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PROCEEDINGS AND DEBATES OF THE 92d CONGRESS, SECOND SESSION

SENATE—*Wednesday, September 27, 1972*

The Senate met at 9 a.m. and was called to order by Hon. JOHN SPARKMAN, a Senator from the State of Alabama.

PRAYER

The Reverend A. Emile Joffrion, rector, the Church of the Nativity, Episcopal, Huntsville, Ala., offered the following prayer:

Dear God, we thank You that another day has been added to our lives. Let it be a day in which we seek the higher guidance in our thoughts, our words, and our actions, so that we may thereby harness the power You have entrusted to us with the sense of responsibility with which You have blessed us.

We are mindful, Lord, of the awesome and humbling challenge confronting us daily as we struggle with issues involving human lives and the future of nations. So we ask You to bless our work on this good earth. Help us to remember who we are and what we represent. Let us never lose sight of the humanity invisibly enmeshed in the endless presentation of bills, budgets, and measures. You know as well as we, Lord, that the system is sometimes tedious, and colleagues are sometimes longwinded, and bills and measures are sometimes very boring. So give us patience and understanding, Lord, and a compassion for statistics. Comfort us when we are discouraged, cool us when we are frustrated, and console us when we fail.

Give us faith and trust in Your being, and confidence and hope in our own being. The good that we would do, and the love that we would love, let it be now; for it is not certain that we shall pass this way again.

We pray also for the President of the United States and for all to whom the authority of government is entrusted, beseeching You that all men may be led into a world of lasting peace. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 27, 1972.

To the Senate:

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

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, September 26, 1972, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Interior and Insular Affairs Subcommittee on Parks and Recreation; the Judiciary Committee; the Labor and Public Welfare Committee; the Post Office and Civil Service Committee; and the Armed Services Committee be authorized to meet during the session of the Senate today.

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

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. GAMBRELL). Under the previous order, the distinguished Senator from Oklahoma (Mr. BELLMON) is now recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Oklahoma yield to me without the time being taken out of his time?

Mr. BELLMON. I am happy to yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may proceed for 1 minute without the time being charged against the Senator from Oklahoma (Mr. BELLMON).

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

RIVERS AND HARBORS BILL—UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I cleared on yesterday, with the distinguished Republican leader and with the distinguished senior Senator from West Virginia (Mr. RANDOLPH), chairman of the Committee on Public Works, and through him with the distinguished Senator from Kentucky (Mr. COOPER) and the distinguished Senator from Delaware (Mr. BOGGS), the following unanimous-consent requests:

I ask unanimous consent that the following requests in the usual form be granted; That at such time as the rivers and harbors bill, S. 4018, is called up and made the pending business before the Senate, there be a time limitation on the bill of 2 hours, that there be a time limitation of one-half hour on any amendment in the first degree and 20 minutes on any amendment in the second degree, debatable motion, or appeal, with the time to be equally divided and controlled in accordance with the usual form.

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

ORDER OF BUSINESS

The Senator from Oklahoma is recognized under a previous order.

(The remarks Mr. BELLMON made at this point when he submitted Senate Resolution 370 are printed in the routine morning business section of the RECORD under Submission of a Resolution.)

Mr. BELLMON. Mr. President, I yield back the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, would the distinguished Senator reserve the remainder of his time?

Mr. BELLMON. Mr. President, at the request of the distinguished assistant majority leader, I reserve the remainder of my time.

Mr. ROBERT C. BYRD. I thank the Senator.

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

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

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Idaho (Mr. CHURCH) is recognized for not to exceed 15 minutes.

A LITTLE LESS TALK, A LITTLE MORE ACTION, PLEASE

Mr. CHURCH. Mr. President, last week President Nixon announced that he was prepared to cut off economic and military aid to all countries that willfully contribute to this Nation's narcotics problem.

I wonder what moved President Nixon to threaten to invoke this law, passed by the Congress over his objections, at this late date. Was it the growth in identified heroin addicts in the United States from 200,000 to 500,000 in the last 2 years? Was it the fact that the increasing number of narcotic seizures have not even made a dent in the amount of heroin coming into this country? Or was it the imminence of the elections?

The fact is, that despite action by the 92d Congress in placing a requirement in Public Law 92–226 that President Nixon end aid to those countries that fail to take adequate steps to stop the flow of heroin and other illegal drugs into the United States, he has not invoked this sanction. Despite the widespread evidence that heroin and other hard narcotics continue to flow from countries in the Middle East and Southeast Asia through refineries in Europe and in Hong Kong, President Nixon has not deemed the threat of heroin in our neighborhoods, on our streets, and in our school corridors sufficient to call for a suspension of aid to any of the offending countries. The law, enacted by Congress on January 25, 1972, reads:

> The President shall suspend economic and military assistance furnished under this or any other Act . . ., with respect to any country when the President determines that the government of such country has failed to take adequate steps to prevent narcotic drugs and other controlled substances from entering the United States unlawfully.

At the time when Congress was considering this provision, President Nixon's representative opposed it, saying:

> On the other hand, an explicit threat to terminate assistance would not promote our objective of controlling the illegal international traffic in narcotics. Such action might well create internal political pressures in foreign countries which would make it difficult for those governments to take the actions we desire.

Fortunately, Congress did not accept the administration's position and did place the prohibition in the law. I was one of the sponsors of the prohibition.

Now, 7 months later, and on the eve of the election, President Nixon threatens to invoke the law that Congress passed. I ask, why the delay? We read almost daily of foreign government officials in Southeast Asia being involved in the drug traffic. We know that that area and the Middle East remain major sources of heroin. We know that Latin America is a growing source of cocaine. Yet President Nixon keeps on sending American aid—billions of dollars worth—to the very countries that indulge the narcotics trade.

The chicanery carried out by the Nixon administration goes further. Not only has the President failed to cut off aid to drug-trafficking nations, he has chosen instead to give additional aid to Turkey to pay the farmers to switch to other crops. So the American taxpayer is drawn into the business of paying farmers throughout the world not to grow opium. We might as well start trying to bottle smoke.

If President Nixon is serious about wanting to combat the drug menace, let him apply the sanctions contained in the Foreign Assistance Act against those of our so-called allies who consider the export of illegal heroin as a profitable business enterprise. Let him end the tribute to other nations to pay their farmers for not growing opium. Let him make it clear that the United States means business about stopping the illegal drug trade by his actions, not by preelection press releases, taking credit for a law he opposed in the first place and has yet to invoke.

ORDER OF BUSINESS

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

ADVERTISING AND THE DRUG CULTURE

Mr. MOSS. Mr. President, this morning we are discussing the drug problem in the United States. Were any person to step forward and state that he could solve the drug problem overnight, he would be guilty of perpetrating still another fraud on the American people. For the war against drugs will be longer and even more difficult to win than the war in Vietnam. And any candidate for elective office who promises to have a secret plan to end the war against drugs, is just as inaccurate as the official for an elective office who has a "secret plan to end the war in Vietnam", still secret, after 4 years in office.

My colleague has discussed other aspects of the drug problem, but I would like to comment on the relationship between drug abuse and advertising. Drug abuse by the young has become a social cancer of hideous proportions. There are today 100 million young Americans under 25. At least 12 million have experimented with marihuana and the stench of hard drugs permeates the culture of our youth. As the curtain of our ignorance is drawn back, we see, meshed in this trap, first our tragic ghetto youth and then the criminal psychopath and now, unmistakably, our children of middle America. Why? Let us look at just one suspect source of the drug culture—advertising—not only the direct advertising of drugs, but the whole troublesome spectrum of questionable advertising forms, themes, and techniques.

Since I have discussed the subject on a number of occasions, I have received considerable public support for efforts to study the relationship between drugs and advertising—support ranging from young mothers terrified at the absorption by their young children of the attitudes of the drug culture; to medical professionals urging me to continue.

One woman writes:

> My four-year old grandchild said, "Grandma, why don't you take Compoze or Nytol if you can't sleep?"

Another told of her experience:

> Last August I chanced to see a commercial for a stimulant called Vivarin on television. My children saw it also. The next day at rest time, my then, three-year old daughter said if I gave her a Vivarin, she would not have to stay in bed.

And another:

> As a parent, I have become increasingly concerned about this problem. It was brought acutely to my attention a few months ago when my seven-year old daughter, unable to fall asleep in a strange room, asked to be given a sleeping pill—"like they show on T.V." Since we never have such things in the house, I was shocked that such a young child could have been conditioned by T.V. that the solution to sleeplessness was a pill.

A husband-wife team of pediatricians wrote:

> As Pediatricians and potential parents, we are angered by the constant tips to swallow a pill and achieve instant relief—whether from a painful back or painful interpersonal relationship.
>
> Children now chant jingles for Cope or Vivarin as casually as they once sang nursery rhymes. These and scores of similar messages falsely promise effects which are incompatible with reality. The public is lured into a "drugs can do anything" attitude while taking preparations that are a waste of money and have a potential for damage to certain persons.

And a psychiatrist at Harvard University wrote:

> Our various media flood us with ads of proprietary medication offering instant relief from tension and distress. Yet with all this we keep asking, "Why? Why has our youth turned to drugs—why can't they gratify themselves without chemicals?" I have seen and talked wtih hundreds of students (both individualy and in large groups) and with their parents about these problems. Eradication of the "drug problem" is very complex.

The message, in sum, is clear and shocking: certain kinds of advertising stand accused of seducing the young to drug dependency and creating vulnerability to drug abuse.

But what does the White House do about it? It calls in broadcasters for secret meetings and apologizes for any attempts at vigorous law enforcement by the independent regulatory agencies.

The dangers inherent in the uninhibited promotion of stimulants, tranquilizers, headache remedies, and sleeping pills should be clear enough. But the promotion of these nonprescription drugs may yet prove to be the tip of the iceberg. For years we have recognized—and fought—the dangers of the cigarette and alcohol advertising as promoters of deadly habits. What we did not see was the massive advertising can have secondary, and equally harmful effect.

It teaches, graphically, and powerfully that success and happiness lie, not in the internal mastery of oneself, based on discipline and strength of character, but in a variety of external stimulants.

But the drug culture finds its flowering in the portrait of American society which can be pieced together out of hundreds of thousands of advertisements and commercials. It is advertising which mounts so graphically the message that turns rain to sunshine, gloom to joy, depression to euphoria; solves problems, dispels doubt.

Does advertising merely reflect the growth of a drug culture initiated and stimualted by other economic and social forces? Or is advertising itself a cause, or a promoter of the drug culture?

To the J. Walter Thompson alumni currently employed in the West Wing of the White House, any questioning of the impact of drug advertising smacks of subversion. It is estimated that $300 million are being spent annually on television advertising of medicines. But the serious question being raised: Is the flood of advertising for such medicines so pervasive that it is convincing viewers that there is a medical answer for any and all their problems, medical or otherwise? Are we so consistently bombarded with pills for this and pills for that and pills for the other things that we have developed the sort of instinctive reaction which makes us reach for a pill every time we are faced with an anxious moment, be it of physical or psychic origin?

Mr. President, the analgesic manufacturers' fog machine may have brought down upon their heads the trading of a headache for a pain elsewhere. Let's look closely at analgesic advertising. Using the principle of self-diagnosis which this advertising invariable promotes, I have invented a little game called prime time self diagnosis. Anyone can play it, but it is cheating if you had a physical examination within the past year. Of course, it is gambling game played with dice somewhat similar to monopoly.

The Board has spaces as follows:

First. You have simple arthritic pain—buy one of many aspirin compounds;

Second. You have minor muscular pains—buy a different aspirin compound;

Third. You have a simple tension problem—buy a third aspirin compound;

Fourth. You have consumed too much aspirin, you have ulcers, you have had them all the time anyway, but now they are bleeding;

Fifth. Go directly to the hospital;

Sixth. You do not know you have ulcers so you buy an antacid;

Seventh. The antacid does not work—it stops up your system so you buy a laxative;

Eighth. The laxative disturbs your kidney function, so you buy a diuretic;

Ninth. The diuretic gives you a backache, so you buy a simple pain reliever—go back to aspirin compounds.

Tenth. Go back to beginning and start over.

The winner is the player who goes to the doctor's office in the center of the game board first.

Who knows what impact this passion for pill popping has upon our young people or on society as a whole.

Mr. President, when the one Federal agency that could perhaps remedy this advertising ambush by the drug culture preferred a modest proposal to provide for a brief segment of broadcast time during which broadcasters would provide access for paid as well as unpaid, responsible counteradvertising, in lieu of pursuing a course of regulatory censorship of advertising. the White House reacted instinctively. It proceeded to jump down the Commission's throat. The Director of the White House Office of Telecommunications Policy readily attacked the Federal Trade Commission proposal as irresponsible and unworkable, and an effort by the FTC to pass the buck of regulatory action to the FCC.

He further told the Colorado Broadcasters Association that the job of regulating abuses and excesses in broadcast advertising should be left to self-regulation by broadcasters and advertisers. Commendable, indeed, but what about the drug problem?

Yes, we must prevent the importation of drugs from foreign lands. Yes, we must combat the efforts of organized crime to control the use of drugs in our country. But we must work at a far greater problem: That is the effect upon our young people brought on by the unwarranted invasion of the home with messages designed to glorify pill popping. Can we not listen to an 11-year-old who testifies before the Senate Commerce Committee, "I have found ads to be dangerous." Bugs Bunny vitamin ads say their vitamins "taste yummy" and taste good. Chocolate Zestabs say their product is delicious and compares taking it with eating a chocolate cookie.

What kind of insanity is this that teaches young children how to grow strong by popping pills rather than eating wholesome foods.

Mr President, broadcast commercials show a definite pattern which, through constant repetition, may well be a part of our drug problem. For instance, the first stage of these commercials is a statement of the problem or pain. The second stage exhibits the pill, the pill appears glorious in these commercials, it is photographed with such elegance and perfection that it appears like a knight in shining armor. Third, the taking of the pill—almost an uplifting ecstasy, and the pill is consumed. And fourth, everyone lives happily ever after. Constantly again and again, we have the same formula—the problem, the pill, the taking of the pill, and salvation.

Mr. President, these are part and parcel of the drug problem. And these are the kind of things that an administration must get to if it is ever going to solve the drug problem. Even if the administration were to take action against the Vietnamese generals who profit by the drug taking dependency of American youth, the problem will not be solved until that stimulant, that repetitive urging every day, every hour, every minute on the television screen is regulated properly.

But we know, Mr. President, that this administration, whose motto has been "We try to serve our private constituency as best we can," will never take action on the drug problem, as long as any part of the drug problem can be traced to the large drug companies and their advertising agencies. For these are the people who are bank rolling the Nixon administration.

Big business gladly foots the bill for regulatory immunity.

I yield the floor.

Mr. CHURCH. Mr. President, I suggest the absence of a quorum, and suggest that the time be taken from the balance of the time still due to me.

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.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Indiana (Mr. BAYH) is recognized for not to exceed 15 minutes.

A LIMITED "WAR" AGAINST ABUSE OF DOMESTIC DRUGS

Mr. BAYH. Mr. President, President Nixon has been in office since January 1969. We are reminded of the fact that 4 years have passed every time we leave this Chamber and walk down the steps which are now in the process of being made ready for the next inaugural ceremonies. We are told that one of the major successes of the administration has been the manner in which they have conducted a total, all-out war against drug abuse. Various spokesmen with high sounding titles and high salaries tell us that the "war" is being won.

As the chairman of the Subcommittee on Juvenile Delinquency, charged with some significant responsibility to examine and, hopefully, to be able to make progress in the solution of problems confronting our young people, I have followed with a great deal of interest what has been said relative to the impact of various programs on drug traffic and abuse. I have been alarmed when I have compared what has been said with what actually has been done. We are not going to win this battle with a war of words, but only with a major commitment of our resources will we turn the corner in this dangerous battle.

Let us look at some of the statements that have been made recently about this all-out "war" against narcotics and dangerous drugs.

Mr. John Ingersoll, Director of the Bureau of Narcotics and Dangerous Drugs recently said:

> I can state unequivocally that President Nixon's unprecedented commitment to eradicate the scourge of drug abuse has turned the corner.

Mr. Miles Ambrose, Special Assistant Attorney General in charge of Drug Abuse Law Enforcement Office, a newly created office in Justice whose purpose is to chase street addict-pushers, claims "there is increasing evidence that we are succeeding."

Administration officials are always quick to claim success in dealing with the illicit drug traffic, but the facts show that those claims are nothing more than empty rhetoric.

There is no success when the number of heroin addicts in the United States increased in the first 3 years of the Nixon administration from 315,000 to 560,000. Those are the facts. Those are the facts taken from the administration's own records.

There is no success when the amount of heroin smuggled into the country this

year will be one and a half times as much as was smuggled in last year. Those are the facts, Mr. President. Those are the facts taken from the administration's own records.

There is no success in the alarming fact that approximately 6 percent of all American teenagers have used heroin.

There is no success when one realizes that 14 million Americans have abused methamphetamines, amphetamines, barbiturates and other prescription drugs.

There is only failure; failure which makes a mockery of the election year pronouncements from administration officials. Actually the Nixon administration performance in dealing with the problem of drug abuse has left us farther from solutions now than we were 3½ years ago.

Before proceeding further, I want to suggest that I am sure the President is as alarmed about this inability to solve the problem as anyone. He does not want young Americans to be addicted to drugs. He is alarmed about this. What concerns me even more than the tragedy of the fact that we are not winning the war against drug abuse is that we do not have a prayer of winning it as long as we have people in high places who try to make us think we are winning it. When the number of addicts has increased a hundred percent in the 3-year period and we are told the war is being won, instead of demanding additional action, instead of demanding additional commitment, instead of demanding additional resources to fight this problem, the people are being lulled into a sense of complacency. It is the effort to try to solve with rhetoric the problems of heroin addicts, "speed" abusers, abusers of barbiturates, and other dangerous drugs, instead of with programs, that concerns me more than anything.

The truth is that the administration has been no more successful with its limited war on heroin than it has been with its war in Vietnam. But even if the war on heroin should result in total victory, the epidemic of drug abuse which plagues American society would not be vanquished; for the source of supply for growing legions of addicts is a domestic one.

There was colloquy here earlier this morning dealing with the problems of international drug traffic. Additional commitment in that area is critical. But, as the chairman of this Senate subcommittee, having taken the committee into the field and investigated the problem, let me suggest that the abuse of domestically produced drugs, will, within 5 years, be even worse than the problem of heroin abuse today if we do not take quick action. I realize that that such a prospect is alarming, but those are the facts that have been brought before our committee by experts in the field who see the tragic consequences of the abuse of amphetamines and barbiturates. Both of these classes of drugs are produced for legitimate medical uses; but growing evidence of their abuse is found throughout the country.

While everyone deplores the misuse of illegal drugs by young people, each year, the legal drug industry produces billions of psychotropic drugs—including barbiturates, amphetamines, and tranquilizers. While most of these pills have medically indicated uses, in almost every class they have been grossly overproduced—beyond any conceivable legitimate medical needs.

As remarkable as it sounds, much of the drug abuse problem in this country begins here at home with the overproduction and easy diversion to illicit channels of these amphetamines, barbiturates, and other dangerous substances. The Nixon administration, however, has been lagging behind Congress, the public, and even some of the drug companies in its willingness to do anything about this problem.

We are experiencing a pandemic of psychotropic drug abuse among young and old alike:

Some 3.7 million Americans have abused methamphetamine;

Some 5.8 million Americans have abused other prescription stimulants; and

Some 4.5 million Americans have abused barbiturates.

This administration claims it is conducting a total war against drug abuse.

But what type of leadership have they shown with respect to dealing with the gross over-production of dangerous drugs which are diverted to nonmedical uses—these multibillions of pills that are crippling our citizens, our young and our old, particularly our youth?

What have they done about the feared and despised "pusher" who is quite often the family's own medicine cabinet?

It is well documented that over-production of amphetamines and barbiturates leads to diversion from legitimate channels to illicit markets or to nonmedical use, and thus to abuse.

The 1965 Drug Abuse Control amendments were introduced in response to some of the recommendations of the Prettyman Commission, established by President Kennedy in 1963, in an effort to control the diversion to illicit channels of legitimately produced amphetamines and barbiturates.

It has been readily apparent that despite gross differences, almost all amphetamine abusers whether on the street, in the office, or in the home, share one important thing in common—the initial source of supply.

It was an awareness of this common source and a realization that the 1965 amendments had failed to stem the tide of rising diversion and rising levels of drug abuse that provided a principal impetus in the 91st Congress for enactment of stricter drug control legislation.

The stage was set for the amphetamine "battle," which because of administration opposition to stricter controls was to continue for the next 3½ years.

The heart of the amphetamine controversy was whether the class of drugs should be subjected to stricter distribution and production controls, including the imposition of production quotas.

In 1967, estimates of diversion range from 50 percent, according to Dr. Stanley Yolles, Director of NIMH, to the more conservative Justice Department estimate of 20 percent. In any case, multimillions and probably billions of these dangerous drugs are being diverted.

Yet in President Nixon's July 14, 1969, message on his drug abuse program, not a single reference was made to the control of domestic manufacture of dangerous drugs.

Some speculated that the real Nixon policy was one which declares an all-out war on drugs which are not a source of corporate income. There was no doubt that substantial income was at stake. Let us face it, it was subject to some controversy. In 1967, 178 million prescriptions for psychoactive drugs were filled at a retail cost of $962 million.

In October 1970, this body considered an amendment placing amphetamines and amphetamine-like substances in schedule II, which required production quotas be established to meet current medical, scientific, research, and industrial requirements.

Senator EAGLETON argued that amphetamines should be classed in schedule II and those who "are making money out of the misery of many individuals" should carry whatever, if any, burden was involved.

This amendment, passed 40 to 16, with the strong support of Senator MCGOVERN, myself, and 26 other Democrats.

Senator Democrats voted 28 to 0 to impose quotas and tighter controls on amphetamines.

Apparently the White House had successfully lobbied the Republican Members who voted 16–12 against the additional controls on speed.

This Democratic victory was short-lived. Following intensive lobbying by representatives of the drug industry and bolstered by White House opposition to controls on the production of amphetamines, it was deleted in the conference.

Senator EAGLETON aptly commented, when the chips were down, the power of the drug companies was simply more compelling than any threat to the public welfare.

On November 2, 1970, President Nixon flanked by Mitchell and Ingersoll, spoke at the signing of the 1970 drug bill. He spoke of the major crisis of drug abuse in the schools, but his remarks contained no mention of the pharmaceutical industry, no reference to over-production, nor did he refer to any future review of amphetamine or barbiturate controls.

