richard Nixon, President of the United States of America, in consonance with Senate Joint Resolution 213, do hereby proclaim October 6, 1972, as National Coaches Day. I call upon the people of the United States and interested groups and organizations to observe that day with appropriate ceremonies and activities.

In witness whereof, I have hereunto set my hand this nineteenth day of September, in the year of our Lord nineteen hundred seventy-two, and of the Independence of the United States of America the one hundred ninety-seventh.

THE NEW FDA PAPERS

Mr. KENNEDY. Mr. President, as chairman of both the Health Subcommittee and of the Administrative Practice and Procedure Subcommittee, I have had considerable interest in the activities of the Food and Drug Administration. I have been critical of the agency's regulatory activities in a number of areas, but I do want to call my colleagues' attention to one recent development which has been particularly heartening and encouraging: the conversion of the agency's monthly magazine, FDA Papers, from an uninformative vehicle for self-emulation into a useful and readable publication designed exclusively for consumers. The magazine, which was renamed FDA Consumer starting with the July–August issue, previously had been written for the industries regulated by FDA. The refocused magazine's primary aim will be to educate the public about the safe and proper use of products regulated by FDA and to inform consumers about regulatory actions that affect the public health. It thus should appeal to a larger audience and help the Food and Drug Administration better fulfill its consumer protection function.

An excellent example of the magazine's new thrust is an article from the most recent issue, advising consumers in what form and to which agencies typical consumer complaints should be sent. I ask unanimous consent that the article be printed in the RECORD.

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

HOW YOU CAN BE AN EXTENSION OF FDA

If you come across a food, drug, medical device, cosmetic, hazardous substance, or toy that you believe may be mislabeled, insanitary, or otherwise harmful, you will perform a public service by reporting it to the Food and Drug Administration.

The information you supply to FDA can and often does lead to detection and correc-

tion of a violation. Many products have been recalled or removed from the market because of action initiated by a consumer.

FDA can't take action solely on the basis of your complaint, of course. But it will investigate promptly, in accordance with the requirements of the law. And if a hazard is found, FDA will seek to remedy the situation within the bounds of the law.

Here are some guidelines to follow in reporting hazards to FDA.

BEFORE YOU REPORT

Before you report to FDA about the possible hazards of a product, ask yourself these questions:

Have I used the product as labeled?

Did I follow the instructions carefully?

Did an allergy contribute toward the bad effect?

Was the product old when I opened it?

Make sure you've taken all these factors into consideration before you report a possible hazard to FDA. The hazard may lie in improper use of a product rather than in an inherent defect.

With a medicine, for example, you may suspect the product is harmful if you experience an unusual reaction. You should report this to your doctor immediately.

But the reaction may be a "side effect" rather than an indication of a defect. It may not be necessary to inform FDA about it. Your physician will be the best guide.

WHERE TO REPORT

You may refer your complaint in writing or by phone to the nearest FDA Field office or resident inspection station.

FDA has 10 Regional offices, 19 District offices, and 97 resident inspection stations throughout the United States. See the map on page 34 for the Regional and District office nearest you.

In other major cities not listed, you can find the address and phone number of the nearest FDA office in the telephone directory under U.S. Government, Department of Health, Education, and Welfare, Food and Drug Administration.

If you wish, you may write about your complaint directly to FDA headquarters. The address is Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852. The complaint will reach the correct person.

HOW TO REPORT

Report your grievance as soon as possible after it occurs. Give your name, address, telephone number, and directions on how to get to your home or place of business.

State clearly what appears to be wrong.

Describe in as much detail as possible the label of the product. Give any code marks that appear on the container. For example, markings on canned foods are usually embossed or stamped on the lid.

Give the name and address of the store where the article was bought, and the date of purchase.

Save whatever remains of the suspect product or the empty container for your doctor's guidance or possible examination by FDA.

Retain any unopened containers of the product you bought at the same time.

If an injury is involved, see your physician at once.

Report the suspect product to the manufacturer, packer or distributor shown on the label, and to the store where you bought it.

FDA has limited jurisdiction over certain consumer products. If you have complaints about any of the following, these are the Federal agencies to inform:

Suspected false advertising—Federal Trade Commission.

Meat and poultry products—U.S. Department of Agriculture.

Sanitation of restaurants—local health authorities.

Products made and sold exclusively within a State—local or State Health Department or similar law enforcement agency.

Suspected illegal sale of narcotics or dangerous drugs (such as stimulants, depressants, and hallucinogens)—Bureau of Narcotics and Dangerous Drugs, U.S. Department of Justice.

Unsolicited products by mail—U.S. Postal Service.

Accidental poisonings—Poison Control Centers.

Dispensing practices of pharmacists and drug prices—State Board of Pharmacy.