Not to be deterred by Republican inaction and strategy, in February 1971, an identical measure, S. 674, was introduced by Senator EAGLETON, Senator MCGOVERN, myself and 34 predominately Democratic Senators. Chairman CLAUDE PEPPER who after extensive hearings on amphetamine abuse had fought the amphetamine abuse had fought the amphetamine battle in the House introduced a similar measure in the House.

Reports of widespread speed abuse were prolific in early 1971.

Citizens groups, including numerous medical associations, mounted a considerable lobby for strict controls on the production of amphetamines.

In June 1971, after several years of congressional pressure and outraged citizens whose communities were being rav-

aged by an incredible over-abundance of amphetamines, the administration belatedly placed amphetamines in schedule II.

Once again, however, it was clear that this administration was involved in anything but a total war against abuse of domestically produced drugs.

The Attorney General's order did not cover ritalin and preludin, two amphetamine-like substances despite our efforts to try to get them included. The Senate amendment had included these drugs whose abuse potential was no mystery to students of stimulants abuse.

They had become the abusers' drugs of second choice after amphetamines were strictly controlled in Sweden.

If we shut off the amphetamine supply, abusers were going to turn to ritalin or preludin; yet the administration would not act.

Certain administration officials have appeared, at times, to be more concerned with the profits of stimulant producers than with the health and well-being of the American people.

To permit these two drugs to remain in schedule III with lesser controls, with no production quotas, lower accountability, seemed folly—a patent invitation to further stimulant abuse and more ruined lives.

At hearings I chaired in July 1971, as chairman of the Juvenile Delinquency Subcommittee, I was amazed at the insensitivity or naivete of the administration witnesses who testified on the failure to include these drugs.

They admitted that they were unaware of the numerous ritalin deaths that witnesses had reported to the subcommittee.

I found it incredible that BNDD and other Federal agencies responsible for enforcing drug abuse laws enacted by Congress and responsible for monitoring trends in drug abuse could be so grossly underinformed.

Administration spokesmen stated that if they found that abusers had actually switched to these stimulants after amphetamine production was limited then they would be prepared to move toward stricter controls.

Rather than cut profits, however slight, by placing these stimulants under stricter controls, this administration chose to overlook the lessons learned abroad, studies indicating a probable shift of abuse to these stimulants, as well as the mounting evidence of actual abuse and deaths by abuse in this country.

I took strong exception to this wait and see approach.

Shortly after these July hearings the administration reversed its position and announced, almost a year after they had defeated a similar control measure in conference, that they agreed with the view of a majority of the Members of this body that unrestricted production of all amphetamines and amphetamine-like stimulants were a threat to public safety and welfare and should be placed in schedule II.

Then Attorney General Mitchell characterized this belated action as part of the Nixon administration's continuing program to strengthen controls on drugs with a high potential for abuse.

Thus after 3½ years of fighting and badgering this administration, proponents of stricter controls on the production and distribution of amphetamines could claim a victory of sorts, at least for the many youngsters and others who because of the production cuts will perhaps not be exposed to an overabundance of speed in the family medicine chest, at school, or on the street.

But what of the many victims of an administration that chose to put the burden—the risk of abuse—on the public rather than on the manufacturers of these dangerous drugs?

The 1972 quota, more than adequate to meet legitimate medical, scientific, and industrial needs, limits production to 253,000,000 units. Some claim that this is still too much, but in contrast to 4,619,000,000 units of amphetamine and methamphetamine produced in 1969, it is clear that production has been reduced considerably.

What this means is that in 1969 production was probably in excess of legitimate needs by an incredible 4,000,000,000 amphetamines.

Thus in the past few years, while some of us were urging the establishment by the administration of production quotas, the administration fought our efforts and more than 10 billion amphetamine doses were produced in excess of legitimate needs.

What happened to those billions of pills? Mr. President, I can tell you what happend to some of them. I have seen those whose minds and lives were relieved by chronic dependence on these pills. I have seen arms, legs, and necks of some of the victims who diluted these pills in liquids to be shot into their veins with tragic results—mutilations, amputations, disabilities for a lifetime and deaths.

The number of individuals introduced to these dangerous substances and often to the long road of addiction because of this gross overproduction is immeasurable, but it is clear that the impact on our society, particularly its youth has been devastating, if not catastrophic.

This is a war against drug abuse?

During the course of this so-called war against drug abuse my subcommittee has pursued its investigation of the abuse of psychotropic drugs. We have found, as with the amphetamines, barbiturates are abused in every strata of society; that like amphetamines they too are widely available; easily obtained and in the words of John Ingersoll:

> Barbiturates are supplied exclusively from what begins as legitimate production.

Barbiturate withdrawal is more dangerous than heroin withdrawal.

Barbiturate addiction is often more difficult to cure than narcotic addiction.

Law enforcement officers, doctors, lawyers, drug program staffers, former users who testified cited overproduction as an integral part of the spreading barbiturate menace, labeled by many as critical or epidemic.

To bring a clearer focus on the issues of barbiturate diversion and abuse, I introduced several measures sponsored by 26 Senators including Senator McGOVERN.

First, S. 3539 to place barbiturates with a high potential for abuse in schedule II where they would be subject to production quotas and stricter distribution controls;

Second, S. 3538 to require that drugs with a high potential for abuse carry identification marks. Law enforcement officials say that this measure will facilitate efforts to determine sources of diversion; and

Third, S. 3819 to place tracer materials in all dangerous drugs to assist in the identification of diverted drugs, whether seized in bulk form or dosage units and to provide assistance to State and local law enforcement efforts to prevent diversion of legitimate drugs to illicit channels.

Tighter controls over barbiturates could be imposed administratively if this administration's commitment to the war on drug abuse equaled its press release rhetoric. And I find it particularly difficult to understand its failure to act considering the fact that the largest manufacturers of barbiturates have indicated a willingness to accept tighter controls.

None of these measures would be necessary if this administration had taken a true leadership role in a war against diversion and abuse of legitimately produced drugs.

Not drugs illicitly grown in Turkey and refined in France.

Not drugs grown and refined in Asia's Golden Triangle.

But dangerous drugs produced legitimately within our own borders.

Detection of the diversion of these millions of pills is not a top priority with this administration.

A recent GAO report cites example after example indicating that State and local law enforcement agencies were unaware of Federal interest in this area; it reports that in one metropolitan area, 1,358,000 pills were seized in 1970, but no attempt was made to determine the origin of these drugs nor had BNDD obtained samples for this purpose.

Frankly, though this record on control of domestic drug traffic and abuse is woefully inadequate, it seems consistent with administration efforts in related areas which as chairman of the Juvenile Delinquency Subcommittee I am all too familiar.

We are all painfully aware of the intimate relationship between crime and drug addiction, particularly heroin addiction.

What kind of effort is LEAA conducting in this area?

What assistance has LEAA given State and local law enforcement agencies in the drug area?

This assistance has beer. minuscule. Of the $529,000,000 spent in fiscal year 1971 and the $698,919,000 spent in fiscal year 1972 LEAA spent respectively $6,806,000 or 1.3% and $16,609,000 or 2.3% to assist State and local law enforcement in their drug control efforts.

This is a war?

We all know that a true commitment of resources in the juvenile delinquency area, particularly the prevention programs can assist any effort to curb drug abuse.

The FBI reports that of 400,606 arrested for drug violations in 1971, 88,051 or 22 percent were under 18; 209,169 or 52.2 percent were under 21; and, 313,240 or 78.2 percent were under 25.

Yet since 1969, HEW's juvenile delinquency program has been marked by delay and inefficiency.

Juvenile delinquency prevention is also a low priority for this administration:

HEW requested only $49.7 million of the $150 million Congress appropriated for juvenile delinquency for fiscal year 1969–1972.

HEW spent only half of the funds appropriated for juvenile delinquency.

An equally poor showing was made by LEAA. Until 1971 there was no juvenile delinquency unit in LEAA nor any mechanism to monitor the juvenile delinquency funding. And although juveniles commit a majority of the crime, LEAA spent only 19 percent for juvenile delinquency in 1971. In fact this was a high mark. In other years they spent 12–14 percent.

When one looks beyond the facade of press releases the only responsible conclusion is that this administration is far more concerned with creating the impression that it is dealing with the drug problem, than it is in really solving this national menace of growing proportions. Unfortunately for the American families whose lives are destroyed by drug addiction the press releases are little solace.

The PRESIDING OFFICER (Mr. TUNNEY). The time of the Senator from Indiana has expired.

Mr. BAYH. Mr. President, I ask unanimous consent that I may proceed for 1 additional minute.

Mr. ROBERT C. BYRD. Mr. President, this kind of request has been objected to over the past 2 years. Would the Chair therefore recognize me for my time at this point?

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Indiana—how much time would he like?

Mr. BAYH. Two minutes would be fine.

Mr. ROBERT C. BYRD. As much time as he desires, on my time, Mr. President.

The PRESIDING OFFICER The Senator from Indiana is recognized.

Mr. BAYH. I appreciate the courtesy of the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD).

Mr. President, let me close by saying that I have tried to document the record with regard to the excessive production of amphetamines, and the administration's inaction and delay. The same is true in the area of barbiturates. I have personally introduced three separate bills dealing with barbiturates and similar types of drugs. I must say, to the credit of some leaders in the pharmaceutical industry, like Eli Lilly of Indianapolis, which produces a considerable amount of barbiturates—that they have said that—

If it takes rescheduling or if it takes tighter controls on barbiturates, that is all right with us. Let us get to it.

But the administration, in a consistent effort to avoid stepping on any corporate toes, has provided absolutely no leadership in this area whatsoever.

When one visits areas like the Haight-Ashbury district in the home State of the distinguished Presiding Officer, the Senator from California (Mr. TUNNEY), and witnesses what may be the ingredients of a national drug abuse culture three of 5 years from now, the basis for our call for action is clear. Unless we take action and stop talking and start conducting an all-out war, not just in Turkey, or France, or in the Asian Golden Triangle, but deal with the dangerous drugs produced legitimately right here within our own borders, we will never get on top of the problem of drug abuse. We will never be able to deal with the problems that confront our young people, unless this administration, this Congress, and this country, recognize the need to dedicate more of our resources not just against diversion and abuse of legitimately produced drugs but in the whole area of juvenile delinquency, particularly prevention.

I will not go further except to say that a separate speech could be made about the lack of willingness on the part of the administration to commit resources in the area of juvenile delinquency. Although 50 percent of serious crimes are committed by young people in their teens. it should be emphasized that LEAA has allocated less than 20 percent of its fund to the entire area of juvenile delinquency.

Those in the administration directly charged with juvenile delinquency problems, do not even request half the money that Congress has appropriated.

How we will ever get some results and reduce drug abuse with this kind of effort is beyond my comprehension.

Again, Mr. President, I appreciate the courtesy of the Senator from West Virginia in yielding me this additional time.

THE NIXON RECORD ON DRUGS

Mr. RIBICOFF. Mr. President, drug abuse is one of the major problems facing the Nation. It infests every corner of the Nation and every strata of society. There is no escape from it, at home or abroad.

Drugs are not a new problem in our country. But the Nixon administration was late in discovering it. So long as hard drug abuse was confined to the inner city, the Nixon administration remained indifferent to it. But when it spread like wildfire from city to suburb and into military bases, overseas, the Nixon administration panicked. It quickly submitted in 1971 a poorly drafted, skimpy bill which focused on form, not substance, by proposing a White House office to coordinate education and treatment programs, while neglecting the role of law enforcement. The administration's bill also failed to provide additional funds to States and local governments for treatment and rehabilitation programs.

The Senator from Maine (Mr. MUSKIE) and I promptly began joint hearings by our Government Operations Subcommittees on Executive Reorganization and Intergovernmental Relations on the bill. Its weaknesses soon became apparent. The scope of the bill was too narrow, and the powers proposed for the White House office were too broad. They would have infringed upon the legitimate prerogatives of Congress to control appropriated funds.

On one critical point, administration testimony was contradictory. In response to questioning by Senator MUSKIE concerning the involvement of officials of Southeast Asian countries in narcotics trafficking, Attorney General Mitchell told the committee that—

The fact of the matter is that there has been involvement by government officials in some of these countries . . .

And he added that our Government had "identified some of them." He further stated that "programs and initiatives" had been taken to remedy these situations. The Attorney General offered to provide the facts supporting these statements at an executive session of the committee.

Later, Deputy Attorney General Kleindienst refuted the Attorney General's earlier comments by writing to Senator MUSKIE and me:

We do not have any specific evidence which links any high official in the Southeast Asian countries with the narcotic traffic there.

This contradiction remains unresolved today as the flow of narcotics from Southeast Asia continues unabated.

After the hearings, Senator MUSKIE and I proposed amendments to expand the scope of the bill to include law enforcement activities and to reduce the powers of the White House office to a level appropriate for the executive branch. These amendments were accepted by the committee, and we reported the bill. It was then referred to the Committee on Labor and Public Welfare, where the Senator from Iowa (Mr. HUGHES) amended it to include additional funds for treatment and rehabilitation programs. The bill passed the Senate unanimously and became Public Law 92–255.

The Democratic Congress has provided the administration with the basic ingredients of a good program to fight drug abuse. But they have not been blended well. As seven reports by the Government Accounting Office found, the administration efforts are a failure. For example, GAO concluded that despite spending millions of dollars—

The availability of narcotics and dangerous drugs does not appear to have been substantially reduced.

In fact, in 1969 John Ingersol, Director of the Bureau of Narcotics and Dangerous Drugs, testified that there were 315,000 narcotic addicts in this country. This past spring, Dr. Jerome Jaffe, the President's Special Assistant on Drug Abuse, stated there were at least 650,000

addicts, a 20-percent increase during this administration.

GAO also found that the Department of Defense lacked "a good definition of the nature and extent of the drug abuse problem," and had no "valid means of measuring the benefits occurring from the wide variety of education activities it conducted."

These seven reports are too lengthy to reprint in the RECORD, but I ask unanimous consent that a brief summary of them, prepared by the GAO, be printed in the RECORD at the conclusion of my remarks.

The past 4 years have seen an unparalleled increase in hard drug abuse. The entire Nation should be dissatisfied with the record of this administration in combating drug abuse.

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

[Comptroller General's Report to the Congress, Aug. 11, 1972]

FEDERAL EFFORTS TO COMBAT DRUG ABUSE—DIGEST

WHY THE SURVEY WAS MADE

Drug abuse in the United States is a national emergency. Recent statistics—although estimates at best—show that there are 559,000 heroin addicts in the United States. A study in New York, N.Y., found that, of the 285,161 high school students surveyed, 100,000 had used or experimented with drugs. Another survey, conducted in Monterey, Calif., revealed that about 75 percent of the students surveyed had used LSD. Theft and enforcement costs relating to crimes committed by addicts to support their habits are estimated as high as $18 billion annually.

Numerous Federal agencies, through increased appropriations from the Congress, have developed and expanded programs in the functional areas of drug abuse—treatment and rehabilitation, education and training, law enforcement and control, and research.

This is a Government-wide survey to identify and determine the extent of Federal agencies' involvement in drug abuse programs. The information presented was supplied by the President's Special Action Office for Drug Abuse Prevention and by the various Federal agencies involved, but the funding information is incomplete because, in some instances, data was not readily available.

The General Accounting Office (GAO) did not evaluate individual programs but did make observations about some of the major problems and overall efforts. GAO believes that this report will give insight on the total Federal involvement in combating drug abuse. GAO has issued and is in the process of issuing reports which do provide evaluations of some of the individual programs.

FINDINGS AND CONCLUSIONS

Federal spending that GAO could identify as devoted to drug abuse control from fiscal year 1969 has been about $842 million—$366 million for treatment and rehabilitation, $266 million for law enforcement and control, $108 million for education and training, and $102 million for research. This spending has not curbed drug abuse.

In his 1972 state of the Union message, the President emphasized a need for a national strategy that coordinates the impact of various solutions (treatment and rehabilitation, law enforcement and control, education and training, and research). The strategy's ultimate objective is to eliminate drug abuse.

It has been recognized that the potential impact of each solution on the various causes and consequences of drug abuse should be evaluated so that the appropriation combination of solutions can be selected. For example, a high level of enforcement may reduce the availability of drugs but thereby increase their cost. Crime may then increase because addicts would need to supply their habits. On the other hand, if free drugs are dispensed, crime may decrease but drug abuse—and accidents caused by it—may increase.

TREATMENT AND REHABILITATION

The Congress recognized the need for treatment and rehabilitation of drug addicts in 1929. However, efforts in this area have only recently received much attention. Spending for these programs increased from $28 million in fiscal year 1969 to an estimated $210 million in fiscal year 1972.

Federal treatment and rehabilitation programs are conducted by using various methods—detoxification, confrontation and group therapy, methadone maintenance, and social and vocational rehabilitation. Some Federal agencies are involved in funding State and local programs which deal with the treatment and rehabilitation of addicts.

The chances for treatment and rehabilitation to be fully successful appear remote without a medical breakthrough, such as a vaccine to make addicts immune to narcotics.

LAW ENFORCEMENT CONTROL

The Federal Government has been involved in law enforcement and control in the area of drug abuse since 1909 when the Congress prohibited the importation and use of opium for other than medicinal purposes.

Until 1968 primary responsibility for law enforcement and control was vested in the Department of the Treasury and the Department of Health, Education, and Welfare (HEW). In that year, Treasury's Bureau of Narcotics and HEW's Bureau of Drug Abuse Control were consolidated to form the Bureau of Narcotics and Dangerous Drugs (BNDD) within the Department of Justice. BNDD was given primary responsibility for the enforcement of drug abuse laws.

Federal spending for law enforcement and control has increased from $20 million in fiscal year 1969 to an estimated $139 million in fiscal year 1972. The Office of Drug Abuse Law Enforcement was established in the Department of Justice by Executive order in January 1972 to more effectively use these resources. The Office is charged with making a concentrated assault on the street-level heroin pusher.

Although the effort devoted to law enforcement and control has greatly increased during the past few years, the availability of narcotics and dangerous drugs does not appear to have been substantially reduced. Ways must be found to eliminate the sources and to make trafficking unprofitable.

EDUCATION AND TRAINING

Only recently have significant Federal resources been devoted to the education and training aspects of drug abuse prevention. The Drug Abuse Education Act of 1970 made it possible to fund community, school, and university drug education programs. Also a program of grants to States for training educational personnel to help combat drug abuse was begun during 1970.

Education and training efforts by Federal agencies have two major objectives; to provide the American public with maximum exposure to the problem and to provide specialized training for education, law enforcement, and medical personnel. The money devoted to meet these objectives has increased from $2 million in fiscal year 1969 to an estimated $58 million in fiscal year 1972.

Although these two objectives are meant to discourage the abuse of, and to develop a respect for, drugs, they could have some adverse effect. Increased exposure to the subject could influence certain people to try drugs.

RESEARCH

Federal agencies have expanded their research efforts as evidenced by the increase in funding from about $15 milion in fiscal year 1969 to an estimated $47 million in fiscal year 1972.

Although aimed at many aspects of the drug problem, most Federal research is directed at obtaining a more thorough knowledge and understanding of the types of drugs and the causes and the medical implications of drug abuse. This research is conducted in-house and under contracts and grants to private organizations.

Research offers a good possibility for minimizing drug abuse. For example, a drug to prevent drug addiction may be discovered and/or better insight may be gained into attitudes which cause drug abuse.

DRUG ABUSE CONTROL ACTIVITIES AFFECTING MILITARY PERSONNEL IN THE DEPARTMENT OF DEFENSE—DIGEST

WHY THE REVIEW WAS MADE

The General Accouning Office (GAO) has compiled information for the Congress on what the Department of Defense (DOD) has done to control and reduce drug abuse by military personnel. GAO visited overseas installations during the period July through November 1971 and military bases in the United States through February 1972.

FINDINGS AND CONCLUSIONS

Law enforcement and drug suppression

DOD has actively cooperated with other Federal agencies having primary responsibility for enforcing laws against illegal trafficking and use of drugs, as well as with local government agencies similarly involved, both in the United States and abroad.

Intensification of enforcement activities may have contributed significantly to the replacement of marihuana—which is bulky, easily detectable by smell, and not physically addictive—by more dangerous drugs such as heroin. Given legal sanctions against marihuana, possession or use by military personnel cannot be condoned. There can be little alternative to mounting aggressive drug suppression and law enforcement activities, but doing so may create a more serious problem.

On the other hand, unannounced urinalysis tests at randomly selected military units would be a more significant deterrent to drug users.

Education and training

Drug education programs in the military services were in various stages of development. These programs included drug abuse councils, lecture teams, workshops, formal and informal briefings, as well as prominent displays and distribution of printed material to individuals.

In addition, there were articles on drug abuse published in unit newspapers and in the Stars and Stripes (the most widely read service newspaper overseas) and frequent references to drug abuse in overseas areas on the Armed Forces radio and television stations.

In discussions with key personnel, GAO noted:

Formal classes and briefings to lower enlisted ranks have more disadvantages than advantages. Their overall effect as a deterrent to illicit drug use appears to be limited.

There were not enough experts to mount an adequate education program. Such personnel cannot be trained on short notice. However, priority attention has been given to training these personnel.

Few, if any, additional funds had been made available overseas to support educa-

tional programs. Available money was being used by local commanders for this purpose.

Information sources considered most effective by the troops included former addicts, physicians, and chaplains.

Personnel contacted by GAO in visits to military installations believed that educational activities would act as an effective weapon to combat drug abuse. They also conceded that no means existed at that time to measure the effectiveness of the various techniques being tried.

Without a good definition of the nature and extent of the drug abuse problem and without any valid means of measuring the benefits accruing from the wide variety of education activities being conducted, the Department of Defense has no assurance that the drug educational programs are effective.

Identifying drug abusers

Many military personnel voluntarily identified themselves as drug users when they asked for the assistance offered them through the exemption programs operated by each of the military services. Additional personnel were being identified, involuntarily, by law enforcement activities and by the urinalysis-testing program started in mid-1971.

Urinalysis testing has been a highly successful technique in identifying users of heroin, barbiturates, and amphetamines. However, because of technological limitations of tests being used, the incidence rates being reported are not an accurate indicator of the overall extent of drug use.

As the urinalysis-testing program is expanded and is administered without prior notice to units selected on a statistically valid random basis, the results will more closely indicate the use of hard narcotics.

Exemption programs having credibility problems

Implementation of DOD programs offering assistance to servicemen who volunteer for treatment of their drug problems was relatively complex and confusing to personnel at most levels. Frequent changes made by the services to cope with inadequacies in the programs contributed to this confusion, engendered considerable distrust, and adversely affected the program's credibility.

Many servicemen felt that the exemption program was more punitive than they believed it should be or had believed it would be. Although not subject to judicial prosecution under the Uniform Code of Military Justice (i.e., "exemption"), the abuser did view as punitive certain administrative actions frequently taken.

The consensus of conferees attending a drug abuse conference was that sincere concern necessary to help the drug abuser was lacking in the Army. A view frequently expressed to GAO by officers in all services was that large numbers of enlisted personnel were subverting the objectives of the exemption program by attempting to use it as a vehicle for obtaining early termination of their military service obligations.

If the servicemen's distrust of DOD's exemption program and the services' distrust of the drug abuser can be eliminated, greater acceptance and success of the exemption program can be achieved.

Detoxifying, treating, and rehabilitating drug abusers

There were indications that DOD has experienced greater success in medical detoxification and treatment of drug abusers than in rehabilitation. Rehabilitation programs had very limited success, if the number of servicemen returned to normal duty is used as a criterion.

The nature and quality of rehabilitation available to servicemen varied considerably among the services, within a service, and even between different units located on a single installation. In addition, many servicemen who might have benefited from rehabilitation programs either had left the service before such programs were established or chose not to volunteer because their terms of service were expiring.

Problems being experienced in rehabilitation are attributed to a lack of

desire by some drug users to remain in the service for rehabilitation,

medical and psychiatric personnel,

trained rehabilitation personnel, and

adequate facilities.

Disposition of drug abusers

Large numbers of military personnel were administratively discharged during calendar year 1971. Although relatively few received undesirable discharges (which would make them ineligible for Veterans Administration (VA) medical treatment), their Report of Transfer or Discharge (DD Form 214), given at the time of separation, bore a code meaning that drug abuse was the reason for separation. This identification entered on an individual's DD Form 214 is a matter of concern to agency officials and congressional committees because it may have long-term, stigmatizing effects on such individuals, even after they have been fully rehabilitated after leaving the service.

The recent increase of drug abusers being separated from the services had a large and immediate impact on VA which treated over 5,000 veterans during the last half of calendar year 1971. However, many personnel leaving the military service have chosen not to accept VA assistance and others are not eligible because of their undesirable discharges.

Drug problems and overseas dependents schools

The Overseas Dependents School System has long been aware of a drug problem among school-age dependents. Several educational programs have been developed and introduced to prevent its spread.

Drug education programs in the Overseas Dependents Schools were well coordinated with the local military commanders. However, unlike the service member himself, the dependents were not under the jurisdiction of the military commander unless they required treatment at a military hospital or dispensary.

RECOMMENDATIONS OR SUGGESTIONS

GAO is recommending that DOD develop a system to provide a basis for evaluating its education, treatment, and rehabilitation activities relating to the drug abuse control program.

AGENCY ACTIONS AND UNRESOLVED ISSUES

GAO discussed drug abuse problems with commanders and their staffs at all local installations visited. At subsequent meetings in Washington, D.C., with each of the military services and the Office of the Secretary of Defense, GAO summarized the substance of its observations and preliminary views and obtained oral comments from drug abuse control program principals of those organizations.

GAO was favorably impressed by the receptiveness, at all levels, to its views on areas which might warrant immediate or special DOD concern. Service representatives were very knowledgeable in the matters raised for discussion and generally in agreement with GAO observations and recommendations.

MATTERS FOR CONSIDERATION BY THE CONGRESS

Five separate enclosures to this report have been prepared—four deal with overseas geographic locations visited and one with continental United States bases visited by GAO. They are available to interested members and committees.

GAO believes that the substantive information included in this report will be useful to the Congress in its deliberations on the drug abuse program.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. TUNNEY). Under the previous order, the distinguished Senator from New York (Mr. JAVITS) is now recognized for 15 minutes. Is he here?

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time for the quorum come out of the time allotted to the Senator from New York (Mr. JAVITS).

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

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, without further prejudice to the rights of the distinguished senior Senator from New York under the order of recognition, I ask that I again be recognized on my own time.

The PRESIDING OFFICER. The Senator from West Virginia is recognized on his own time.

CALENDAR CALL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed with the consideration of the following calendar orders: 1162, 1164, 1166, 1167, 1170, and 1172.

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

PRISONERS OF WAR AND MISSING IN ACTION

The Senate proceeded to consider the concurrent resolution (S. Con. Res. 97) in behalf of prisoners of war and missing in action.

Mr. THURMOND. Mr. President, on September 19, 1972, I submitted Senate Concurent Resolution 97 in behalf of the prisoners of war and missing in action. The Committee on Foreign Relations has now reported this important resolution to the Senate favorably by a unanimous vote. I am also pleased to announce that 57 of my distinguished colleauges are cosponsors of this resolution.

Mr. President, this resolution declares the sense of the Congress in urging 129 nations to take positive action in behalf of our courageous men. These nations and the Government of North Vietnam signed the Geneva Convention, along

with the United States, to commit our governments to guarantee humane treatment of prisoners of war.

The United States has honored this commitment and our country will continue to keep its word. Many of these nations are our allies. In my judgment, they should renew their effort with the United States in exercising every possible political, diplomatic, economic, and psychological action, public and private, necessary to convince the Government of North Vietnam to abide by the provisions of the Geneva Convention. These nations should press all possible courses of action to arrange for the rapid exchange of all prisoners of war and accountability of those missing in action.

This resolution requests the President of the United States to transmit the concurrent resolution to 129 heads of governments of these nations and to the Secretary General of the United Nations. The prisoner-of-war issue is a government-to-government issue. The President's transmittal of this concurrent resolution, which should be approved unanimously by the Congress, keeps this vital issue on a government-to-government basis.

Mr. President, the record of North Vietnam's violations of the Geneva Convention has been repeatedly set forth for all nations. I cited these violations in detail, as a reminder for my distinguished colleagues, when I first introduced a similar resolution on July 27, 1972. I am confident my colleagues and the 129 signatory nations of the Geneva Convention are well aware of these flagrant violations. It is time for these nations, and especially our allies, to bring about greater pressure on North Vietnam to comply with the Geneva Convention. I believe this resolution will help achieve this objective.

North Vietnam continues to defy the nations of the world in refusing to comply with the Geneva Convention. The International Conference of the Red Cross adopted without dissent and with the support of 114 nations, a resolution calling upon the parties of the Vietnam conflict to abide by the Geneva Convention with respect to the humane treatment of prisoners of war. The Government of North Vietnam has not responded. It has not even responded to the Secretary General of the United Nations for an inspection of POW camps by the International Red Cross.

This Congress and the administration must vigorously pursue every possible action in behalf of our brave men. No aspect of the war in Indochina causes more tragic anguish than the plight of our prisoners held by the enemy, the missing in action and their families.

Mr. President, I strongly urge my distinguished colleagues to approve Concurrent Resolution 97 unanimously.

The concurrent resolution (S. Con. Res. 97) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

Whereas the purpose of the Geneva Convention of August 12, 1949, was to prescribe rules for the humane treatment of prisoners of war;

Whereas the Government of North Vietnam, having adhered to that convention on June 28, 1957, is one of the one hundred and thirty-one parties of that convention;

Whereas the Government of North Vietnam has failed to honor its commitment as a signatory nation of the Geneva Convention;

Whereas the Geneva Convention states, contrary to the view of the Government of North Vietnam, that the convention applies to "any other armed conflict which may arise between two or more of the high contracting parties, even if the state of war is not recognized by one of them";

Whereas the International Conference of the Red Cross adopted without dissent and with the support of one hundred and fourteen nations, a resolution calling upon the parties of the Vietnam conflict to abide by the Geneva Convention with respect to the humane treatment of prisoners of war;

Whereas prisoners taken by the United States in Vietnam are identified and accorded humane treatment, including adequate shelter, clothing, food, exercise, and medical care, and released if sick or wounded, all of which actions have been verified by international inspections;

Whereas the Geneva Convention requires the Government of North Vietnam to:

(1) identify all prisoners of war;

(2) exercise humanitarian treatment;

(3) release sick and wounded prisoners;

(4) protect prisoners from public abuse;

(5) permit inspection of prisoners and quarters by a neutral party;

(6) allow the flow of letters and packages;

Whereas the United States is complying with the above provisions of the Geneva Convention: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is hereby declared to be the sense of the Congress that all parties to the Geneva Convention should join with the United States in exercising every appropriate action to cause the Government of North Vietnam to abide by the provisions of the Geneva Convention, and to agree to an arrangement for the rapid exchange of all prisoners of war.

SEC. 2. The Congress requests and urges the President to transmit a copy of this resolution to the heads of governments of all signatory nations of the Geneva Convention and to the Secretary General of the United Nations.

EQUALITY OF TREATMENT FOR MILITARY PERSONNEL IN APPLICATION OF DEPENDENCY CRITERIA

The bill (S. 2738) to amend titles 10 and 37, United States Code, to provide for equality of treatment for military personnel in the application of dependency criteria 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 title 10, United States Code, is amended as follows:

(1) Clauses (C) and (D) of section 1072 (2) are amended to read as follows:

"(C) the husband;

"(D) the unremarried widower;".

(2) Section 101(36) is repealed.

SEC. 2. Section 401 of title 37, United States Code is amended by striking out the second sentence.

SEC. 3. The text of section 420 of title 37, United States Code, is amended to read as follows:

"A member of a uniformed service may not be paid an increased allowance under this chapter, on account of a dependent, for any period (1) during which that dependent is entitled to basic pay under section 204 of this title, or (2) the spouse of such member is being paid an increased allowance under this chapter on account of that dependent."

CONVEYANCE OF CERTAIN LANDS TO THE STATE OF TENNESSEE

The Senate proceeded to consider the bill (H.R. 9676) to authorize the conveyance of certain lands of the United States to the State of Tennessee for the use of the University of Tennessee which had been reported from the Committee on Government Operations with amendments on page 3, line 2, after the word "the", where it appears the first time, insert "educational"; and, in line 7, after the word "Tennessee", insert a comma and "and if such property ceases to be used for such purposes, as determined by the Administrator of General Services, title thereto shall revert to and become the property of the United States which shall have the right of immediate entry thereon."

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.

NATIONAL GUARD FOR THE VIRGIN ISLANDS

The Senate proceeded to consider the bill (H.R. 3817) to amend titles 10, 32, and 37, United States Code, to authorize the establishment of a National Guard for the Virgin Islands which had been reported from the Committee on Armed Services with amendments on page 1, line 9, after "Sec. 2.", insert "(a)"; on page 2, after line 4, insert:

(b) Section 307 of title 32, United States Code, is amended by adding at the end thereof a new subsection as follows:

"(g) Federal recognition may not be extended in the case of any member of the National Guard of the Virgin Islands in any grade above colonel."

And, in line 13, after the word "after", strike out the words "the Canal Zone" and insert " 'the Canal Zone' ".

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.

IMPORTATION OF CERTAIN ARCHITECTURAL SCULPTURE

The Senate proceeded to consider the bill (H.R. 9463) to prohibit the importation into the United States of certain pre-Columbian monumental or architectural sculpture of murals exported contrary to the laws of the countries of origin, and for other purposes, which had been reported from the Committee on Finance with amendments on page 1, after the enacting clause, insert:

TITLE I—REGULATION OF IMPORTATION OF PRE-COLUMBIAN MONUMENTAL OR ARCHITECTURAL SCULPTURE OR MURALS

At the beginning of line 8, strike out "That, the" and insert "Sec. 101."; on page 2, line 3, after the word "section", strike out "5 of this Act" and insert

"105"; at the beginning of line 6, change the section number from "2" to "102"; in line 10, after the word "to", strike out "the first section of this Act" and insert "section 101"; on page 3, line 1, after the word "to", strike out "the first section of this Act" and insert "section 101"; in line 4, after the word "under", strike out "the first section of this Act" and insert "section 101"; in line 15, after the word "this", strike out "Act" and insert "title"; at the beginning of line 16, change the section number from "3" to "103"; in line 18, after the word "this", strike out "Act" and insert "title"; on page 4, at the beginning of line 6, change the section number from "4" to "104"; in line 8, after the word "this", strike out "Act" and insert "title"; at the beginning of line 9, change the section number from "5" to "105"; in the same line, after the word "this", strike out "Act" and insert "title"; on page 5, after line 7, insert a new title, as follows:

TITLE II—CUSTOMS PORT SECURITY

SEC. 201. SHORT TITLE.

This title may be cited as the "Customs Port Security Act of 1972".

SEC. 202. FINDINGS OF FACT AND DECLARATION OF PURPOSE.

(a) The Congress finds that theft and pilferage of international cargo at our Nation's seaports and airports of entry results in a significant loss to the economy in terms of lost markets, lost jobs, increased prices and insurance rates, and lost duties and taxes, and is detrimental to international trade and commerce. The Congress finds that there is an urgent need to deter this criminal activity by requiring carriers and terminal operators at ports of entry to provide security measures for such cargo under their control.

(b) It is the purpose of this title to establish an international cargo security program which takes into consideration differences in port topography, terminal configuration, size, and location, and the type and volume of cargo handled.

SEC. 203. DEFINITIONS.

As used in this title—

(1) The term "Secretary" means the Secretary of the Treasury.

(2) The term "United States", when used in a geographical sense, includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

(3) The term "person" means only an individual.

(4) The term "terminal" means a place within a port of entry at which imported merchandise is unladen from, or merchandise for export is laden on, a carrier engaged in foreign commerce, and any place adjacent thereto which is used for the receiving, storage, or other handling of or dealing with respect to such merchandise.

(5) The term "terminal operator" means any individual, association, partnership, corporation, public body or agency who operates or otherwise manages a terminal.

SEC. 204. CARGO SECURITY MEASURES AND PROCEDURES.

(a) If the Secretary determines that the theft or pilferage of imported cargo or cargo for export has become detrimental to the international trade and commerce of a port of entry he shall, after taking into account:

(1) the value and quantity of cargo imported and exported;

(2) the value and quantity of cargo lost;

(3) the type of cargo handled;

(4) the incidence of theft or pilferage;

(5) existing cargo security measures and procedures; and

(6) any other factor relevant to the security of cargo at the port;

and, after consultation with the Department of Transportation, the Department of Commerce, the Interstate Commerce Commission, the Federal Maritime Commission, the Civil Aeronautics Board, and such other Federal, State, and local agencies as he may deem appropriate, publish in the Federal Register notice of his intention to establish such cargo security measures as he may require to protect and safeguard such cargo at terminals. Such notice shall state the basis for his determination and the cargo security measures and procedures he intends to apply. It shall invite the submission from terminal operators and other interested parties, within such time as is set forth in the notice, of written data, views, or comments with respect to the application of any or all of such measures or procedures and in the event that such comments submitted request a public hearing, such hearing shall be promptly held. After considering such data, views, or comments, or after public hearing, if one is held, the Secretary shall publish in the Federal Register notice of any cargo security measures or procedures which will be required at terminals.

(b)(1) Any cargo security measures or procedures which are required at terminals shall become effective 6 months after the date of publication in the Federal Register. The Secretary may grant additional time to comply with the measures and procedures in accordance with such regulations as he may prescribe.

(2) The Secretary may at any time upon his own initiative, or upon petition filed by a terminal operator or other affected party in accordance with regulations prescribed by the Secretary, withdraw any or all cargo security measures or procedures required pursuant to subsection (a) of this section at terminals.

(3) If the Secretary denies a petition for withdrawal of cargo security measures or procedures, he shall, upon request of the aggrieved party, promptly hold a hearing to review his denial.

(4) The Secretary shall within a reasonable time after the close of the hearing notify the applicant in writing of his decision.

SEC. 205. IDENTIFICATION CARDS.

(a) Any person having reason to require access to a terminal area in which imported cargo or cargo for export is handled shall carry and display an identification card issued to such person by—

(1) a union of which he is a member in good standing;

(2) his employer;

(3) an agency of the Federal, State, or local government; or

(4) a recognized carrier security association or organization.

(b) The Secretary is authorized to issue rules and regulations with respect to the form and contents of the identification cards to be issued pursuant to this section.

(c) Any person not having an identification card who has reason to require access to a terminal in any port may apply to the terminal operator for a temporary identification card.

SEC. 206. CIVIL PENALTIES.

(a) Any carrier or terminal operator who fails to comply with any regulation issued pursuant to section 204 of this title shall be assessed a civil penalty by the Secretary not to exceed $1,000 for each such violation. Each day on which failure of compliance persists shall constitute a new and distinct violation of this section, but no penalty shall be assessed more than two years after the alleged violation of such regulation. The maximum civil penalty shall not exceed $5,000 for any related series of violations.

(b) The Secretary is authorized to remit or mitigate any penalty imposed pursuant to subsection (a) upon such terms and conditions as he deems reasonable and just.

(c) The amount of the penalty, when finally determined, may be recovered in a civil action in a United States district court.

SEC. 207. LADING OR UNLADING PROHIBITED.

If the Secretary determines that, because of repetitive violations or otherwise, the imposition of civil penalties or other sanctions against a terminal operator are unavailing to secure its compliance with cargo security measures and procedures made applicable to such terminal pursuant to this title, he may prohibit the unlading of imported merchandise or the lading of merchandise for export at such terminal, except that, in the case of merchandise transiting the United States destined for another country, cargo may be unladed and laded at such terminal for purposes of immediate transfer from one carrier to another carrier.

SEC. 208. JUDICIAL REVIEW.

Judicial review of any final decision of the Secretary rendered under section 204 of this title may be obtained in accordance with chapter 7 of title 5, United States Code. Such review may be initiated by filing a petition for review in the United States district court for the district wherein the aggrieved party resides, or has his principal place of business, or in the United States District Court for the District of Columbia, within 60 days after the date on which the decision is rendered or published in the Federal Register, as the case may be.

SEC. 209. CONSEQUENTIAL AMENDMENT.

Section 549 of title 18, United States Code, is amended to read as follows:

"§ 549. Unlawful removal of goods; breaking seals

"(a) Whoever, without authority, affixes or attaches a customs seal, fastening, or mark, or any seal, fastening, or mark purporting to be a customs seal, fastening, or mark to any vessel, vehicle, warehouse, or package or

"Whoever, without authority, willfully removes, breaks, injures, or defaces any customs seal or other fastening or mark placed upon any vessel, vehicle, warehouse, or package containing merchandise or baggage in bond or in customs custody; or

"Whoever maliciously enters any bonded warehouse or any vessel or vehicle laden with or containing bonded merchandise or baggage with intent unlawfully to remove therefrom any merchandise or baggage therein—

"Shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(b) Whoever unlawfully removes any merchandise or baggage from any vehicle or bonded warehouse laden with or containing bonded merchandise or baggage, or removes any merchandise or baggage otherwise in customs custody or control, or receives or transports such merchandise or baggage, knowing the same to have been unlawfully removed, shall be fined not more than $5,000 or imprisoned not more than ten years, or both, if the amount or value of the merchandise or baggage unlawfully removed, received or transported exceeds $250; or shall be fined not more than $1,000 or imprisoned not more than one year, or both, if the amount or value of the merchandise or baggage unlawfully removed, received or transported does not exceed $250."

SEC. 210. GENERAL REGULATIONS.

The Secretary shall prescribe such rules and regulations as he may deem necessary to carry out the provisions of this title.

SEC. 211. SAVINGS AND SEVERABILITY CLAUSE.

If any part or provision of this title or the application thereof to any person, or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part,

provision, or application directly involved in the controversy in which such judgment is rendered and shall not affect or impair the validity of the remainder of this title or the application thereof to other persons or circumstances.

SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to effect the purposes of this title.

And, on page 13, after line 6, insert a new title, as follows:

SEC. 301. Section 516 of the Tariff Act of 1930 (19 U.S.C. 1516) is amended to read as follows:

TITLE III—JUDICIAL REVIEW IN COUNTERVAILING DUTY CASES

"SEC. 516. PETITIONS BY AMERICAN MANUFACTURES, PRODUCERS, OR WHOLESALERS.

"(a) The Secretary shall, upon written request by an American manufacturer, producer, or wholesalers, furnish the classification, the rate of duty and the additional duty described in section 303 of this Act (hereinafter) referred to as 'countervailing duties'), if any imposed upon designated imported merchandise or a class or kind manufactured, produced, or sold at wholesale by him. If such manufacturer, producer, or wholesaler believes that the appraised value is too low, that the classification is not correct, that the proper rate of duty is not being assessed, or that countervailing duty should be assesed, he may file a petition with the Secretary setting forth (1) a description of the merchandise, (2) the appraised value, the classification, or the rate or rates of duty that he believes proper, and (3) the reasons for his belief that countervailing duties should be assessed .

"(b) If, after receipt and consideration of a petition filed by an American manufacturer, producer, or wholesaler, the Secretary decides that the appraised value of the merchandise is too low, that the classification of the article or rate of duty assessed thereon is not correct, or that countervailing duties should be assessed, he shall determine the proper appraised value or classification or rate of duty or the countervailing duties in accordance with section 303 of this Act, and notify the petitioner of his determination. All such merchandise entered for consumption or withdrawn from warehouse for consumption more than thirty days after the date such notice to the petitioner is published in the weekly Customs Bulletin, or, in the case of countervailing duties after the date such notice to the petitioner is published in the Federal Register shall be appraised or classified or assessed as to rate of duty or countervailing duties in accordance with the Secretary's determination.

"(c) If the Secretary decides that the appraised value or classification of the articles or the rate of duty with respect to which a petition was filed pursuant to subsection (a) is correct or that countervailing duties shall not be assessed, he shall so inform the petitioner. If dissatisfied with the decision of the Secretary, the petitioner may file with the Secretary, not later than thirty days after the date of the decision, notice that he desires to contest the appraised value or classification of, or rate of duty assessed upon or the failure to assess countervailing duties upon, the merchandise. Upon receipt of notice from the petitioner, the Secretary shall cause publication to be made of his decision as to the proper appraised value or classification or rate of duty or that countervailing duties shall not be assessed and of the petitioner's desire to contest, and shall thereafter furnish the petitioner with such information as to the entries and consignees of such merchandise, entered after the publication of the decision of the Secretary at such ports of entry designated by the petitioner in his notice of desire to contest, as will enable the petitioner to contest the appraised value or classification of, or rate of duty imposed upon or failure to assess countervailing duties upon, such merchandise in the liquidation of one such entry at such port. The Secretary shall direct the appropriate customs officer at such ports to notify the petitioner by mail immediately when the first of such entries is liquidated.

"(d) Notwithstanding the filing of an action pursuant to section 2632 of title 28, United States Code, merchandise of the character covered by the published decision of the Secretary (when entered for consumption or withdrawn from warehouse for consumption on or before the date of publication of a decision of the United States Customs Court or of the United States Court of Customs and Patent Appeals, not in harmony with the published decision of the Secretary) shall be appraised or classified, or both, and the entries liquidated, in accordance with the decision of the Secretary and, except as otherwise provided in this chapter, the final liquidations of these entries shall be conclusive upon all parties.

"(e) The consignee or his agent shall have the right to appear and to be heard as a party in interest before the United States Customs Court.