Pesticides, air and water pollution—Environmental Protection Agency.

TRAGEDY MAKES A POINT IN WYOMING

Mr. HANSEN. Mr. President, public opinion pollsters have told us recently that the single most important issue to many people in this country is not Vietnam, and is not the economy—although these matters are of concern—but is the problem of drug abuse.

A heartbreaking tragedy which struck a Worland, Wyo., family last month offers crushing evidence as to why the American people are deeply concerned about the drug problem and our inability in this country to cope with it.

Only the words of Mr. and Mrs. John Welch, the parents of a young boy on drugs who took his own life, can express the enormity of the loss that is felt, and the intensity of the hope for an answer to the drug abuse problem. And, even their words seems inadequate, for there is no way fully to express in mere words the impact of a tragedy such as this.

In an open letter to the public which appeared in several Wyoming newspapers, Mr. and Mrs. Welch have tried to impress on others the importance of facing up to the problem of drug abuse and demanding legal steps to help protect our citizens from it. They said:

His death has caused us the greatest grief we have ever known, but perhaps it can have some meaning if by this letter the tax-paying citizens will use their power as voters to drive the dealers and pushers out of our town and into penal institutions where they belong. Demand enforcement of the laws against narcotics; the drug laws in other countries, supposedly much less enlightened than the United States, have done this. Why can't we? Save your own kids!

Mr. President, I can but pledge to Mr. and Mrs. Welch that I will do my utmost to promote responsible laws which I believe will help alleviate this problem; that I will support programs designed to prevent drug abuse, rehabilitate those already affected by drugs, and deal swiftly and mercilessly with those who profit from the agony of others.

Mr. and Mrs. Welch have invited public awareness of this very personal and terrible crisis in their lives for the purpose of awakening others, and to draw attention to the critical need for ways to meet this most vital of issues in America. If we lose our young people to the crippling and destructive vice of drugs, what hope is there for the future of our country?

I ask unanimous consent that Mr. and Mrs. Welch's very touching account of what happened to their beloved son, and their appeal for public support in meeting the drug problem, be printed in the RECORD.

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

DRUGS ARE BEAUTIFUL

(An open letter to the citizens of Worland)

On Sunday morning, August 13, 1972, our son, Brian Welch died of Carbon monoxide poisoning in the garage of our home. This is the official reason for his death; he was murdered by drugs. He was murdered by our liberal society. He was murdered by those who close their eyes to the things that are happening in our community and throughout our country; by the complacent, self-satisfied "this can't happen to us" people who would rather not face the facts.

We quote from the last letter he wrote to us, his parents, on the eve of his death. "Don't blame drugs for this. Drugs are more beautiful than Nixon, Old Glory and Apple Pie". In another part of his letter he said, "Dear Folks, I'm sorry. Don't blame yourselves for this. I cannot live in your world." He then continued with his drug-induced philosophy and said, "Dear Family: Please join me; there is no future".

To our knowledge, this is the first death in Worland, Wyoming that can be directly attributed to drugs. Two of Brian's friends came to visit our home and to tell us of their last talk with him the night before he died. He told them he had "popped two pills" on Friday night and one early on Saturday morning. He also told them where he obtained these instruments of death. Sometime during that terrible week, we received a "sympathy" card. We received many, but only one from a person who lacked the guts to sign their name. On the envelope there was a picture of the sun shining on a field of flowers. It was hand-painted. It was signed "a friend."

We knew that Brian smoked marijuana; he told us so, but we were unable to convince him of its harmful effects. He started on "pot" and finished with a trip on some deadly hallucinatory drug. He used to argue that marijuana was not dangerous and did not lead to "hard stuff", except in this way: "When you go out looking for a joint, the pusher will usually offer you something else and say 'this will really turn you on' ".

Our son is dead; we are in agony; we knew he was troubled, mixed-up and unhappy. We tried our best to help him. We listened when he wanted to talk; we begged him to seek professional help and guidance, but he refused to do this. We knew who some of the pushers were, but felt unable to cope with them alone because of the unbelievable liberal laws enacted by "we the people" to protect the criminal.

The officials may say their hands are tied because of the present laws regarding search warrants, eye witnesses, etc. If this is indeed a fact, people of Wyoming, demand that these laws be changed! This is an election year. Vote against the misinformed politicians who are advocating the legalization of marijuana, and against those who have stifled police efforts by cries of "police brutality". Our son did this to himself, but if drugs were not available on almost any street corner and public park in Worland, he might have overcome his depression and tried again.

Brian was an intelligent, handsome and sensitive boy who was seeking something special and in the process, was taken in by the cliches of some of our college professors and drug oriented "friends" who spout phrases like "generation gap, meaningful dialogue and do your own thing".