"(f) If the cause of action is sustained in whole or in part by a decision of the United States Customs Court or of the United States Court of Customs and Patent Appeals, merchandise of the character covered by the published decision of the Secretary, which is entered for consumption or withdrawn from warehouse for consumption after the date of publication of the court decision, or, in the case of countervailing duties, after the date of publication of the Secretary's decision, shall be subject to appraisement, classification, and assessment of duty in accordance with the final judicial decision in the action, and the liquidation of entries covering the merchandise so entered or withdrawn shall be suspended until final disposition is made of the action, whereupon the entries shall be liquidated, or if necessary, reliquidated in accordance with the final decision.

"(g) Regulations shall be prescribed by the Secretary to implement the procedures required under this section."

Mr. BIBLE. Mr. President, as someone who has been actively engaged for 3½ years now in pushing both the carrier industry and government on all levels to deal more effectively with the bandit of the 1970's, the cargo thief, I regard today's consideration of the Customs port security amendments to H.R. 9463 as a major milestone in turning the tide against this growing criminal activity.

The amendment proposed by the Senate Finance Committee, and so ably pursued by its distinguished chairman and distinguished ranking minority member (Mr. LONG and Mr. BENNETT), will provide the hard-nosed tools in a Federal arsenal to reach those who prey on cargo moving by all transport modes in international commerce. For the last several years direct losses have been $1½ billion.

For the benefit of other Senators, I would like to provide some background to this problem. In 1969 when the Senate Small Business Committee began its continuing hearings into cargo thefts in all transport modes, no governmental, private carrier, or trade organization had any kind of a realistic handle on just how big the problem really was in dollars. We believe our committee can take modest credit for helping to focus the attention of carriers, government, shippers and most importantly, the public, who always pays whatever bill there is in the final analysis anyway.

One fact is clearer today than it was 3½ years ago: The challenge posed by broad-scale attacks against this country's transportation system may be the single biggest test for law enforcement and security capability in the 1970's and probably beyond. That test will be sharpened by an estimated record tonnage to be transported in the next decade in a society where security from crime and prevention of crime are becoming the goals of a carrier industry's efforts to deal with the biggest billion-dollar racket nationally today—the theft, pilferage, loss and hijacking of truck, air, rail and ship cargo.

The world's greatest air cargo terminal, New York City's John F. Kennedy International Airport, has been the favorite American target for cargo thieves because the pickings were richer and easier. The prestigious English insurance underwriters, Lloyd's of London, has just revealed that world air cargo thefts last year totaled $1 billion, with 50 percent associated with U.S. domestic air commerce.

Even the U.S. Postal Service, since instituting its "con-con" security service last year, reports gains against the criminal. Postal Service officials advised our committee that its guards are "riding shotgun" on ground vehicles hauling mail pouches between airplanes and airport mail-handling facilities at major terminals today, like JFK. This security practice was begun to stop mail losses that brought fines against 15 of the 16 U.S. domestic air carriers in 1969 and 1970 operating under mail contracts out of Kennedy Airport because of lax mail-handling practices or losses, those fines totaling $450,000 in 1969, $400,000 in 1970, and $550,000 for the first 9 months of 1971.

And to prove American air cargo carriers have company in their misery, our committee was informed by the Italian Ministry of Information that Italy's air theft losses for 1970 were estimated at $320 million, far exceeding American air cargo loss estimates.

In the maritime area, the capable and energetic Chairman of the Federal Maritime Commission, Mrs. Helen Delich Bentley, in testimony before our committee, quoted statistics that only 25 percent of the cargo thefts at the New York City waterfront are reported. Losses there from 1960 to 1969 were quoted at almost $12 million and this amount can be multiplied by four or more, as Mrs. Bentley said, "The result is staggering." She further stated that most cargo shortages are reported as "not landed" and the theft stigma does not attach nor do s duty have to be paid on nonlanded cargo.

Our committee's conclusions in December 1970, found the maritime shipping industry "probably less security-conscious than either the air or truck carriers."

I cite the above as examples of the cargo theft problem in the seaport areas which the Customs port security proposal is designed to attack head on.

The Senate during this Congress has passed two major pieces of legislation

coming out of our committee hearings which I introduced that would aid in the war against the modern cargo criminal. The first bill, S. 942, still pending in the House would establish a presidential commission which would evaluate and formulate positive solutions to control thievery and pilferage in a highly complex area with an industry second to none in its importance to the American economy involved. The other bill, originally passed by the Senate as S. 16 and later as an amendment to H.R. 8389, would give private sector carriers the capability to proceed in civil treble damage actions against the purchaser and/or seller of stolen goods. This bill has been returned to the other body for its consideration.

The port security proposal before the Senate this morning is a direct outgrowth of the committee's hearings in the "Problems of Cargo Theft in the Maritime Industry" which were held June 24, 1970. As I noted in May 1971, this bill was the first affirmative move by the administration to face squarely into the cargo crime problem for which we congratulate the Treasury Department. An excellent statement as to the role of the Customs Bureau in the protection of cargo was succinctly provided by Assistant Secretary Eugene T. Rossides at our 1971 hearings, and I would like at this point to provide it for the RECORD:

Cargo in international trade is exposed to theft and pilferage at many points from the time it leaves the foreign producer until it reaches the consumer in the United States. Some losses, of course, occur in transit in the foreign country and while awaiting loading either at docks or airports abroad prior to transoceanic shipment. The shipment arrives in the United States, is held by the carrier for a brief period until it has been cleared by Customs, and is then transported inland either by freight forwarders or by the importers via their own transport.

From the time that the merchandise physically touches the territory of the United States, either being unladen from an airplane at an airport of entry or from a vessel onto a dock, it is under "Customs custody" until released by Customs for entry into the commerce of the United States. After this release, delivery may be made by the carrier either directly to the importer or to a designated agent, such as a customhouse broker or freight forwarder.

It is this period, Mr. Chairman, of "Customs custody," including the point of delivery by the carrier, with which Customs is and should be concerned. During this period the carrier is responsible for insuring the physical security of the merchandise. Customs, however, does exercise control over movement of the cargo by the carrier until a suitable arrangement for payment of duty has been made and until Customs is satisfied that contraband, such as heroin and cocaine, is not being smuggled into the United States.

Clearly, any theft or pilferage of merchandise, once it has landed and until its release from Customs custody, threatens the proper collection of duty and the prevention of smuggling, with which Customs is charged.

Mr. President, without waiting for additional authority from the Congress, Mr. Rossides has initiated action programs at a number of ports and airports including the Port of San Francisco and John F. Kennedy International Airport, using his existing authority to control the access of the criminal element to cargoes moving in international commerce. Mr. Rossides has worked closely with our committee as he developed these programs. He has also shown his leadership in working with the Interagency Committee on Transportation Security. His office prepared the shipper-carrier handbook entitled "Guidelines for the Physical Security of Cargo" which was released by the Department of Transportation in May of 1972. He has spearheaded the Federal cargo security program at all major ports and airports of entry. I am confident that with the new tools which we in Congress will provide to this capable and aggressive Assistant Secretary of the Treasury, we will be amply rewarded with further reductions in thefts from international cargoes.

I am certain that Mr. Rossides will promulgate security regulations for our ports of entry that are both fair to carriers and shippers yet will be firm enough to control the ease with which the criminal element has been plying its trade.

I urge the Senate to support the pending bill as overwhelmingly as it has previous cargo security legislation coming before us in this Congress.

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.

COMMENDATION OF THE U.S. OLYMPIC TEAM AND MARK SPITZ IN PARTICULAR

The concurrent resolution (H. Con. Res. 701) commending the 1972 U.S. Olympic team for their athletic performance and Mark Andrew Spitz, in particular, for his unparalleled achievement in the 1972 Olympic games in Munich, Germany, was considered and agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining under the order?

The PRESIDING OFFICER. The Senator from West Virginia has 3 minutes remaining.

Mr. ROBERT C. BYRD. Mr. President, I reserve the remainder of my time. I suggest the absence of a quorum and ask unanimous consent that the time for the quorum be charged against the time of the distinguished Senator from New York (Mr. JAVITS).

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

The second assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. The Senator from New York has 10 minutes remaining.

Mr. JAVITS. Mr. President, I thank the Presiding Officer. I would like, Mr. President, to apologize to the leadership for being late. I had problems with the airplane schedule which made it very difficult for me to be on time.

Mr. ROBERT C. BYRD. Mr. President, I have 3 minutes remaining. If the distinguished Senator from New York would like to have them, I would be glad to yield them to him.

Mr. JAVITS. I thank the distinguished assistant majority leader. However, I do not think I will need them.

Mr. ROBERT C. BYRD. Mr. President, I will reserve my time, and if the Senator needs the time, I will be glad to yield it to him

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PENSION REFORM—THE RESPONSIBILITY OF THE SENATE TO ACT ON THE RETIREMENT INCOME SECURITY FOR EMPLOYEES ACT OF 1972

Mr. JAVITS. Mr. President, I would like to speak today on a situation which has developed with respect to the so-called pension reform bill in the Senate, I think this situation is worthy of note by the people of the country, and unless the people of the country do note it, very grave injustices could be perpetrated upon them.

Mr. President, I ask unanimous consent that a series of newspaper articles and editorials on this subject be included in the RECORD following my remarks, as appendix I.

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

(See exhibit 1.)

Mr. President, the Senate Committee on Labor and Public Welfare conducted 2½ years of study and investigation involving, if my memory serves me correctly, an enormous expenditure of money, perhaps a sum as much as $1 million. Hearings were held in Washington and throughout the country. A vast flood of mail was received by Members of both Houses protesting the inequities and the injustices which are inherent in the present private pension system.

The Labor and Public Welfare Committee reported out a bill that is comprehensive and very thoroughly studied and researched. With the advice and guidance of workers, trade unions, employers, actuaries, and other experts in the field, and after discussions, meetings, and conferences pro and con by those who opposed and those who approved the legislation, the committee finally reported out a bill unanimously.

The bill comes to the floor as a labor bill. That is, a bill designed to protect the retirement security interests of over 30 million American workers. It does not involve taxation except in the sense that thousands of other bills considered here in the Senate involve taxation, because business expenses flowing from the subject matter regulated are deductible.

Then, in the 59th minute of the 11th hour, along comes the Committee on Finance, allegedly, according to the newspapers, at the request of the U.S. Chamber of Commerce, and asks that the bill be referred to it for a week. I was

here at the time the application was made. I had known about it and was in a position to object. Upon learning that the Senator from New Jersey (Mr. WILLIAMS), my coauthor on the bill, and the chairman of the committee in a spirit of comity, agreed to let it go to the Committee on Finance, I agreed, in the same spirit of comity, and I am not sorry that I agreed.

It has been a very healthy development to flush this out. After 1 week, in a closed-door session, on a voice vote, and without any hearings, the Committee on Finance sent the bill back to the floor with the recommendation that every key provision in it be stricken.

It will take a magician to demonstrate how the action of the Finance Committee is a service to our country and the American workingman. Vesting, the heart of the proposal, funding, the very critical plan termination insurance which guarantees that the company cannot go out of business and leave the workers holding the bag—all these things are stricken. And that was accomplished in 1 week, in a closed-door session, on a voice vote, and without any hearings.

I wish to say immediately that it is tremendously gratifying to me, notwithstanding the reputation of the Committee on Finance of being generally conservative, that five members of that committee demurred strongly and wrote separate views. One of those five members is sitting here, our own deputy minority leader, the Senator from Michigan (Mr. GRIFFIN). I am delighted that he is here to hear this statement. Those five dissenting Senators are Senators HARTKE, RIBICOFF, HARRIS, NELSON, and GRIFFIN. I am grateful to them. They will be proven to be the ones who were right. They have a feeling in their hearts for working people and for what we are trying to accomplish.

What has happened is not unusual. It has happened before in American history, where a rather myopic point of view on what is best for this country has dictated some reactionary opposition to a given measure, and it has been overcome generally by the good sense of the legislative body concerned. I deeply believe it will be overcome by the good sense of this legislative body because of the widespread, enormous complaints about the injustices in the private pension system.

Mr. President, there is a serious problem in our country with respect to the erosion of worker morale. It is not without reason that it is said, if you buy a car made on Monday or Friday, forget it. This is an exaggeration; I am sure it is not true. But it reflects the feeling that the American worker lacks feeling for his job. When one is on the hustings, he certainly detects that feeling.

What is the way to correct this demoralization of the worker's incentive? Is it by turning our backs on the needs of the workers in connection with pension funds? Is that the way to encourage the American worker to do the job the American people want done? Is that the way to restore the worker's feeling of identity with our economic system?

Mr. President, the fact is we have over $150 billion in pension funds, and they are increasing at the rate of $10 billion a year, making them the largest aggregation virtually unregulated capital that any country has ever known. It gets turned over and over and over, and it grows and grows, but it is not doing many people any good.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. ROBERT C. BYRD. Mr. President, I yield my remaining time to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. At the most, we estimate that something under one-fourth of the people who are allegedly covered by the pension plans get any material benefit from them.

Again, I deeply thank and express my greatest appreciation, and I am sure I express the commendation of American working people, to these five Senators, Senators GRIFFIN, HARTKE, RIBICOFF, HARRIS, and NELSON, who stood out against the insensitive tide which swept away this bill.

The Senator from New Jersey (Mr. WILLIAMS) and I have asked the leadership to put the bill on the calendar immediately. The way to act in a matter like this is to act when it is hot and people are thinking about it, and to repudiate what has been done. That is the only way to get effective action. I hope that the leadership will see fit to put this bill on the calendar and let the Committee on Finance make its case against a bill which has such enormous and widespread support.

I am delighted to see the chairman of the Committee on Finance in the Chamber, and I would be pleased if he would do me the favor of replying.

Let the Committee on Finance make its case. Let the Committee on Labor and Public Welfare make its case. Let the Senate decide while the matter is hot, while the American people are thinking about it, and have it clearly in view, and understand who is for it and who is against it. The fact that this will come before the election will be a good and salutary thing.

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

Mr. JAVITS. If I may, I have 1 minute remaining.

I cast no stones; I have no criticism, and never have of honest conservatives if they are opposed to my point of view. That is fine. But let us have it out now. That is my plea to the leadership.

EXHIBIT 1

[From the New York Times, Sept. 26, 1972]

SPIKING PENSION REFORM

A wrecker's ball wielded by the Senate Finance Committee threatens to smash the most thoughtful measure ever devised on Capitol Hill for correcting defects in the private pension plans that cover more than thirty million workers.

Responding to an end run by the United States Chamber of Commerce, the finance group elbowed aside the Senate Labor and Public Welfare Committee and in whirlwind fashion killed all the principal provisions of a bill its sister committee had spent nearly three years putting together.

Consigned to the Finance Committee's waste basket were proposals—all approved by unanimous, bipartisan vote in the Labor Committee—for assuring the financial soundness of pension systems and for protecting workers against loss of protection if their employers moved or defaulted or if the employe shifted jobs after long service.

The need for these provisions has been so abundantly demonstrated by the careful studies on which the original bill was based and by testimony at the hearings held in Washington and other cities that it is inconceivable that the full Senate will bow to the tyranny of its Finance Committee.

The $150 billion currently in the reserves of private retirement programs represents a form of deferred wages on which roughly half of the American labor force depends for a major part of its old-age security. It is ironic that, at the very moment the Finance Committee was striking down safeguards to shield this nest egg, it was itself putting the final touches on a costly package of supplements to governmental programs of old-age protection, both under Social Security and welfare grants to the needy aged.

Even in a year when Congress already has voted a general 20 per cent boost in Social Security payments, some elements in the Finance Committee proposal—notably the granting of full primary benefits to widows and the further lifting of the limit on outside earnings—deserve adoption. But the same factors that warrant such additional liberalization of Social Security speak even more insistently for the strengthening of private pension funds along the lines recommended by the Labor Committee.

The Senate will be recognizing its responsibility to all workers, young as well as old, if it rejects the emasculated reform plan scheduled for formal report by the Finance Committee today and gives its endorsement instead to the admirable measure drafted by the Labor Committee.

[From Daily Labor Report, Sept. 20, 1972]

WILLIAMS-JAVITS PENSION BILL IS SENT TO FINANCE COMMITTEE AFTER U.S. CHAMBER OF COMMERCE REQUEST

The Senate has transferred the Williams-Javits pension bill (S. 3598) to the Finance Committee for a week at the request of Chairman Russell Long (Dem., La.), made after the U.S. Chamber of Commerce wrote a letter to all members of the Committee requesting them to assert jurisdiction over the legislation.

The action was taken September 19 and a week later, on September 26, the bill will be deemed referred back to the Senate and put on the calendar. Senator Jacob K. Javits (Rep., N.Y.) made the request for the one-week time limit.

The Chamber declared that "We fear for the future of private pension plans" because of the Williams-Javits bill. It said the bill would set up a private pension administration in the Labor Department that would "duplicate and conflict with the present administration so ably exercised by the Internal Revenue Service of the U.S. Treasury Department."

Similarly, the Labor Committees would "usurp the jurisdiction over these issues from the Senate Finance Committee." While the Welfare and Pension Plans Disclosure Act is in the Senate Labor Committee's jurisdiction, it should not be allowed "to piggyback onto such legislation additional pension controls over vesting, funding, reinsurance, and portabilitly," the Chamber said.

The Administration has a pension bill before the Finance Committee. It would encourage individual employees to set up their own pension plans by giving them a tax concession for the money so invested, within certain limits. A companion bill went through hearings before the House Ways and Means

Committee some time ago but the Senate Finance Committee has not had hearings.

A Committee aide said the Finance Committee could not seek to add the Administration bill to the Labor Committee bill without hearings, and there is no time for them. He thought the Finance Committee would hold an executive session on the Labor Committee bill before the September 26 deadline. Long made the request to have the bill referred because of "the dual regulation of qualified pension plans" that would result, the aide said. The Labor Committee bill applies only to plans qualifying under IRS regulations, and IRS has been the only agency regulating such plans in the past, he noted.

Staff members of the Labor Committee's pension staff say that the Williams-Javits bill has no tax provisions nor tax implications.

The report on the Williams-Javits bill includes an actuarial study which shows that its vesting provisions would add 0.2 to 1.2 percent to payroll costs for plans that now have no vesting. But it would increase the costs of the present unvested plans by 5 to 44 percent. The vesting formula in the bill is 30 percent vesting after 8 years service, with 10 percent more for each year until there is full vesting after 15 years service. It also would vest past service for employees who were age 45 when legally-required vesting went into effect.

Cost estimates also are given for other vesting formulas, including the "rule of 50" in the Administration bill. A plan with no vesting would cost an additional 3 to 28 percent if it were required to conform to the "rule of 50" and this would add 0.2 to 0.7 to payroll costs. The "rule 50" would require vesting when an employee acquires a combination of 50 years of age and service with one employer.

Similar cost estimates are given for plans whose present vesting is moderate or liberal and for all plans.

The report also includes a final summary to the answers to the Form P–1 questionnaire that has been the basis for the Labor Subcommittee's statistical studies. The Subcommittee sent out 1,493 P–1 questionnaires. By the March 31 deadline for putting them on a computer, it had received 1,302 responses, an 87 percent return. Of the 191 not responding, 48 plans had been terminated, and it was determined that the remaining 143 were not concentrated in any one industry or in any of the four size categories represented.

The 1,302 responses included 1,026 pension plans with 13,649,353 participants and 209 profit-sharing plans covering 530,278 participants. No analysis was made of the 67 savings plans responding.

The statistics and information gleaned from the responses to the questionnaire cover participation requirements, type of retirement provisions (normal, early, disability, and death benefits), vesting, funding, disclosure and fiduciary standards, characteristics of private pension plans, and a summary of major findings.

Among the findings are these: About one-third of the plans had both a minimum age and service requirement for participation; almost 90 percent of the plans had a normal retirement age of 65 and more than half of these had a service as well as age retirement; about 13 percent of plans studied provided no vesting; in those plans with an age and service requirement, the most frequent combinations were in the range of 40 to 44 years of age and 15 to 19 years service; more than 30 percent had a "deferred graded" form of vesting, like that in the bill; a majority of pension plans "are generally well funded," but a significant minority are underfunded; less than 35 percent of plans had formal restrictions on pension plan investments; less than 50 percent required annual audits by an independent licensed or certified public accountant.

Following is the Chamber of Commerce letter to members of the Senate Finance Committee: (Official text)

Re: Private pension legislation.

Honorable ———

U.S. Senate,

Washington, D.C.

DEAR SENATOR ———: As a matter of public interest in sound private pension legislation and on behalf of its entire membership, the Chamber of Commerce of the United States requests the Senate Finance Committee to assert its jurisdiction over the various legislative proposals on the vesting, funding, reinsurance and portability of private pension plans. We are constrained to make this urgent request because of reports that the Senate Committee on Labor and Public Welfare will seek, in the near future, Senate passage of its omnibus-type bill, S. 3598, the "Retirement Income Security for Employees Act."

The Senate Finance Committee and the House Ways and Means Committee have historically had jurisdiction over private pension legislation. It is estimated that over six million retired employees are receiving over $8 billion a year from private pension plans, and a number of pensioners and the total amount of benefits grow annually. The phenomenal growth of private pension retirement income is a tribute to the wisdom with which the taxwriting committees of Congress have formulated sound statutes on private pension, profit-sharing stock-bonus and annuity plans.

Our Nation's basic private pension laws are contained in Section 401 of the Internal Revenue Code of 1954, as amended by Public Laws 91–691, 89–809, 89–97, 88–272, 87–863 and 87–792. The enclosures gives a detailed historical summary of federal tax legislation in this area. We believe it is clear, from this half-a-century review, that jurisdiction over private retirement plans has always resided in the Senate with the Finance Committee. We believe strongly that jurisdiction should continue to remain with your Committee.

There is only one important area where the Senate Labor and Public Welfare Committee has had jurisdiction over legislation affecting private pension plans. The Welfare and Pension Plans Disclosure Act of 1958, Public Law 85–836 as amended by Public Law 87–420, is within the jurisdiction of the Senate Labor Committee since the administration of this act is by the U.S. Department of Labor. This act needs to be strengthened and should include a federal fiduciary responsibility act for private pension and other employee benefit plan administrators and trustees. The National Chamber has testified in support of strengthening this act before the House General Subcommittee on Labor in the 90th and 91st Congress and before Senate Subcommittee on Labor in June of this year.

We do not believe, however, that delays by the Labor Committees in amending and strengthening the Disclosure Act—new legislation which has the support of the business community, organized labor, banks, insurance companies and other interested parties—should be used as an excuse to piggyback onto such legislation additional pension controls over vesting, funding, reinsurance and portability. Apparently, the aim is to establish a private pension administration in the Department of Labor which would duplicate and conflict with present administration so ably exercised by the Internal Revenue Service of the U.S. Treasury Department. In the process, of course, the Labor Committees would usurp jurisdiction over these issues from the Senate Finance Committee.

We fear for the future of private pension plans. We have already expressed our deep concern to all Senators in the Senate Labor Committee. We advised them in part:

"We know that no member of the Senate Labor and Public Welfare Committee wants to destroy or inhibit the growth of more and better private pension benefits for more employees. Yet, the results could be disastrous if you urge immediate passage of a pension reform bill, the implications and costs of which are not known, before the business community has even had an opportunity to assess what the 20 per cent Social Security increase will do to overall retirement costs and benefits."

We hope to have an opportunity early in the 93rd Congress to appear before the Finance Committee to testify on pension issues. We have already appeared before the House Ways and Means Committee in May of this year on the Administration pension bill, H.R. 12272. We hope your committee will consider all significant pension bills, such as S. 3012 by Senator Curtis, S. 2485 by Senator Griffin, S. 1993 by Senator Hartke, S. 3598 from the Labor Committee, and other relevant bills.

The Chamber does support needed pension legislation, but we are concerned about the crippling effects unnecessary or unwise legislation would have on private pension growth.

We support the highest standards of honesty in the administration of employee benefit funds. Therefore, we support suitable amendments to the Welfare and Pension Plan Disclosure Act, including some form of federal fiduciary responsibility act for pension and welfare plan administrators and trustees.

In general, we support proposals such as are contained in Sections 3 and 4 of S. 3012, the "Individual Retirement Benefits Act of 1971", that would provide income tax deferral for employees who defer income for their retirement, and that would increase the present tax deferral available to the self-employed who have or establish pension plans.

We support reasonable minimum federal standards or regulations governing the vesting of private pensions. Such legislation should be accomplished through amendment of the Internal Revenue Code, as a condition for qualifying a plan.

However, we oppose provisions of bills, such as S. 3598, that would create a new federal agency or office to regulate private pension plans and their assets, and that would impose new federal funding, insurance or portability requirements on private pension plans and their assets. We consider it essential that attempts to determine what federal policy should be on these questions should not be made until we have basic data that is not now available. The President has directed the Treasury and Labor Departments to gather this basic information, employers are now filling out the numerous complicated forms which are being used to amass this data, and the results should be available in a few months.

Finally, any pension legislation, rather than imposing restrictive regulation, should encourage private pension growth so our citizens will have adequate retirement income.

In summary, we urge the Chairman and every member of the Senate Finance Committee to take jurisdiction over private pension legislation so that all employers and all employees and their beneficiaries will be assured of sound, reasonable and equitable legislation.

Cordially,

HILTON DAVIS,
General Manager Legislative Action.

[From the Washington Post, Sept. 25, 1972]

PENSION PLAN REFORM BILL APPEARS DEAD

(By Morton Mintz)

The only bill ever reported by a congressional committee for extensive reform of the nation's estimated 45,000 private pension plans—which incite more constituent complaints to some senators and congressmen than any other issue—appears to be dead for this year.

Although the Senate Finance Committee

gutted the bill Friday with an unrecorded voice vote in a closed-door session, bipartisan supporters were embittered at the White House for having played what they termed a stage-setting role.

Joining with the Chamber of Commerce of the United States, the White House took the position that key pension reforms fundamentally affect the Internal Revenue Code.

The IRS approach, the supporters protested, gave the generally hostile Senate Finance and House Ways and Means committees jurisdiction over proposals intended to protect the retirement security of the approximately 30 million workers now enrolled in the pension plans.

A unanimous Senate Labor and Public Welfare Committee had reported the bill on Sept. 15. After Chamber of Commerce lobbyists had pressed for referral of the bill to Senate Finance, its chairman. Sen. Russell B. Long (D-La.), won Senate endorsement of the move.

Senate Finance deleted major provisions of the measure although it was formally before the committee for only one week. Some supporters said privately that they regarded this as an implicit act of disdain for the Labor Committee, which had formulated the measure after a $1 million, 2½-year subcommittee study.

The principal sponsors are Sen. Harrison A. Williams Jr. (D–N.J.), chairman of Senate Labor, and Sen. Jacob K. Javits (N.Y.), the senior Republican member. The co-sponsors are all but two of the remaining 15 members of the Labor Committee.

Today or Tuesday, Senate Finance will report the bill that it has stripped of these principal provisions:

For vesting. This would assure that after eight years of work a person would have a right to at least 30 per cent of his pension benefits: it would increase at an annual rate of 10 per cent, reaching 100 per cent after 15 years. A person now enrolled in a pension plan who would be 45 or older on the effective date of the law would be credited for employment prior to the effective date.

For funding. Pension plan managers would be required to accumulate assets at a rate enabling them to meet their liabilities in full after 30 years.

For federal re-insurance. If a plan fails for any reason an employee wouldn't be left holding the bag.

For voluntary portability. This would permit an employee moving from one job to another to take credits toward a pension with him, under a central fund to be administered by the Labor Department.

The only important provisions remaining would protect against corruption and misrepresentation by setting uniform fiduciary standards and providing fuller disclosure than at present to prospective pensioners of their rights and obligations.

Four members of Senate Finance, Fred Harris (D-Okla.), Vance Hartke (D-Ind.), Gaylord Nelson (D-Wis.) and Abraham A. Ribicoff (D-Conn.), may join Williams and Javits in seeking to overturn the committee action on the Senate floor.

With similar legislation languishing in the House Ways and Means and House Labor committee, however, even a Senate repudiation of the Finance Committee would hold out only a dim hope for enactment of any bill at all, particularly because Congress is expected to adjourn in October. But supporters think such a repudiation of Senate Finance could lay invaluable ground work for a new try in the next Congress.

The Chamber of Commerce in a letter signed by Hilton Davis, general manager for legislative action, had urged each member of the committee to seek jurisdiction "so that all employers and employees and their beneficiaries will be assured of sound, reasonable and equitable legislation." Chamber lobbyists worked hard to sell their position to committee members.

But Williams and Javits, in a joint statement, said their study and hearings showed their bill to be "desperately" needed.

The White House has proposed legislation that, in addition to anti-corruption and disclosure provisions, would amend the Internal Revenue Code to require all plans qualified for tax privileges to provide 50 per cent partial vesting for an employee whose age and length of service add up to 50.

Analyzing this "rule of 50" in a Senate speech last Dec 14, Javits said it could do older workers "more harm than good"

One practical effect could be to "exacerbate age discrimination in hiring," because all other things being equal an employer would choose a younger job applicant "to avoid the additional costs that stem from vesting the older man so quickly," Javits warned

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[From the New York Times, Sept. 25, 1972]

PENSION REFORM CALLED STYMIED

(By Michael C. Jensen)

The possibility of major reform of the nation's private pension systems this year has been virtually eliminated, according to Senator Abraham Ribicoff.

The Connecticut Democrat cited recent changes made in a bill by the Senate Finance Committee.

"It [the bill] was really gutted," he said in a telephone interview over the weekend. "The great things that were in it were left out, and it looks like the clock could very well run out on this."

Senator Ribicoff said that although more than 30 million Americans are enrolled in private pension plans, millions of them never receive their pensions because of flaws in the system.

The reform bill, sponsored by Senator Harsion A. Williams Jr. of New Jersey and Senator Jacob K. Javits of New York was designed to correct some of these problems.

SENATE UNIT ACTS

However, the bill was stripped of most of its key reforms last Friday in an executive session of the Senate Finance Committee. Senator Ribicoff said he was the only committee member present who had dissented from the action.

The committee voted to eliminate from the Williams-Javits bill a requirement that companies provide pension benefits to employes after a specified period of service, as well as a provision requiring companies to have adequate funds to cover future payments.

Also eliminated was a provision for pension insurance, similar to savings account protection provided by the Federal Deposit Insurance Corporation.

The committee also discarded a plan for voluntary pension portability that would have allowed a worker to transfer his benefits from one job to another.

The Financial Committee action came after the reform bill had been approved by the Senate Committee on Labor and Public Welfare. However, it also followed a request by the United States Chamber of Commerce that the conservative Finance Committee assert jurisdiction over the bill.

BUSINESS FIGHTS

The business community, for the most part, has fought the stiff and sometimes expensive provisions of the pension reform bill.

The Williams-Javits bill was drafted following a series of public hearings across the country in which workers, many of them in their seventies and eighties, complained that they were receiving no pensions from their companies, although they had expected the concerns to supplement their Social Security retirement benefits.

Among the major causes of missing benefits were companies going out of business and small concerns being acquired by conglomerates.

The Nixon Administration has proposed its own private pension legislation, which is designed largely to allow individuals to set aside money toward their retirement. It also would provide employes with irrevocable pension rights after their combined age and length of service with a company 50 years.

Critics of the Administration plan have pointed out that it would discourage employers hiring older workers and does not contain any provision for mandatory funding or insurance of pension plans.

[From the Christian Science Monitor, Sept. 22, 1972]

PENSIONS: "SOCIAL TRAGEDY"

(By Richard L. Strout)

WASHINGTON.—The federal government imposes strict supervision on life insurance companies. The government insures investors in savings banks. Private pension plans, however, are virtually unsupervised. Because it is almost a new subject many people do not realize the extent of the problem. The fact is private pension plans have been growing enormously. Presently 30 million people are under some form of private pension plan. The assets of these plans are huge, around $130 billion. It is the largest aggregate of unregulated money in the United States. And it is growing: $10 billion a year.

This concentration of funds provides a pension system that is often imperfect, sometimes tragic, and almost wholly uncoordinated. It is extraordinarily wasteful of human hopes and capital.

American workers are mobile and ambitious and before retirement normally have held three or four jobs in different companies; mostly the person rights of one company are not transferable to another company. The technical phrase is "portability. The situation is different in Canada where a national system exists insuring 93 percent of all workers. In the U.S. the idea that workers after a lifetime of work have an ethical right to a modest pension, even if their labor has been divided between a number of employers (each with its own private pension plan), is a novel one to many.

An hour-long documentary last week related by Edwin Newman over NBC under the title "Pensions: The Broken Promise" presented the situation vividly. The need for reform is not a new idea. President Kennedy 10 years ago set up a commission which presented a report. Nothing followed. Today a vigorous bipartisan reform drive is under way in the unions and in Congress, and centered in the Senate Labor Committee led by chairman Harrison A. Willams Jr. (D) of New Jersey and Jacob J. Javits (R) of New York, supported among others by Tom Eagleton of Missouri, and Bob Taft of Ohio.

Trade unions began pressing aggressively for pension rights as fringe benefits in World War II when wage controls limited cash increases. Workers accepted noncontributory pensions in lieu of higher wages. Now the situation is back again—more controls, and a renewed drive for fringe benefits in the form of pensions. Employers hope pensions will enlist worker loyalty and reduce turnover; they have no particular desire to provide "portability" if the workers move to another company in another state. These unregulated private pensions are often uncertain, occasionally financially unsound, and sometimes even dishonest. Sen. Hubert Humphrey last week noted that 500 pension plans are discontinued each year. When a conglomerate gobbles up a lesser company it frequently discontinues the pension plan under which a worker has built his quiet

hopes of a protected old age for a lifetime. It is a tragic business.

The statistics on forfeiture of pension rights are almost unbelievable. Staff studies for Senator Williams' subcommittee cover all the workers since 1950, in two sample groups of private pension plans. Those who worked 10 years or less (2.9 million workers) in the first group show only 8 percent received any benefits; of those who served longer in the second group—11 years or more (6.9 million)—"only 4 percent received any kind of early or deferred vested retirement."

"The reason I am writing you is if I get a cut in my pension fund I don't know what I will do," wrote a 68-year-old retired Minneapolis-Moline worker to Leonard Woodcock, head of UAW, who testified last June. The worker had an ailing wife.

"How does one answer such a letter?" asked Woodcock. The pension in question was $129.76 a month. Not much, but with social security enough to keep the old man off relief. The company simply announced it would discontinue the plan, Mr. Woodcock testified. There is no federal reinsurance for lapsed pension plans, no regulation to require payment, and no federal supervision to see that this huge overall store of pension money is administered reasonably and honestly.

It is hard to characterize this situation as anything less than a scandal. Private pension plans serve a tremendous need in America's society and in its economy, but as Senator Humphrey told the Senate last week this is a situation of "potential social tragedy" in which "strong federal regulation" is indicated.

[From the Washington Evening Star and Daily News, Sept. 25, 1972]

CONGRESS GRAPPLING WITH PENSIONS

(By David Lawrence)

While the headlines are focused on presidential nominees and campaign developments, there is a tremendous amount of work being done at Washington by various departments and by congressional committees to deal with huge financial problems which will confront a growing population in the next four years.

Some emphasis has been given to revenue sharing by the federal government with the states and cities, which will start getting big sums from Washington in the next few weeks. Projects are under way to bring about constructive changes in the tax laws. Steps are being taken to make a number of other improvements, too. Thus, for instance, Social Security recipients will soon start to get larger checks monthly from the government.

There are, of course, reforms needed in different categories, such as regulation of private-pension plans. One measure which has been approved by a Senate committee would tighten the rules on pensions with three objectives:

First, to make sure that more people hereafter do receive the pension benefits to which they are entitled.

Section, to improve various provisions in many pension plans by reducing the period during which an employe must work before being eligible for benefits.

Third, to set up new ways to protect the cash in pension-fund reserves, with insurance to cover benefits if a plan is ended before full funding has been reached.

This is a bipartisan bill which probably will be debated in the Senate shortly, though it is doubtful whether it will be ready for passage until next year.

More than $150 billion in assets are held by pension plans, and these are designed to benefit 30 million individuals. The big question always is how the funds shall be invested—whether in corporate bonds or in common stocks. The recent trend has been toward the latter. In 1971, the assets of noninsured pensions were 68 percent in common stock, up from 43 percent in 1960. Corporate and other bonds made up 39 percent of the pension reserves in 1960 but now are down to 21 percent. Government-bond holdings have dropped from 7 percent to 2 percent.

Heavy investment in stocks has raised questions as to whether the huge pension funds may not influence stock-market prices and also as to whether pension reserves might be wiped out in a market crash.

In the case of pension funds, there are other difficulties, too. Many workers forfeit their rights under a plan if they leave their jobs or are discharged, while others lose out when mergers occur or employers shut down operations. Obviously, there is need for regulation in order to protect employes against inadequate provisions in some pension plans.

Improvements in the pension plans themselves would be made by the proposed bill. A worker who remains in a job for eight years would obtain a 30 percent "vested" right to pension benefits. After 15 years of service, his "vesting" would be complete. There would be provisions to aid anyone who was 45 years old when the bill became effective so that he or she would be given credit for service prior to that date. Other changes have been suggested so that a worker who goes from one job to another would carry certain rights with him or her if the new job also is covered by a pension plan.

A federal official speaks of the private pension-plan funds as constituting "the largest sum of unregulated capital in the United States."

The proposed legislation will certainly be of far-reaching importance to put into effect a set of provisions to safeguard the billions of dollars which are now in retirement funds and to protect the workers' rights to them.

Various other measures related to the finances of the government will come before Congress after the election. The effort to reduce expenses which is going on is expected to make it possible to cut the present deficit and to avoid having to increase taxes. The administration is determined to do everything it can to make any raise in taxes unnecessary, and it can do so only if nonessential expenditures are eliminated and tax revenues are stimulated by better economic conditions.

[WNBC–TV Editorial]

PENSION PLANS II

A 49-year-old engineer in the aerospace industry testified about pension plans last year. He had worked for 15 years with one company—but with a break of two years in the middle. He had no pension rights in the company plan because whenever he changed jobs, he lost his pension time. And he's not alone. In fact, the Senate Labor Subcommittee found that 9 out of 10 workers who change jobs before retirement discover the one thing they can't take with them is pension rights—the rights are not "portable."

The Javits/Williams pension act would establish a voluntary portability program for vested pension rights—so workers could take it with them when they change jobs. But a voluntary program, in our opinion, will likely be no program at all. We think *that* part of the bill should be stronger—the portability provisions should be mandatory. In this mobile society, it is shameful to tie a person down with pension rights he has sweated for, or to deny him those rights when he is forced to move or change jobs.

The bill—the Retirement Income Security for Employees Act of 1972—has been shuffled into the Senate Finance Committee for a week. It should be reported out with a strong portability provision—and passed this year.

[From U.S. News & World Report, Sept. 25, 1972]

TIGHTER RULES FOR PRIVATE PENSIONS—THE OUTLOOK NOW

Soon to come to a vote in the Senate: a bill for broad new guarantees to the more than 30 million Americans covered by private pension programs.

Now getting a big push in Congress are plans for pension reform that will mean important changes for all of the country's private retirement programs.

Chief thrust of a measure just approved by the Senate Labor Committee is toward tightening pension rules in three basic areas. These new rules, if enacted, would:

Make sure that more people, in the future, actually get pension benefits to which they are entitled.

Improve "vesting" provisions in most pension plans, by shortening the period over which an employe has to work before he is entitled to benefits.

Provide new safeguards for the cash piled up in pension-fund reserves, with insurance to cover benefits if a plan is ended before full funding is achieved.

The bill soon to reach the Senate floor is known as the Retirement Income Security for Employees Act, or RISE, for short.

The measure is a bipartisan one, sponsored by Republican Senator Jacob Javits, of New York, and Democratic Senator Harrison A. Williams, of New Jersey.

DEFERRED ACTION

Supporters see no prospect that the bill will get final enactment this year. The full Senate still must debate it, and a Labor subcommittee in the House must wind up research and hearings on a similar bill.

However, legislative experts see a good chance of passage next year, particularly since 15 of the 17 members of the Senate Labor Committee are solidly behind the Javits-Williams proposals.

Over the past decade or so, Congress has seen a flood of bills introduced to regulate the thousands of private pension plans in force in the U.S., but none of the bills has managed to reach the floor of either chamber. Now, says one pension expert, "There are enough forces converging on the whole issue of pension reform to assure a legislative showdown next year."

An indication of the stakes involved in pension-plan revisions is given in the accompanying charts.

Private pension plans now hold close to 153 billion dollars in assets, and cover more than 30 million individuals. Last year, private plans of all types paid out nearly 8.6 billion dollars to about 5.1 million beneficiaries.

One aspect of the current pension-fund situation that has come in for increased scrutiny lately is the high percentage of assets invested in common stocks.

Until recent years, actuaries tended to advise that pension reserves be kept in traditionally conservative investments such as high-grade corporate bonds or U.S. Government securities. The theory was that a heavy concentration in common stocks was too risky, and that money put into equities might evaporate in a severe market shake-out.

In the past decade, however, a growing share of the assets of noninsured pension plans—those not managed by insurance companies—have been invested in the stock market.

In 1960, 43 per cent of the assets of noninsured plans were in common stocks. By 1965, that figure had risen to 55 per cent. In 1971, it had gone up to 68 per cent.

OTHER INVESTMENTS

Corporate and other bonds made up 39 per cent of pension-plan reserves in 1960. Now that sum is down to 21 per cent. In 1960, 7 per cent of pension assets were in U.S. Gov-

ernment bonds. Now they are down to 2 per cent.

The heavy emphasis on stocks has raised questions in two directions. One is whether pension funds, with their huge concentration of buying power, may not have undue influence on stock-market prices. Fund managers have the ability to buy or sell thousands of shares in one transaction. The other question is whether some of the billions in pension reserves might not be wiped out in a stock-market crash.

There is no indication that the pending pension-plan legislation would specify any top limits on pension-plan assets that could be invested in common stocks.

The Javits-Williams measure does provide for enforcement of carefully engineered standards aimed at correcting what the bill's supporters see as serious shortcomings in existing regulations.

One study, for example, indicates that 9 out of 10 workers in certain job categories may never get their expected retirement income. Most workers forfeit their pension rights because they leave their jobs or are discharged before qualifying for benefits under the plans' provisions. Also, some lose out when their employers shut down operations or merge with other companies without setting aside enough money to cover workers' pension claims.

A recent report by the Senate Labor Subcommittee took a detailed look at 11 terminated pension plans in various industries and geographic regions in which 22,580 people were affected. In addition, more than 115 other recent pension-plan terminations affecting 200,000 individuals were studied.

The Subcommitte's conclusions:

In nearly all cases, the employer shut down operations following a merger or acquisition, leaving many workers without jobs.

The average age of pension-plan participants when the plans were ended was high, limiting employment opportunities elsewhere and diminishing the workers' ability to qualify for pensions with subsequent employers.

Most participants in these plans had thought their benefits were guaranteed and had no inkling that benefits might be reduced or eliminated.

When their pension plans were suddenly ended, most participants could not get information about what pension rights, if any, remained for them.

INSUFFICIENT FUNDS

Hearings by the Labor Subcommittee uncovered the fact that, when the pension plans it studied were terminated, assets in those plans invariably were insufficient to pay all promised benefits.

Sometimes, the hearings indicated, employees who had been drawing benefits were cut off from any future benefits when a plan was terminated.

Although reasons for the underfunded condition of the terminated plans varied, the committee staff cited as one reason the effect of the recent stockmarket decline on pension funds with large holdings of common stock.

What are some of the key provisions of the Javits-Williams bill?

Under one major provision, a worker who stays on the job for eight years would build up a 30 per cent vested right to his pension benefits. Only three of the eight years would need to be continuous. For each year beyond eight, an additional 10 per cent would be vested. After 15 years of service, vesting would be complete.

The U.S. Secretary of Labor is given authority to decide whether to waive the vesting requirements, however, if he finds that a pension plan has provisions equally favorable. Officials pointed out that this means the Labor Secretary will be able to let the auto companies and many other large industrial firms continue their agreements with workers for full vesting after 10 years of service.

For workers now covered under private pension plans, there would be limited recognition of past service. Anyone in a plan who was 45 years old when the bill became effective would be credited for his service prior to the effective date.

An important section of the new measure is intended to bolster the financial stability of all private pension plans.

The bill would require full funding of every pension program over a 30-year period, and insurance to cover vested benefits if a plan were forced to terminate before full funding was achieved.

TRANSFER OF RIGHTS

Also provided is a voluntary system of "portability." This means that a worker who stays at one job long enough to acquire pension rights could carry those rights with him if he moved to another job also covered by a pension plan.

More stringent "fiduciary standards" under the plan would broaden reporting and disclosure requirements for trustees and administrators, and require that persons handling employee-benefit money deal with it exclusively in the interest of the beneficiaries.

Employers also would be required to give workers more details about the exact provisions of a pension plan and how the plan applies to each employe covered by it.

Present federal law is described by many authorities as "lax" so far as pension-plan regulation is concerned. The chief requirements now are that administrators report annually on the structure and operation of their funds.