This was not the boy we raised. His death

has caused us the greatest grief we have ever known, but perhaps it can have some meaning if by this letter the tax-paying citizens will use their power as voters to drive the dealers and pushers out of our town and into penal institutions where they belong. Demand enforcement of the laws against narcotics. The drug laws in other countries, supposedly much less enlightened than the United States, have done this. Why can't we? Save your own kids!

Endorsements were requested by us from a few close friends and acquaintances. We feel it is indicative of the feeling in our community that each person we contacted endorsed our letter without hesitation.

JOHN H. and JESSIE M. WELCH.

CONCLUSION OF MORNING BUSINESS

(Routine morning business was closed.)

ORDER FOR ADJOURNMENT TO TOMORROW AT 9 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9 a.m. tomorrow.

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

ORDER FOR RECOGNITION OF SENATOR SCOTT FOR 15 MINUTES TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow the order previously entered recognizing the distinguished Republican leader for not to exceed 10 minutes be amended to 15 minutes.

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

ORDER FOR PERICD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the orders for the recognition of Senators on tomorrow, there be a period for the transaction of routine morning business for not to exceed 15 minutes, with a limitation of 3 minutes on statements therein.

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

ORDER TO LAY ASIDE UNFINISHED BUSINESS TEMPORARILY TOMORROW AND TO PROCEED TO CONSIDERATION OF H.R. 1

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when morning business is closed on tomorrow, the Senate proceed to the consideration of H.R. 1, the welfare bill; that the unfinished business be temporarily laid aside and remain in a temporarily laid-aside status until some hour during the afternoon to be determined by the distinguished majority leader or his designee.

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

SOCIAL SECURITY AMENDMENTS OF 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at this time H.R. 1, the welfare bill be laid before the Senate and made the pending question temporarily, with no action to be taken thereon this evening.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read the bill by title, as follows:

A bill (H.R. 1) to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill, which had been reported by the Committee on Finance with amendments.

CONSUMER PROTECTION ORGANIZATION ACT OF 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 1 be laid aside and that the unfinished business be again laid before the Senate.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 3970) to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, there will be no action on the unfinished business tonight, of course.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9 o'clock a.m. tomorrow. The following Senators will be recognized for not to exceed the times stated and in the order stated: Mr. BELLMON, 15 minutes; Mr. CHURCH, 15 minutes; Mr. MOSS, 15 minutes; Mr. BAYH, 15 minutes; Mr. JAVITS, 15 minutes; Mr. ROBERT C. BYRD, 10 minutes; and Mr. SCOTT, 15 minutes.

Routine morning business for not to exceed 15 minutes, with the usual limitation of 3 minutes on statements therein, will then ensue. When the morning business is concluded, the Senate will proceed to the consideration of H.R. 1, the welfare bill.

At an appropriate time during the afternoon to be designated by the distinguished majority leader or his designee, the Senate will resume the consideration of the unfinished business, S. 3970, the Consumer Protection Act.

Amendments may be called up to either of these bills. Tabling motions are in order, of course, at any time. Conference reports may be called up at any time, they being privileged matters. Yea-and-nay votes could occur thereon. Hence, yea-and-nay votes may occur during the day tomorrow.

ADJOURNMENT TO 9 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 o'clock tomorrow morning.

The motion was agreed to; and at 6:36 p.m. the Senate adjourned until tomorrow, Wednesday, September 27, 1972, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate September 26 (legislative day of September 25), 1972:

U.S. ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be general

Gen. John Lathrop Throckmorton, xxx-xx-xx... XXXX Army of the United States (major general, U.S. Army).

The following-named officers under the provisions of title 10, United States Code, section 3066, to be assigned to positions of importance and responsibility designated by the President under subsection (a) of section 3066, in grades as follows:

To be general

Lt. Gen. Walter Thomas Kerwin, Jr., xxx-... xxx-xx-xxxx Army of the United States (major general, U.S. Army).

To be lieutenant general

Maj. Gen. Bernard William Rogers, xxx-... xxx-xx-xx... Army of the United States (brigadier general, U.S. Army).

CONFIRMATIONS

Executive nominations confirmed by the Senate September 26 (legislative day of September 25), 1972:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Colston A. Lewis, of Virginia, to be a member of the Equal Employment Opportunity Commission for the term expiring July 1, 1977.

ACTION

Christopher M. Mould, of the District of Columbia, to be an associate director of Action.

NATIONAL MEDIATION BOARD

Kay McMurray, of Illinois, to be a member of the National Mediation Board for the remainder of the term expiring July 1, 1974.

BOARD OF PAROLE

Thomas R. Holsclaw, of Kentucky, to be a member of the Board of Parole for the term expiring September 30, 1978.