Existing plans are not required to be either audited or insured against loss. By contrast, other big pools of money—notably banks and insurance companies are closely regulated.

One federal official has pointed out that "private pension-plan funds constitute the largest sum of unregulated capital in the United States."

The measure now pending in Congress will go some distance toward bringing the billions in retirement funds under a new set of safeguards.

Mr. GRIFFIN. Mr. President, 15 minutes has been reserved for the minority leader. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that that time may be used by me.

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

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

Mr. GRIFFIN. I yield.

Mr. LONG. Mr. President, will the Senator yield to me for 1 minute of that time?

Mr. GRIFFIN. If the distinguished chairman of the Committee on Finance would allow me, I should like to proceed briefly, and then I shall be glad to yield a portion of the remaining time to the chairman.

Mr. President, along with the Senator from New York (Mr. JAVITS), who has been providing such outstanding leadership in this field, I have been very concerned for a long time about the urgent need for pension reform legislation.

As the Senator from New York knows, I have a bill, S. 2485, which was introduced over a year ago and which has been pending before the Committee on Finance. In general, my bill follows the lines of the legislation that was reported by the Committee on Labor and Public Welfare in that it, too, would provide Federal vesting standards and it would establish a Federal insurance program to guarantee payment of pensions.

A few years ago the need for such legislation became very clear when the Studebaker Corp. went under financially. Thousands of workers in the automobile industry suddenly found that they were holding an empty pension bag.

The Studebaker case attracted considerable attention because it involved a large number of employees. But I know of many, many other situations where smaller numbers of employees with smaller companies have met the same fate after working hard for many years, looking forward to a pension, only to find, as a result of circumstances over which they had no control whatsoever, that the company goes bankrupt, or is taken over by a conglomerate which does not assume to take over prior pension obligations.

Being a member of the committee, I particularly regret the action that was taken by the Finance Committee. It is true that the committee had a very short period of time to consider this legislation. But it held no hearings on it at all and the consideration given was cursory at best.

As I have indicated in the individual views which I have already filed as part of the committee report, I strongly disagree with the action taken by the Senate Finance Committee. I want to assure this body that when this bill comes to the floor, amendments that will be offered by this Senator and the Senator from New York (Mr. JAVITS), and possibly others will restore the meaning and teeth to this very important legislation.

Once again I want to commend the Senator from New York for the leadership he has provided throughout on this very important subject.

Mr. JAVITS. Mr. President, before the Senator yields to the Senator from Louisiana, if he will yield to me briefly, I want to take this opportunity to say I cannot tell him how heartened I and the Senator from New Jersey (Mr. WILLIAMS) were by the fact that there was such support for this view in the Finance Committee.

Mr. GRIFFIN. Mr. President, I ask unanimous consent to have printed at this point in the RECORD the individual views which I filed as part of the report by the Committee on Finance.

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

ADDITIONAL VIEWS OF SENATOR GRIFFIN TO S. 5398

It is very regrettable that the Committee has acted to delete the vesting, funding and insurance provisions of S. 3598 after only cursory consideration.

Unfortunately, the Committee chose this course of action without the benefit of any hearing on S. 3598 or other pension reform bills previously referred to the Committee.

For over a year, the Committee has had before it a bill (S. 2485) which I introduced to establish minimum vesting standards and a Federal insurance program.

In many respects, my bill would provide greater vesting and insurance protection than the bill reported by the Labor and Public Welfare Commtitee. For instance, my bill would require—

All plans with 15 or more employees to meet Federal Standards;

100% vesting after only 10 years of service;

That both a worker's service and benefits accrued before the date of enactment be covered by the Federal vesting standard;

That all service under a pension plan be counted whether it is continuous or not;

A Federal insurance program covering all losses of vested benefits.

The need for Federal vesting and insurance requirements is underscored by the fact that only one out of five social security recipients actually receives private pension benefits. Even where benefits are being paid, the Labor Subcommittee study found that in 1969 and 1970 median benefits being received by beneficiaries from pension plans were less than $100 per month.

Widespread support for effective pension reform legislation is reflected in the Labor Subcommittee hearings and from several Presidential task forces including a 1965 Cabinet Committee, the President's 1970 Task Force on the Aging, and the 1971 White House Conference on Aging.

In view of this, it is extremely disappointing to have the Committee place a barrier in the way of this critically needed legislation. Furthermore, it is ironic that on the same day the Committee acted on S. 3598, it also approved a welfare bill emphasizing work over welfare.

Most Americans believe in the work ethic, and they would rather work than be on welfare. However, the Committee dealt the work ethic a severe blow by gutting the key provisions of S. 3598.

The passage of a strong pension reform bill is as important to rank-and-file workers as was the passage of the 1959 Landrum-Griffin Act, which serves as a "bill or rights" for American workers in terms of their relationship with their unions.

It is my hope that strong pension reform legislation will still be enacted during this session of Congress.

ROBERT P. GRIFFIN.

Mr. GRIFFIN. Mr. President, I yield now to the chairman of the Finance Committee.

Mr. LONG. Mr. President, those of us on the Finance Committee feel that this is a matter that should be the subject of legislation. In the case of pension plans coverage, vesting, funding, portability of vested rights, and insurance of unfunded liabilities, all are areas which are usually dealt with by not allowing tax deductions where plans do not qualify. Therefore, jurisdiction with regard to these matters traditionally have been matters considered by the tax committees. On the other hand, public disclosure of the financial status of private pension funds, which also is dealt with in this bill, is an area not traditionally dealt with by the tax writing committees. The tax-related subjects which the Finance Committee would delete from this bill recently have been considered by the House Ways and Means Committee and we can expect action on these subjects next year. We expect to act on this subject next year and we will be glad to consider the proposals of the Senate Labor and Public Welfare Committee at that time. We are not passing on the merits of their basic proposals by taking the action we did in the Finance Committee.

The House takes the view—and we must respect it because it is in a position to insist on it—that revenue measures must originate in the House. While the Senate may amend it, the House is not going to consider any legislation initiated in the Senate on a subject like this, which the House has studied, on which it has conducted hearings, and on which it insists on its right to act further. That also is generally how the President of the United States believes we should proceed on this subject.

I would point out that there are more people interested in these matters than just labor groups. The Committee on Labor and Public Welfare is a fair and fine committee. Generally speaking—and I speak as a Democrat—it is oriented toward organized labor. It is difficult to find on that committee any Democratic Senator who is not oriented toward the point of view of organized labor. If such a Senator were serving on it, he would move out of it at the first opportunity, because it is not a happy experience for a Democrat to serve on that committee if he does not have a point of view, on the overwhelming majority of matters that comes before that committee, sympathetic to the position that organized labor would support.

This is not the kind of matter that ought to be considered by a committee that is more strongly oriented toward labor than any other committee in the Senate. I do not say there is anything wrong in that. As a matter of fact, it is well that the Labor and Public Welfare Committee is strongly oriented toward labor, as it is that the Committee on Agriculture and Forestry is strongly oriented toward agriculture, and that the Committee on Banking, Housing and Urban Affairs is strongly oriented toward banking. I see no particular objection to that.

The Finance Committee has strong responsibilities in social security, public welfare, and all revenue matters, and that committee does have on it a very good portion of Members who are very sympathetic to the position of labor as well as those who are sympathetic to the position of management, the consumer, and others. That is indicated by the fact that on this very bill we see minority views by five Senators who would like to see us proceed expeditiously in just the manner recommended by the Committee on Labor and Public Welfare. That is fine. But there are those of us who feel this matter should be handled as a revenue measure, which includes the President of the United States, his administration, all the business oriented groups, the chamber of commerce groups, the manufacturing groups, and, I would think, even the consumer groups, if one analyzed it, because, in the last analysis, the taxpayers and the consumers are the ones who are going to have to pay the costs of these additional pension rights, because those costs will be added on to the products they purchase.

These people feel it should be acted on by the tax-writing committees, just as they have for 30 years. We are not trying to muscle in on anybody else's jurisdiction; we only think our jurisdiction should be respected, and that if we are going to handle this matter in the tax-writing committees, it ought to originate in the House of Representatives.

I point out that, in all probability, if this measure should be sent to the House, it would not be agreed to on that side, because the Ways and Means Committee would insist on opposing it. I would not be surprised, should it reach the President's desk in the fashion being recommended, if the President vetoed it.

So if the Senate wants to engage in an exercise in futility, it can do so, but those of us on the Finance Committee feel we should recommend changes in the tax laws, and do as we have done for 30 years, handle it as amendments in the tax law. We do not feel the new incursion of the Labor and Public Welfare Committee on such subjects as vesting, funding, and portability of pension rights ought to be taken by the Committee on Labor and Public Welfare, because we feel the interests therein are broad and diverse and that they far transcend the interests of labor, even though they are important to labor. Labor has an enormous interest in this matter, but so does the consumer, and so does the taxpayer, and so does the manager, who, after all, must put up a great portion of the funds himself.

It was the view of those of us on the Finance Committee that this matter should be handled, as it has been for the last 30 years, as a revenue measure. When the House sends us this measure, we will undertake to go to work on it just as promptly as we can.

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. Mr. President, may I inquire as to whether there is any time left on the special order previously allowed me?

The PRESIDING OFFICER. The Senator from Michigan has 4 minutes.

Mr. LONG. Mr. President, will the Senator yield me 30 seconds?

Mr. SCOTT. I yield.

Mr. LONG. Mr. President, I ask unanimous consent to have printed in the RECORD a portion of the report of the Committee on Finance on this measure since the assistant minority leader has already requested that the minority views be printed in the RECORD.

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

RETIREMENT INCOME SECURITY FOR EMPLOYEES ACT

I. SUMMARY

S. 3598 as reported by the Committee on Labor and Public Welfare has been amended by the Committee on Finance to delete the tax-related provisions; namely, the provisions relating to coverage, vesting, and funding of pension and profit-sharing plans (and the related provisions concerned with insurance and portability). No substantive change, however, has been made in the amendments in this bill to the Welfare and Pension Plans Disclosure Act providing more comprehensive and simpler reporting of information regarding pension plans.

As is indicated further in the next section of this report, the Finance Committee notes that the provisions deleted by the Finance

Committee amendments have historically been handled through the tax laws. Moreover, the bill is able to provide for these provisions only through numerous specific references in the bill to provisions in the tax laws.

The Administration has made a series of recommendations in the areas of the tax-related provisions which have been referred to the tax-writing committees and on which the House Committee on Ways and Means has already held hearings. Both the Department of Labor and the Treasury Department, as indicated in the section of the Labor and Public Welfare Committee's report on agency comments, objected quite strongly to the provisions in S. 3598, and, instead, recommended the enactment of the bill containing the tax-related provisions referred to the tax-writing committees.

Substantial problems would occur in the separate administration of part of the provisions relating to pension and profit-sharing plans by the Internal Revenue Service (as at present) and another part of the requirements by an agency in the Department of Labor. In addition, the provisions in the bill as reported by the Committee on Labor and Public Welfare for enforcement depend upon petitioning the Federal courts to compel compliance. This is a less effective and more difficult remedy than that available in the case of pension and profit-sharing provisions associated with the tax laws where tax deduction may be denied for noncompliance, which provides a significant measure of self-enforcement for the provisions.

The Finance Committee, in deleting the tax provisions, is not attempting to pass on the desirability of the changes proposed. The House Committee on Ways and Means has held hearings on this subject and can be expected to report legislation next year. The Finance Committee will consider, at that time, both the House action and the recommendations of the Senate Committee on Labor and Public Welfare.

II. GENERAL STATEMENT

S. 3598, as reported out by the Committee on Labor and Public Welfare, deals with the following aspects of pension and profit-sharing plans:

(1) The employees who must be covered by any such plan;

(2) The period after which, and the extent to which, an employee covered by the plan must be given a vested, nonforfeitable right to the benefits he will receive upon retirement;

(3) The extent to which anticipated costs of a plan must be funded;

(4) Provision for insurance designed to cover unfunded liabilities where benefit losses arise at the time of plan terminations;

(5) A voluntary program for the portability of vested rights to pension benefits; and

(6) Amendments to the Welfare and Pension Plans Disclosure Act to provide more comprehensive and simpler reporting of information regarding pension plans.

A brief comparison of the pension and profit-sharing provisions of this bill with present tax law is shown in the next section of this report.

The coverage, vesting, and funding of pension and profit-sharing plans and related provisions, all but one of the topics listed above with which S. 3598 deals, have been dealt with almost exclusively by the tax laws since 1942—a period of 30 years. The bill as reported by the Senate Labor and Public Welfare Committee would establish new and generally more rigorous requirements in the case of coverage, vesting, and funding (and also add completely new provisions dealing with insurance and portability) outside of the tax laws, the traditional way of providing standards in the case of pension and profit-sharing plans.

While not directly amending the Internal Revenue laws, the bill, as reported by the Senate Labor and Public Welfare Committee, achieves much the same effect by some eight references in the bill to various provisions in the tax laws. The coverage provisions indicate that the standards set are generally to apply to pension and profit-sharing plans of employers engaged in interstate commerce or employers engaged in commerce affecting interstate commerce. However, various exceptions are provided, including an exception for religious organizations "described under section 501(c) of the Internal Revenue Code of 1954" and unfunded plans established to provide deferred compensation for management employees and declared by the employer as "not intended to meet the requirements of section 401(a) of the Internal Revenue Code." By exceptions such as these, which make reference to the Internal Revenue Code, the coverage apparently is designed to cover essentially the same plans as the tax provisions of the Internal Revenue Code (except that S. 3598 would not apply to plans covering no more than 25 participants).

In the case of funding requirements the bill specifies that generally an experience deficiency must be made up in a 5-year period except where this exceeds "the allowable limits for a tax deduction under the Internal Revenue Code of 1954." Again, in the case of the funding provisions where there is a surplus, the bill indicates that future payments may be reduced or benefits increased by the amount of the surplus "subject to the provisions of the Internal Revenue Code of 1954 and regulations promulgated thereunder." The bill also provides rules in the case of the discontinuance of plans again "subject to the provisions of the Internal Revenue Code and regulations promulgated thereunder." Still another reference made in the discontinuance-of-a-plan provision provides a specific priority in the case of payments to beneficiaries under the plan "pursuant to the requirements of section 401(a)(7) of the Internal Revenue Code of 1954." Two other specific references to the Internal Revenue Code also are made in the bill.

The frequent references to the Internal Revenue Code in the bill indicate the impossibility of developing a bill without reference to the tax laws. The difficulty, of course, arises from the fact that these provisions have over a long period of time been developed through the use of the tax provisions. It is for reasons such as these that the committee believes that the coverage, vesting, funding, and related provisions should continue to be dealt with by the tax committees of Congress.

It should be noted that the Administration has reported to Congress on coverage and vesting requirements of pension and profit-sharing plans and has also promised, within the year, to supply its recommendations with respect to the funding of pension plans. A bill prepared by the Administration relating to coverage and vesting and also the indication that a report on funding is to be delivered in the future were included in the Administration's report referred to the House Committee on Ways and Means and the Senate Committee on Finance. On the other hand, the Administration's suggested improvements in reporting requirements were referred to the House and Senate Committees on Labor and Public Welfare.

The Department of Labor and the Treasury Department, as is indicated in the section on agency comments in the report of the Labor and Public Welfare Committee, both object quite strongly to the tax-related provisions in the bill, S. 3598, and instead, recommended the enactment of the bill containing the tax-related provisions referred to the tax-writing committees.

The committee believes that an important reason for not splitting the requirements for pension and profit-sharing plans into two parts is the difficulty in the enforcement where part of the enforcement is under the jurisdiction of the Internal Revenue Service in the Treasury Department and the enforcement of an additional layer of requirements is administered by an agency in the Department of Labor. This division would create difficulties not only because of the dual administration and the problems which would arise as a result of conflicting interpretations of various provisions but also, and perhaps more importantly, because of the substantially different enforcement techniques which would be used. Use of the tax laws as a means of achieving conformity with a set of pension and profit-sharing requirements can be achieved with a limited number of enforcement personnel. In large part, the provisions under the tax laws are self-policing since no employer desires to lose tax deductions for amounts set aside under pension or profit-sharing plans. Moreover, in practice, most changes in pension and profit-sharing plans are cleared quite carefully through the Internal Revenue Service before they are made.

On the other hand, the additional vesting, funding, and similar requirements added by this bill as reported by the Senate Labor and Public Welfare Committee are to be enforced by empowering the Secretary of Labor to petition the Federal courts to compel a pension or profit-sharing plan to comply with the provisions of the Act or to effect recoveries of funds due under the Act. As a result, under this enforcement technique, the Department of Labor must constantly examine and seek out changes in the plans or methods of operation to determine when violations of the new provisions occur and then to seek remedies in the courts. These enforcement techniques are less effective than associating compliance with the Internal Revenue Code relating to tax deductible status. The new enforcement provisions would be both far more costly to enforce and far less effective in obtaining compliance generally.

The Finance Committee, in amending S. 3598 to delete the tax-law-related provisions, is not attempting to pass on the desirability of the changes proposed. It certainly agrees that the pension and profit-sharing requirements of existing law deserve changing and strengthening. The House Committee on Ways and Means recently has completed hearings on the Administration proposals with respect to the tax-related provisions for pension and profit-sharing plans. It appears likely that the House proposals for changes in this regard will be before the Finance Committee in the next session of Congress. At that time, the Committee on Finance will not only consider the proposals sent to it from the House but will also consider the tax-related provisions in S. 3598 which by its amendments are deleted from this bill.

It is also important to recognize that as desirable as strengthening requirements for pension and profit-sharing plans may be, these plans are essentially voluntary insofar as employers are concerned with the result that stronger requirements tend to discourage the widening of the use of private pension and profit-sharing plans. Therefore, a careful balancing of these two conflicting considerations is needed in considering recommendations to strengthen provisions relating to private pension and profit-sharing plans. The proposals made in this bill make substantial changes in these provisions over a relatively short period of time. The committee does not see any significant evidence of this balancing of considerations in the bill as reported by the Committee on Labor and Public Welfare.

For the reasons set forth above, the committee has reported back to the Senate the bill as reported by the Senate Labor and

Public Welfare Committee deleting the provisions relating to coverage, vesting, and funding of pension and profit-sharing plans together with the two related provisions dealing with insurance and portability of vested rights. Other conforming changes are also made. In the bill reported by the committee, however, no substantive change is made in the provisions of the bill amending the Welfare and Pension Plans Disclosure Act to provide more comprehensive and simpler reporting of information regarding pension plans.

III. COMPARISON OF PENSION PROVISIONS OF S. 3598 WITH PRESENT TAX LAW

The principal changes made in the treatment of pension and profit-sharing plans under S. 3598 which presently are dealt with by the tax laws are described below and are compared with the present tax provisions.

1. Age and service requirements

S. 3598.—A pension or profit-sharing retirement plan could not require as a condition of eligibility to participate a period of service longer than one year or an age greater than 25, whichever occurs later. However, any plan which provides 100 percent immediate vesting upon entry into the plan could restrict participation to those who have attained age 30, or 3 years of service, whichever occurs later.

Present law.—In general, pension and profit-sharing plans are not now required to comply with any specific eligibility conditions relating to age or service in order to qualify under the Internal Revenue Code. Current law allows plans to be limited to employees who have (1) attained a designated age, or (2) have been employed for a designated number of years (three years maximum in the case of self-employed plans), so long as the effect is not discriminatory in favor of officers, shareholders, executives, and highly-compensated employees. Also, under administrative practice, a plan may exclude employees who are within a certain number of years of retirement (for example, five or less) when they would otherwise become eligible, provided the effect is not discriminatory.

2. Vesting

S. 3598.—Pension plans would generally be required to give covered employees vested rights to 30 percent of their pension benefits after 8 years of service. Thereafter, each year the covered employees would be given vested rights to an additional 10 percent of their accrued pension benefits so that at the end of 15 years of service, they would be entitled to 100 percent vested rights to benefits. However, vesting of accrued benefits for service rendered prior to the Act would be required only for plan participants who have attained age 45 on the effective date of the vesting provision, which would be 3 years after the date of enactment of the bill. In addition, the Secretary of Labor would be given the authority to postpone the applicability of the vesting requirements for a period not to exceed 5 years from the effective date of such requirements where there is a showing that the vesting requirements would increase the employer's costs or contributions under a plan to an extent that "substantial economic injury" would result to the employer and to the interests of the participants.

Present law.—A qualified pension or profit-sharing plan must now provide that an employee's rights are to become nonforfeitable if it terminates or the employer discontinues his contributions. With this exception, there is no requirement that an employee under an employer plan must be given nonforfeitable rights to his accrued benefits before retirement, although the absence of such pre-retirement vesting is taken into account in determining whether the plan meets the nondiscrimination tests of the Internal Revenue Code. Under a self-employed plan, the rights of employee-participants must vest immediately.

3. Funding

S. 3598.—Employers would have to fund all current service costs annually and to fund initial unfunded liabilities at least ratably within 30 years. Any amendment which results in a substantial increase in the plan's unfunded liabilities would be funded separately as if it were a new plan. Experience deficiencies would generally be funded within 5 years. Plans would be required to be reviewed every 5 years by certified actuaries who would report the funding obligations which must be met and any surplus or experience deficiencies. The funding requirements become effective 3 years after the date of enactment of the bill. However, where an employer can make a showing that he cannot make the required annual contribution, the Secretary of Labor may waive contributions otherwise required and authorize that the deficiency be funded over a period of not more than 5 years. Before granting such a waiver, the Secretary of Labor must be satisfied that it will not have an adverse effect on the interests of employees.

Present law.—The present minimum funding rules require an employer to make contributions to a qualified pension plan equal to the pension liabilities being created currently plus the interest due on unfunded accrued liabilities. In addition, section 404 of the Internal Revenue Code sets forth limitations on deductions for contributions to qualified pension plans. In general, an employer may deduct contributions to a qualified pension plan for amounts required to meet the actuarial costs of pension benefits. However, to prevent abuse, there are certain restrictions as to how quickly these deductions can be taken.

4. Plan termination insurance

S. 3598.—Pension plans would be required to participate in an insurance program administered by the Secretary of Labor which is designed to protect participants against the loss of vested benefits arising from plan terminations. The amount of benefits payable under such insurance is limited to the lesser of 50 percent of the highest monthly wage earned over a 5-year period of $500 a month. This insurance program would be financed by premiums ranging from 0.2 percent to 0.4 percent of the plan's unfunded vested liabilities. In addition, where a plan is terminated, the employer may be liable for reimbursement of a portion of the insurance benefits paid under the new program, based on the ratio of the plan's unfunded vested liabilities to his net worth.

Present law.—There is no comparable provision for insuring pension benefits under present law.

5. Enforcement

S. 3598.—An office of pension and welfare administration would be established within the Department of Labor to implement the specified standards of vesting, funding, reinsurance as well as disclosure and fiduciary standards. The Secretary of Labor would be empowered to petition the Federal courts to compel a pension or profit-sharing retirement plan to comply with the provisions of the Act or to affect recoveries of sums of money due under the Act. When the Secretary has reason to believe that a plan is violating the act, he would also be given the right to seek relief in the Federal courts, to compel the return of assets to the fund, to require payments to be made, to require the removal of a fiduciary, and to obtain other appropriate relief.

Present law.—Plans which qualify under the Internal Revenue Code as nondiscriminatory in regard to coverage or benefits receive special tax treatment to foster their growth. The earnings on the assets, for example, are exempt from tax. In addition, employers receive deductions for contributions to such plans within certain limits and employees are permitted to defer payment of tax on employer contributions until they receive them in the form of benefits. The Internal Revenue Service administers the tax provisions of the Internal Revenue Code relating to the qualification of pension and profit-sharing plans. If a plan does not comply with the requirements of the Internal Revenue Code, these special benefits are lost. Thus, to a considerable extent, the provisions of the Code in this area are self-enforcing.

In addition, the Department of Labor administers the Welfare and Pension Plans Disclosure Act of 1958 (Public Law 85-836 as amended by Public Law 87-420).

FINANCE COMMITTEE'S TREATMENT OF THE PENSION BILL

Mr. JAVITS. Mr. President, I should like to reply to the statement made by the Senator from Louisiana, the chairman of the Committee on Finance, as to Finance Committee jurisdiction.

As the report by the Finance Committee itself concedes, the pension bill reported by the Committee on Labor and Public Welfare does not in any manner, shape or form amend any provision of the Internal Revenue Code. As in the case of the Welfare and Pension Plans Disclosure Act, which originated in the Senate Labor Committee and was enacted by the Congress in 1958, the pension reform bill reported by the Labor Committee is fully compatible with the administration of the tax laws because it seeks to regulate what the Internal Revenue Code does not regulate.

The Finance Committee's report suggests that because the bill includes reference to the Internal Revenue Code at several points, that this indicates the necessity of incorporating further pension regulations into the Internal Revenue Code. However, the Welfare and Pension Plan Disclosure Act makes reference to the Internal Revenue Code at least four times and yet this fact was not considered sufficient reason to incorporate that legislation as part of the tax provisions. And I suggest that if every bill that referred to the Internal Revenue Code or other laws was to be handled according to its references, the Senate would find it impossible to deal effectively with any social legislation.

The Finance Committee report asserts that with the exception of the Welfare and Pension Plans Disclosure Act, pension plans have been historically regulated under the provisions of the Internal Revenue Code, and, therefore, matters such as vesting, funding, insurance and portability, should also be regulated under the Internal Revenue Code. Insofar as history is concerned, it is true enough that pension plans have been regulated under the Internal Revenue Code, but what the report fails to state is that this regulation is designed primarily to produce revenue and to prevent evasion of tax obligations under the guise of exceptions. The historic mission of the Internal Revenue Service with respect to pension plans has been to encourage their development through tax incentives but to assure that the deduction is justified. Now, the same is true

about expenditures for cleaning up waters, cleaning up the air, or taking safety precautions. But that does not mean that the Committee on Finance has exclusive jurisdiction.

The Finance Committee report asserts that removing deductions from pension plan contributions is the most effective way of enforcing minimum standards for workers. I seriously question this assertion. What if the employer or plan is willing to forego tax benefits in order to avoid compliance with minimum standards? How does the employee recover his "rights" to benefits he is entitled to by reason of such standards? Would the Department of the Treasury sue to make the employer pay benefits owed to participants if the only mechanism for enforcement is the removal of the tax deduction? Could the employee sue under the Internal Revenue Code to recover what rightfully belongs to him? I doubt it since no private rights are created by the Internal Revenue Code.

Moreover, what would be the position of the Internal Revenue Service if no deduction was claimed by the employer for a particular year? In St. Louis, the Senate Labor Subcommittee investigated a particular plant shutdown and the termination of a pension plan in which 150 vested employees lost all their benefits because a plan was underfunded. The hearing record disclosed that, during the last few years of the plans, the employer neglected even to contribute current service costs to the plan, much less to amortize the unfunded liabilities. Was the plan disqualified by the Internal Revenue Service? Hardly, the Internal Revenue Service did not notice the funding deficiency because no deductions were claimed in the absence of contributions.

My point here, Mr. President, is that the historic Internal Revenue Service system of pension regulation has a single "handle"—the tax deduction claimed in a tax return. If there are insufficient contributions and no deductions, is the Internal Revenue Service—which after all is essentially a tax collection agency—likely to complain? I hardly think so and experience bears this out. And would workers complain to the Internal Revenue Service? Even this is unlikely, because if the complaint were sustained, the only remedy the Internal Revenue Service has to disqualify the plan which results in even less money in the fund.

I certainly do not mean to suggest that the tax qualification provisions in the Internal Revenue Code are unwise or unnecessary or that the Finance Committee is out of line in maintaining its vigilance with respect to these provisions. On the contrary, the tax qualification standards are an essential component of the tax incentive which has been central to the development of the entire pension plan system. But tax qualifications alone are not enough. If we are prepared to legislate minimum standards in the interest of protecting 30 million American men and women—and making those standards real and enforceable—we cannot leave out affirmative regulations directly enforceable at law.

I have no objection to the Finance Committee considering the matter, and I welcome their opinion even if I violently disagree with it. All that I argue is, "OK, that is fine, you have seen it." I do not want to see it stripped of everything meaningful. Now, while it is a hot issue, let us get to work at it and let the Senate decide whether it wants a meaningful pension reform bill or wants to throw it into the ashcan. Let us not drag it over until next year, next June or July or August. We have already had extensive hearings; the Senate has authorized a large sum of money; and it is a mature bill of enormous interest to infinitely more millions of Americans than most of the bills which go through this body even now. All I am saying, together with the Senator from New Jersey (Mr. WILLIAMS), is let us get the Senate at it and let it decide whether it is going to go with this bill or whether it is going in the ashcan.

I hope very much the Senate will do that.

Mr. LONG. Mr. President, I have prepared a statement with regard to this measure, pointing out a problem that occurs to the Committee on Finance, with particular respect to the unfair presentation of this matter, primarily because the press did not understand the position of the Finance Committee.

I ask unanimous consent that the statement be printed in the RECORD at this point.

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

STATEMENT BY SENATOR LONG

In the last few days, there have appeared in the press highly unfavorable articles on the Senate Finance Committee action on the pension bill recently referred by the Senate to the Finance Committee after being reported to the Senate by the Senate Labor and Public Welfare Committee. A Washington Post article, not waiting for the Finance Committee report to be filed, referred to the Finance Committee action as "gutting" the bill and implied that this was a raid on the other committee's jurisdiction. An editorial in the New York Times probably also written before the committee report was out, attacks the Senate Finance Committee action in similar vein.

The fact that these articles started from a fixed point of view is indicated by the fact that they did not wait to see what the reasons were for the Senate Finance action before making their attacks. To say the least, these articles do not measure up to the standards of objective reporting usually claimed by these papers.

The provisions in the retirement income security for employees bill which the Finance Committee deleted were those changing coverage requirements for pension plans, those changing the period over which pension rights must become vested, those dealing with the funding of a pension plan, those dealing with insurance in lieu of funding for such a plan, and those relating to the so-called portability of vested rights to pension benefits.

Contrary to the impression which is given to the public in the recent newspaper articles, the coverage, vesting and funding of pension plans have been dealt with almost exclusively by the tax laws since 1942, a period of 30 years. Actually, the committee which was stepping out of the traditional role in handling these matters was the Labor and Public Welfare Committee, not the Senate Finance Committee. It was the bill as reported by the Labor and Public Welfare Committee which would have established new requirements in all of these areas, in addition to the tax-law requirements, but outside of the tax laws, the traditional way of providing standards for pension and profit-sharing plans.

How closely these provisions are tied into the Internal Revenue laws is indicated by the fact that in its bill the Senate Labor and Public Welfare Committee found it necessary to make some eight specific references to various provisions in the Internal Revenue Code. How closely these are tied into the tax requirements for pension plans is set forth in the Finance Committee report. These frequent references to the code indicate the impossibility of developing a bill without references to the tax laws. The fact that the requirements of present law, on which the Labor and Public Welfare Committee would build, have been developed over a long period of time through the use of tax provisions is why the Finance Committee believes that these pension provisions should appropriately be dealt with by the tax committees of Congress.

The impression left by the recent newspaper articles that the bill developed by the other committee is a widely accepted bill, is easily refuted by looking at the agency comments in the report of the Labor and Public Welfare Committee. In those comments, I found no indication of any agency specifically endorsing the tax-related provisions of the bill as reported. More important, the Departments of Labor and Treasury specifically and strongly object to the tax-related provisions in the bill. Instead, both of those agencies recommended the enactment of a bill containing quite different tax-related provisions, and which was referred to the tax-writing committees.

Wholly apart from the new standards that the Labor and Public Welfare Committee bill sought to establish, a major difficulty with the bill was in the enforcement techniques used to assure compliance with the new provisions. Recognizing the problem of jurisdiction, the Labor and Public Welfare Committee sought to find a new way of enforcing the additional requirements it added for pension plans which were outside of the tax laws.

The traditional way of enforcement in the past has been to deny a tax deduction for a plan which was not qualified in some respect. This was avoided in the Labor and Public Welfare Committee bill, however, because this would have made even clearer the fact that the committee was dealing with a subject matter properly belonging to another committee.

Instead, the additional vesting, funding and other requirements added by the bill as reported by the Senate Labor and Public Welfare Committee would be enforced by empowering the Secretary of Labor to petition federal courts to compel a pension plan to comply with the provisions of the act, or to affect recoveries of funds due under the act. As a result, under this enforcement technique, the Department of Labor must constantly examine and seek out any changes in plans, or methods of operation, to determine whether violations of the new provisions have occurred and then seek remedies in the courts.

The enactment of the bill in the form reported by the Labor and Public Welfare Committee could only result in great confusion. First, there is the double layer of requirements which must be understood by all employers setting up and operating plans. Secondly, there is the enforcement of part of these requirements by the denial of tax deductions and enforcement of remaining provisions by the Department of Labor going into court whenever a violation occurs. The Finance Committee concluded that this was a serious problem and that the bill should not be left in this chaotic status. However,

the recent newspaper articles say not one word about these problems.

Again the newspaper articles imply that the Finance Committee is seeking to kill the new requirements proposed. Nothing could be further from the truth. The committee report specifically states that the Finance Committee in deleting the tax related provisions from this bill "is not attempting to pass on the desirability of the changes proposed." It goes on to agree that pension and profit sharing requirements of existing law need to be changed and strengthened. It also points out that the House tax committee has recently completed hearings on the Administration's proposals concerning the tax-related pension provisions. The Finance Committee report also notes that since the House committee has already held hearings on this subject it is likely that a bill will be acted on by the House next year, and be before the Finance Committee later in the next session of Congress. At that time, the report goes on to state, the Finance Committee will consider not only the proposals sent to it from the House but will also consider the tax-related provisions in the bill reported by the Senate Labor and Public Welfare Committee.

There also is another problem which was not brought out in either the Washington Post article or the New York Times editorial. It is important to recognize that there are two sides to this question of strengthening requirements for pension plans. These plans are voluntary as far as employers are concerned, which means that the stronger the requirements are, the less likely employers are to adopt new pension plans or to broaden existing plans. By saying this I, of course, do not mean that the requirements of existing plans should not be strengthened, but rather point out that there needs to be a balanced consideration of pensions. This was a side to the issue which was entirely ignored in the newspaper articles. This need for a balanced consideration will be given, however, in the study of pension plan legislation by the tax committees in the next Congress.

THE PENSION REFORM BILL

Mr. COOK. Mr. President, I stand today to decry what I believe is irresponsible action by the Senate Finance Committee which in the period of one short week completely gutted the pension reform bill reported unanimously by the Senate Labor and Public Welfare Committee on September 15.

S. 3598, the Retirement Income Security for Employees Act of 1972 was studied by the Labor and Public Welfare Special Pension Study Subcommittee which involved 3 years and $1 million. Those provisions deleted by the Finance Committee affect vesting, funding, Federal reinsurance, and portability. I would like to add that not only do I find the actions of the Finance Committee in this regard irresponsible, but entirely incredible. In the midst of revenue sharing and H.R. 1, somehow the Finance Committee found the time to completely destroy the work of 3 years and the hopes of 30 million Americans. This bill, as reported by the Senate Labor and Public Welfare Committee, would have provided security and relief for thousands of people in the future. It is sad that so many older Americans who have worked for years must finish out their lives in poverty or near poverty because of changes in employment, inability to save, companies going out of business, moving, being fired, and other causes out of their control. Social security and medicare are not enough and it is time that we in the Congress take positive action to correct the failures and abuses of the private pension system.

I regret that it appears highly unlikely that any final action on pension reform will be taken by the 92d Congress since the House has allowed pension legislation there to linger in committee and the Senate Finance Committee has dealt a crushing blow to 3 years of research.

DRUG TRAFFIC

Mr. GRIFFIN. Mr. President, I yield whatever time remains to me under the order back to the original Senator to whom it was granted.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SCOTT. Mr. President, I thank the distinguished Senator from Michigan for cancellation of the I O U, or whatever just happened here.

Much is being said about the drug traffic these days, Mr. President, and I think we ought to look at the initiatives for which the President has been responsible during his administration.

First. He has added over 2,000 agents to our drug enforcement forces and has increased the funding for law enforcement efforts against the drug problem by 800 percent.

Second. Spending on drug research has risen 300 percent.

Third. Funding for international narcotics control has jumped from $5 million to $50 million.

Fourth. At the President's initiative, America's worldwide antidrug offensive is beginning to pay off. Turkey, as of July 1, 1972, is banning the cultivation of opium poppies. France has seized five heroin laboratories this year. Cocaine labs have been destroyed in Bolivia and Ecuador. The United Nations has been spurred into an international drug control program. The President's Cabinet Committee on International Narcotics Control has overseen the preparation of 59 narcotics control action plans in major hard drug transit and producing countries. And the activity is starting to pay off in a shortage of heroin—a shortage which is indicated by the rapidly increasing cost of heroin in the street.

Fifth. Funding for drug treatment and rehabilitation programs has jumped from $25.2 million to $230.2 million—an increase of over 800 percent. As more personnel are trained, as is being done under the President's direction, more funding can be absorbed in the area of treatment and rehabilitation.

Sixth. President Nixon opposes, without reservation, the legalization of marihuana.

Mr. President, on the 5th of September last, I had a television interview program with Mr. John E. Ingersoll, Director of the Bureau of Narcotics and Dangerous Drugs, who has been in charge of this program. That interview was of considerable interest, I believe, since it was given purely for informative purposes for my constituents in Pennsylvania.

I ask unanimous consent that the transcript of the interview be printed in the RECORD, and yield back the remainder of my time.

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

YOUR SENATOR'S REPORT

SCOTT. International cooperation is the key to stopping narcotics traffic.

ANNOUNCER. From Washington we present, "Your Senator's Report," a report to Pennsylvania from the U.S. Senate by Senators Hugh Scott and Richard Schweiker. Now here is Senator Scott.

SCOTT. Well, ladies and gentlemen, my guest today can tell us about the narcotics traffic and what is being done nationally and internationally to combat it. He is John E. Ingersoll, the Director of the Bureau of Narcotics and Dangerous Drugs. He was appointed to this position in 1968, having previously served as Assistant Director of the Office of Law Enforcement Assistance. He is also former Chief of Police of Charlotte, North Carolina. John, I'm glad you could join me today.

INGERSOLL. Thank you, Senator. It's a pleasure to be with you.

SCOTT. Always good to have you here because we're talking to an expert. One example I think we are familiar with is the international cooperation gradually being achieved in Turkey where Turkish farmers are being paid NOT to grow opium. What other programs have been established in other countries in this continuing battle to stop narcotics shipment?

INGERSOLL. Well, Senator, we're working with over 50 countries now in a bilateral manner, reaching agreements on programs in which they'll participate with us in stopping the narcotics traffic, either if it originates in their territories or passes through them. Specifically for some years now we've been working very closely with Mexico, I'm sure you know, in a cooperative program that has been headed by the Attorney General for our side and the Attorney General of Mexico and more recently the Presidents of the two countries of the United States and Mexico talked extensively on this subject. Throughout Latin America the same kinds of cooperative programs are developing. In Southeast Asia, of course, was passage of the first law to restrict the production of opium in very intensive efforts on the part of the Laotian government, on a very high level, very successful ones. In Thailand we have joint operations with the Thai National Police up in the northern part, particularly during which time over the last few months over five tons of opium and its derivatives have been seized. This is more than anyplace else in the world. And then of course in France we've been working for a good number of years in an effort to get France to mobilize. It's better to eliminate illicit factories in southern France and this year alone they have seized five such operations in addition to confiscating around the neighborhood of a ton of heroin that was destined for the United States.

SCOTT. Southern France, of course, is also the site of the perfume industry. They have people who are pretty skilled at distilling all sorts of flowers and essences. Unfortunately, heroin is one of them. That brings up the question of port security. I know that Marseilles, for a long time was one of the principal ports of exports of illicit drugs. What are you doing in the port security areas, generally?

INGERSOLL. Well, the President has increased the size of the U.S. Customs Services both here in our own ports and also assigning the Customs Officers overseas to assist foreign customs services and to participate in the gathering of information about the means of transportation, places of concealment and

people who are involved. I think that tightening up customs facilities and improving their activities abroad is going to be a long-range kind of a job.

SCOTT. What kind of progress have you made with Marseilles as compared with, say, several years ago? Can you put any figure on it as to how much you may have helped to stifle this traffic?

INGERSOLL. Well, I think that certainly we're disrupting the ability of the traffickers to operate with impunity and in response to your last question, the Customs Service has tightened up considerably in and around the port of Marseilles. For example, one of the seizures involved a thousand pounds of heroin on a fishing vessel that was seized by the French customs service and that was destined for the West Indies and from there into the U.S. So I think that's an example of the improvement.

SCOTT. There have been charges that there have been illicit shipments of drugs from Mainland China. And I was in China, I was in no position to know whether Mainland China was involved in illicit drug traffic or not, but could you comment on this?

INGERSOLL. Well, I think since you've been there and I haven't that you probably could make a more credible comment than I can. The problem that I have with that subject is trying to prove the negative. We have no evidence at all to indicate that there is any heroin or opium coming out of Mainland China at least with the complicity of the government.

SCOTT. I don't know much about flowers or how opium is extracted. My interest is in archeology and if you'll excuse a very bad pun. the only thing I'm able to distinguish is being able to tell a poppy from a mummy. Well, I take it you have no solid evidence such as illegal shipments into this country from Mainland China.

INGERSOLL. No, to the contrary. The major seizures of heroin or morphine or opium that have been made coming from the Far East we can trace back to sources other than Mainland China.

SCOTT. President Nixon has intensified drug control through executive order and through legislation and his programs have been broadened in the area of enforcement. Now as an enforcement officer, would you tell our Pennsylvania listeners some of these moves and whether in your opinion the plan is working?

INGERSOLL. Well, to answer your last two questions, I can certainly say that the plan is working and that's evidenced by the increasing shortage of heroin that presently exists in the Eastern U.S. I think the citizens of Pennsylvania are one of the beneficiaries of that shortage. The plan, as far as domestic law enforcement is concerned, contemplates hitting the traffic at all levels. At the level of the importer, and the wholesale and interstate wholesaler, the distributor, and also to hit them at the street level through the use of teams of personnel from different agencies, Bureau of Narcotics and Dangerous Drugs, the Internal Revenue Service, Customs, Post Office and so on. And we are attempting to use any device available to whatever means of making a tax case against a trafficker, if a substantive narcotics case cannot be made or whether it's evaluation of postal laws or even an evaluation of labor laws as the local police and prosecutors are involved in these programs.

SCOTT. Some of my constituents write and say they have difficulty understanding how you aren't able to cut off the flow of illicit drugs altogether. Now, as an enforcement officer and with that experience, how do you answer people like that regarding the difficulties of enforcement?

INGERSOLL. Well, first of all I think it relates to the people who are involved in the traffic, subterranean people who operate clandestinely. There rarely, if ever, is a crime of narcotics trafficking reported to the police or to a law enforcement agency. The agency has to develop the case from scratch, though undercover investigations and the use of informants and other sources of information as well as development of intelligence makes the case on its own initiative for the most part. In addition to that, these drugs are small in size, very valuable in quantity. They are easy to conceal. Traffickers and smugglers are very innovative people. They've been able to develop all kinds of ways of getting them in the U.S. and moving them throughout the country. It's a very difficult kind of criminal investigative effort. It's far different from my experience in investigating a murder or a bank robbery or an auto theft or something of this nature.

SCOTT. How many ways are used to smuggle drugs into this country? I've heard about putting them into various parts of automobiles. What other methods do they use?

INGERSOLL. Well, just about every kind. We discovered them in hollowed-out ski poles. In one instance, a coffin was opened that had been shipped from Europe and there laying with the corpse were bags of heroin, much to the surprise of the inspector.

SCOTT. I should think that's an unusually odd, sort of a happy journey for the corpse.

INGERSOLL. It was a funny trip. I don't know if he was enjoying it too much.

SCOTT. Can you think of any others?

INGERSOLL. Well, back in the panels of aircraft. In cans of food that had been placed in boxes and shipped in with freight. The Mexican police just seized a ton of marijuana the other day. It was hidden in a freight car of a railroad train that had been coming across the border. I think that you might find it even in the back of somebody's camera.

SCOTT. But not these, I'm sure. We haven't caught anything like that so far. Now the Veterans' Administration has allocated nearly $17 million for drug rehabilitation. In Philadelphia and Pittsburgh alone the amount is nearly three-quarters of a million dollars. They fould that enough money is going into drug rehabilitation for veterans. Do you think the veterans have a special problem as to which we must show even greater concern than some of the youngsters in the ghetto or the affluent suburban young people?

INGERSOLL. Well, of course, we're always concerned very much about veterans, particularly today's veterans. And I think that they deserve this concern because in many cases they are unwilling victims of addiction. In many instances they didn't even know what they were taking the time the heroin was offered to them. And they didn't realize that they would become addicted. The Veterans' Administration has expanded into this $17 million program just in the last year or so and I think that it's really too early for me to say that part of this effort, whether or not this has been sufficient. I think the Veterans' Administration intends to continue expansion and make available more treatment, although there are some veterans groups who claim that not enough is being done and I suppose that until we are able to treat each and every one, we could say that not enough is being done and I think that this applies to the general population as well. We do have to accelerate treatment programs.

SCOTT. I've heard somewhere a figure—4% addiction—of American soldiers in Asia. Is that approximate?

INGERSOLL. That was correct about a year and a half ago. It's not accurate now. The figure has been reduced to something less than 1½% now of the present population.

SCOTT. Well, there are two schools of thought on penalties for users of various drugs. How do you view our enforcement and then the judicial system as it applies the penalties?

INGERSOLL. Well, I think that a distinction has to be made between the user and the dealer. Sometimes the users are dealers but there are special situations that require special attention. And you may recall two years ago the Congress passed an Administration-sponsored bill which made just that very distinction and provided for growing penalties depending on—between users and traffickers. Now the first offense, for example, an individual can get his record expunged if he's a user, or in possession of substances for his own use. On the other hand, a trafficker can get up to life imprisonment and I think that this is exactly how it should be.

SCOTT. In other words, for first users and for so-called milder drugs, very mild penalties, even to the removal of any record of the arrest of the first offender, but increasing harsh penalties for those who make it possible for people to become addicts.

INGERSOLL. Yes, I think we have to look, and I think that society generally is looking at the user increasingly as a victim of the trafficker. And I think that we should be treatment-oriented as far as the user of the victim is concerned.

SCOTT. On treatment, what is your reaction to methadone treatment as a substitute for addiction? There have been whole documentaries done on that and I'd like your reaction.

INGERSOLL. Well, methadone has the qualities of being a very good thing and also has the qualities of being a very bad thing. It's like playing with fire. It's very useful and very damaging, depending on how it's used.

SCOTT. It's addictive, too, isn't it?

INGERSOLL. Yes, sir. Our concern is that methadone is increasingly being seen in the illicit traffic, being abused, and particularly during this heroin shortage. It is being used to replace heroin in some cases without the benefits of the treatment that should go with the methadone administration. There have been methadone programs which also feature job training, educational counseling, family counseling, etc., I think serving a worthwhile purpose. A few programs which are really programs in name only. They are in many cases an excuse for the illicit distribution of methadone. Methadone is just as addictive as heroin is but when its administered within a properly controlled framework, then we feel it's a very good thing to do.

SCOTT. Are there any plants in America, aside from marijuana, which are the sources of drugs, illicit drugs that is? Are they in any substantial quantity?

INGERSOLL. No, not in large quantities. In the Southwest, some of the cactus plants are the source of hallucinogenic substances but marijuana in this country grows wild in various parts of the country left over from the days when it was cultivated for hemp uses.

SCOTT. Can you describe the new narcotics program called the Narcotics Antagonists Program? Will that work?

INGERSOLL. Well, I think that this is another permanent kind of a solution and very briefly it's intended to develop a drug that will, in effect, offset the effects of narcotics, of opiates, so that if an individual does inject an opiate—either heroin or something of this nature—he won't receive the euphoria and the other effects that he would. Hopefully this antagonists program incidentally is being developed through coordinated and cooperative activities on the part of the pharmaceutical industry will lead into yet another step which perhaps will make it possible to immunize addiction-prone people, sometime in the future, so that the same effects will result. That is, the drug does not produce a desired psychological and physical effect.

SCOTT. What if you are approached by the parents of a son or daughter who say, "Our child is an addict and has become seriously addicted to one of the dangerous drugs." What would be your advice to those parents?

INGERSOLL. Well, that happens frequently, Senator, and my advice consistently is to attempt to get the child or the youngster in a treatment program, a good treatment program. And sometimes they'll ask, "Should we turn them into the police," or something of this nature. Again, I agree the abuser is the victim, an ill person. He ought to be steered into the therapeutic climate so that his problem can be treated. I think that this is the best and the only advice that I can give to the parents, aside from my own concerns. Obviously many parents will start going through the roof if they find out this is happening to their child. I can say to your constituency that the drug problem is an insidious kind of problem. It can sneak into anybody's home and into anybody's neighborhood.

SCOTT. Yes, no matter what their condition of life is like, it can occur and can be cured. But that requires discipline and it requires understanding of those who surround the addict. And it requires a long period, doesn't it?

INGERSOLL. Yes, sir.

SCOTT. And there is always a danger of throw-back or collapse if the user, or former user attempts it again. Have there been stories about drugs coming in from Afghanistan and Pakistan? What do you think of that?

INGERSOLL. Well, Afghanistan is a principal source of cannabis, I mean hashish, which is the resins of cannabis which is the same plant from which marijuana is obtained. And we recently broke up a large ring of people out in Southern California who were followers of Timothy Leary who had been importing hashish into the U.S. for some time and very cleverly in many cases. In Afghanistan, also which is a country which is very much like some of the Southeast Asian countries, that is tribal populations inhabit vast areas and do not recognize the central government as having authority over them. Opium is cultivated in some quantities in these areas. The same is true in Pakistan. India is for many years the largest producer of opium for legitimate purposes—the world's largest exporter. And it has probably as good, if not the best, controls of any legitimate producer in the world. But even with these controls it's apparent to anyone who has observed the area that there is opportunity for diversion. We have not in the U.S. felt the impact of that diversion as yet. But the possibility is there and we are working with the Indian government. It is quite anxious to see that it doesn't happen.

SCOTT. What's your comment on the relationship of organized crime and syndicates to the illicit drug traffic?

INGERSOLL. That certainly is a difficult question to answer because all—most of the current narcotics traffic—is organized. The traditional organized crime families are involved in narcotics traffic. Usually only in the heroin traffic. And we've made significant arrests of members of organized crime families up to and including the heads of such families in the last several years. But they're not the only ones involved. The traffic is not specific as far as ethnic background is concerned. So we find an increase in the numbers of Latins, for example, involved in the traffic. In fact, 50% of our major seizures in the past couple of years involve either Latin Americans living in the U.S. or traffic through Latin America. So you find around the world that all ethnic groups are involved and they have one common objective and that's the profit motive.

SCOTT. Of course, that doesn't have any waste attached to it. It's greed, pure and simple or impure and unsimple. Are Latin American countries cooperating with us generally—the governments?

INGERSOLL. They are to an increasing degree. For example, last week in Venezuela some 24 kilos of heroin were seized on their way to the United States and a couple of days later about 50 kilograms—over a hundred pounds—were seized coming into the United States. There is some effort in Latin America to create regional cooperation among the various countries with the U.S. and we've provided training. Their drug control people have the opportunity to exchange information and there's an illustration . . . we're seeing improved cooperation.

SCOTT. And the increase in funding . . . the amounts needed to stop the illicit drug traffic—to enforce the narcotics laws in the last few years—has it doubled or tripled or what is the relationship?

INGERSOLL. It has increased more than that. Since 1969 it has increased about 10 times. I think you know in your own meetings in the White House that the President has placed very high priority on this issue and he has been very responsive to the requests that deal intelligently and deliberately as well as rapidly in facing up to the issue and bringing it to our attention.

SCOTT. Well, I understand you have a pilot program to stop the illicit drug traffic that originates in retail outlets. What states are they in and what kind of pilot program are you using?

INGERSOLL. Well, we presently have operational in Texas and Michigan and we had a third state that had laws that wouldn't permit it to participate, so we'll have to find another third state which will prove out along the line. But basically we've had agreements with about 45 states where the state agencies would concentrate on a retail outlet leaving the federal government to concentrate on monitor the wholesale and manufacturing companies. We feel that we have interstate authority and range and they have intra-state authority.

SCOTT. Then the laws are not equipped in this area for the control of the retail drug outlets. . . .

INGERSOLL. The 35 states that have passed the uniform control substances act have adequate laws and also laws which interact with the federal law that was passed a couple of years ago. There, both the state agency and the federal agency work hand in hand together.

SCOTT. Is the number of addicts increasing or decreasing in the last few years?

INGERSOLL. Well, we figure it's increasing primarily because it is getting into new populations. The addicts statistics have been very, very inadequate in the past. There's been a program for a number of years, in which about 40 different cities reported the number of addicts that had come to the attention of their police and their hospitals, but obviously this didn't encompass the entire population. So we've developed a system of estimating the number of addicts while we increase. They have increased in the last two or three years. We have reason to believe the increase is leveling off.

SCOTT. What do you think of the argument of a number of young people who are smoking, that pot is no more serious than cigarettes or a martini?

INGERSOLL. I don't think that's a valid argument. Except maybe in the case of one or two marijuana cigarettes and then dropping. That obviously is not going to hurt anybody. But the problem with marijuana is that it has a—it's called a loading effect—it takes some time for a smoker to get the effects and then as he continues more and more, why he loads up his system with active products of marijuana.

SCOTT. Then he may move on to more dangerous drugs?

INGERSOLL. Well, yes. That's called the stepping stone theory. And not many people want to acknowledge it exists. But you won't find many people who are into more dangerous drugs who haven't used marijuana one time in their drug career.

SCOTT. I wish there were time for more but this is Mr. John E. Ingersoll, ladies and gentlemen, of the Bureau of Narcotics and Dangerous Drugs, and we are extremely interested in passing on this kind of information to our people in Pennsylvania. Thank you very much.

INGERSOLL. Well, thank you Senator.

ANNOUNCER. This has been, "Your Senator's Report." A public service report to Pennsylvania by U.S. Senator Hugh Scott.

TRANSACTION OF ROUTINE MORNING BUSINESS

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

EAST-WEST TRADE AND FUNDAMENTAL HUMAN RIGHTS

Mr. JACKSON. Mr. President, I will be offering on behalf of a bipartisan group of my colleagues an amendment to the East-West Trade Relations Act of 1971, S. 2620. It is a simple amendment. It arises out of and is rooted in our traditional commitment to the cause of individual liberty. It is a simple plea for simple justice. But unlike other such pleadings, it has some teeth in it.

Our amendment would add a new section 10 to the bill, consisting of nine parts, that would extend most-favored-nation treatment to Communist countries. It would establish a direct legislative link between that status and other trade and credit concessions, on the one hand, and the freedom to emigrate without the payment of prohibitive taxes amounting to ransom, on the other. Under this amendment no country would be eligible to receive most-favored-nation treatment or to participate in U.S. credit and credit and investment guarantee programs unless that country permits its citizens the opportunity to emigrate to the country of their choice. Moreover, the amendment would require the President to judge and report in detail upon the compliance with this condition of any country wishing to obtain most-favored-nation status or U.S. credits. Such a report, updated at regular intervals, would make available our best information as to the nature, content, application, implementation and effects of the emigration laws and conditions in the countries concerned.

Mr. President, the Nobel lecture of the great Russian writer, Alexander Solzhenitsyn, was recently published in the West. It is more than an eloquent defense of truth and justice. It is more than a sharp condemnation of tyranny. It contains the profound message that—

Mankind's sole salvation lies in everyone making everything his business, in the people in the East being vitally concerned with what is thought in the West, the people of the West vitally concerned with what goes on in the East.

Mr. President, the "thought in the West" is contained in our amendment. I propose that this great Senate concern itself with what goes on in the East.

We have received numerous reports of

late about the intensification of state repression in the Soviet Union. Intellectuals and other dissidents have been arrested and sent to labor camps, hospitals, and mental institutions. In Lithuania demonstrations by Roman Catholics demanding religious and cultural freedom have been brutally put down. And the Soviet regime has stepped up its campaign against Jews seeking to emigrate to Israel.

The most dramatic violation of basic human rights is the recent decision of the Politburo to demand a ransom from Jews wishing to leave the Soviet Union. The reaction to this decision in the West has been one of outrage and revulsion. It violates our most deeply held convictions about human freedom and dignity. It recalls to us a dark age when human beings were enslaved and traded as chattel. In our own land it took a civil war to blot out that disgrace and vindicate the principles of our Constitution.

Mr. President, those of us who lived during the time of the Third Reich remember when Himmler sold exit permits for Jews. As the great British Historian Robert Conquest has pointed out, the Soviet leaders may be unaware of this unflattering parallel since none of the Western literature on the Holocaust has been published in Russia. But we are aware of the Holocaust. We see the parallel. And that is why we must do whatever we can to prevent a repetition of that horrible catastrophe.

I will not here catalog the continuing record of oppression suffered by the Soviet Jews and by other minorities and dissidents in the Soviet Union. But I must express my fear that the current ransom program, wicked in itself, carries with it the potential to exacerbate anti-Semitism in the Soviet Union to an extent and a depth that we hoped had perished for all time with the collapse of the Third Reich. For in the effort to justify this barbaric trade in human beings the Soviets have appealed to the basest instincts. The reports reaching us affirming the popularity of the ransom policy are the most painful of all. They portend the unleashing of bitter forces that even a totalitarian regime as adept at regimenting its people as the Soviet state cannot always control. Nor is it certain that control is what the leaders in the Kremlin desire.

Now, the Soviet leaders have explained that the exorbitant emigration taxes, amounting to thousands of dollars, are in reality a tax on education incurred by the student as a consequence of his state-supported studies. The more audacious Soviet spokesmen have gone so far as to compare these taxes to the obligation incurred by the graduates of our military academies who undertake to spend a specified period of time following graduation in the armed services. In principle there is nothing wrong with the making of an agreement between student and institution of learning—or, for that matter, between the student and the state—in which the student undertakes certain obligations in return for his tuition. But that is not what is involved in the Soviet case and it is a lie to suggest otherwise. For one thing the emigration taxes have been retroactively imposed on all citizens. They do not arise out of any agreement or understanding or voluntary obligation. For another, the Soviet student is denied recourse to private educational institutions so that even if the obligations were placed on a voluntary basis, which they are not, there would be no way to avoid them. One would be forced either to accept the state's terms or go without any education. Moreover, the taxes imposed on emigration, unlike agreements sometimes made in Western countries to serve after graduation in a prearranged capacity, are prohibitive and intended to be so. Soviet citizens are simply not permitted to earn or amass the sums necessary to purchase their freedom. To attempt to borrow the huge amounts involved opens one to persecution for economic crimes, and no one earns the sort of income that would enable him to pay the visa tax for an advanced education without borrowing. So the funds cannot be generated internally.

The fact is, Mr. President, that a decision to pay the ransom demand would be to submit to blackmail of the most ominous sort. Where would it stop? Would it spread to other countries as aerial hijacking did when first attempted and then emulated? Would the remnant of scattered minorities, Jews and others, become the new medium of international exchange? Would we organize the agencies, arrange for the planes and ships, transfer the foreign exchange, negotiate the prices—in short, would we institutionalize the sale of a whole people? I say no—and I ask the Senate to join with me in saying, "no."

There will be those who will say, even as Mr. Brezhnev must surely have said to the President in Moscow, that the action we are proposing is an intrusion in the internal affairs of the Soviet Union. To this I would quote Solzhenitzyn:

> There are no internal affairs left on our crowded Earth.

The fact is, of course, that the ransom—were it to be paid—would be paid out of funds raised primarily in the United States. That surely gives us the right as a government, quite apart from the dedication to our own high principles, to be "vitally concerned with what goes on in the East."

Mr. President, we Americans are fortunate to have at our service the greatest economy the world has ever known. It can do more than enrich our lives. It can be pressed into service as an instrument of our commitment to individual liberty. We can deny our vast markets to the Soviet Union. We can reserve participation in our credit and investment programs—our "internal" matters—to those countries who accord their citizens the fundamental human right to emigrate. We can, and we must, keep the faith of our own highest traditions.

We must not now, as we did once, acquiesce to tyranny while there are those, at greater risk than ourselves, who dare to resist.

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

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

(See exhibit 1.)

Mr. JACKSON. I shall later offer a formal amendment, with various Senators as cosponsors.

EXHIBIT 1

PROPOSED AMENDMENT TO S. 2620

(A bill, consisting of 9 parts, that would extend most favored nation treatment to the Soviet Union and other countries)

The following amendment will be proposed by Senator Henry M. Jackson and a bipartisan group of Senators.

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

EAST-WEST TRADE AND FUNDAMENTAL HUMAN RIGHTS

SEC. 10. (a) To assure the continued dedication of the United States to fundamental human rights, and notwithstanding any other provision of this Act or any other law, no nonmarket economy country shall be eligible to receive most-favored-nation treatment or to participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, directly or indirectly, during the period beginning with the date on which the President of the United States determines that such country—

(1) denies its citizens the right or opportunity to emigrate to the country of their choice;

(2) imposes more than a nominal tax on emigration or on the visas or other documents required for emigration, for any purpose or cause whatsoever; or

(3) imposes more than nominal tax, levy, fine, fee, or other charge on any citizen as a consequence of the desire of such citizen to emigrate to the country of his choice,

and ending on the date on which the President determines that such country is no longer in violation of paragraph (1), (2), or (3).

(b) The authority conferred by sections 3 and 6 (a) of this Act shall not be exercised with respect to any country unless the President of the United States has submitted to the Congress a report indicating that such country is not in violation of paragraph (1), (2), or (3) of subsection (a). Such report with respect to such country shall include, but not be limited to—

(1) the best available information as to the nature, content, application, and implementation of emigration laws and policies;

(2) the best available information as to restrictions applied to persons wishing to emigrate, the national and religious background of such persons, the destination of such persons' choice, and the nature and extent of discrimination against such persons arising from the desire to emigrate or the initiation of emigration procedures; and

(3) the best available information as to the number of citizens of that country who have applied for permission to emigrate but have been denied such permission, and the number whose applications are pending.

The report required by this subsection shall be submitted prior to any exercise of the authority conferred by sections 3 and 6(a) with respect to any country, and semiannually thereafter so long as any agreement entered into pursuant to the exercise of such authority is in effect.

LIMITATION OF FEDERAL EXPENDITURES

Mr. PACKWOOD. Mr. President, if media reports are accurate, we are about to consider a proposal to limit Federal

expenditures during this fiscal year to $250 billion, and delegate to the President the sole decision and sole discretion as to where to cut appropriations if they exceed $250 billion.

I have not yet decided which way I will vote on this proposition, but I hope the Senate, as it goes into the matter, is fully aware of the ramifications of delegating this crucial power to the President.

The background of our constitutional law is really the British parliamentary law. And if there was any single struggle that dominated the English Parliament from the time of Simon deMontfort—in the mid-13th century—until the advent of the Bill of Rights in England in 1689, it was the perpetual power struggle between the King and Parliament for the control of two things: The power to tax and the power to spend. Only after 400 years of bloodshed and after a number of members of Parliament were sent to the Tower and sometimes beheaded, did Parliament finally gain the ultimate power over the King to decide not only what taxes would be raised, but to scrutinize the expenditure of public funds. We will soon be considering delegating to the President one-half of that power. It is said we are only going to do it for the rest of this fiscal year. That may or may not be true. But, if we do it, I would hate to see Congress get into the habit of doing it year by year, because if we do, we are going to erode one of the fundamental protections that Congress and, in a larger sense, the people of this country have.

I ask unanimous consent to have printed in the RECORD an editorial published in the Washington Post this morning entitled, "The Spending Limit Shell Game," because I think it dramatically illustrates the dilemma and the possible clash of interest that we may be placing ourselves in if we are willing, as Congress, to give away to the President this very precious power which for 700 years, in England and the United States, Parliament, and Congress have fought to obtain and maintain.

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

THE SPENDING LIMIT SHELLGAME

Congress is now taking the first slippery step in a historic retreat from legislative responsibility. The House Ways and Means Committee has reported a bill giving President Nixon the authority to cut spending this year to $250 billion, with unlimited license in the way he goes about it. The standing of the Ways and Means Committee is sufficient that it support, unfortunately, makes passage of the bill entirely likely. Under its Democratic leadership, Congress is now colluding with Mr. Nixon to conceal from the American people, until after the election, the full meaning of this bill. The Democratic leadership is apparently fearful of being attacked as spendthrift. But voters are entitled to know—before they vote—the scale and character of the damage that this measure promises.

Federal spending for the current fiscal year can be held to about $256 billion with conventional vetoes. The effect of the spending limit is to give Mr. Nixon prior congressional approval to cut about $6 billion out of the money already provided by law. It is worth working out a bit of arithmetic to see exactly what that means.

The bill covers the year ending next June and, after the election, Mr. Nixon would have about seven months in which to save $6 billion. To do it, he would have to cut programs that spend money at the rate of $11 billion a year. The next step is to see where that $11 billion might lie.

The Nixon administration does not intend to take the military budget much below $75 billion. The income support programs, with the supporting Medicare and Medicaid, are very nearly untouchable. The administration has promised not to reduce Social Security, and for practical reasons the welfare payments are hard to reach. These categories come to well over $100 billion a year. Interest on the federal debt is also untouchable, and comes to some $14 billion a year. Farm price supports and subsidies account for another $5 billion, and Mr. Nixon is not likely to cut these, and still less likely to touch his own $5 billion general revenue sharing program. These items alone add up to some $200 billion.

The $11 billion will thus have to come out of the $55 billion that remains once the largest and most obvious untouchables and impossibles are set aside. But even the $55 billion remainder is full of invulnerable items, from the FBI appropriation to Congressmen's salaries. The big construction programs, like highways and reclamation, can be diminished slowly. From this it is perfectly plain that the weight of the cuts will fall on the social and educational end of the budget.

The effect of this $6 billion cut, taken over seven months, would be a reduction of about one-third in federal spending in the fields ranging from pollution abatement and environmental protection to child care, school aid, help to higher education, manpower training, housing and urban improvement generally. The impact would be cumulative, growing increasingly severe next spring.

These cuts would fall disproportionately on the programs funded by grants to state and local governments. Ironically, a reduction on the scale of this $6 billion could well leave state and local governments right back where they were before Mr. Nixon introduced his much-advertised revenue sharing bills.

Mr. Nixon gives first priority, in domestic affairs, to low tax rates. He has presided over two large tax cuts in the past three years, and he has promised to preserve them even though the economic recovery is now building up strong inflationary pressures. He gives second priority to a low rate of inflation, and everything else is ranked behind that. The Democratic leadership of Congress has allowed itself to be persuaded to accept the Nixon order of priorities, and to join him in obfuscating, for the crucial next six weeks, the consequences of these massive budget reductions. But before voters make up their minds on this central question, they would be well advised to take stock of the federal government's social and educational responsibilities in their own communities. They can then decide for themselves whether those responsibilities now ought to be cut by one-third. Only after these calculations have been made can the American voter reach a valid judgment on the merits of the budgetary shellgame that a Republican President and a Democratic Congress, each for its own political purposes, are conspiring to set under the guise of simple frugality.

IMPORTATION OF PRECOLUMBIAN SCULPTURE—MOTION TO RECONSIDER ENTERED

Mr. JAVITS. Mr. President, I invite the attention of the chairman of the Senate Committee on Finance. This morning, H.R. 9463, Calendar No. 1170, was passed on the call of the Calendar. I wish to enter a motion, and I hereby enter a motion, to reconsider that measure.

I would like to explain to the chairman of the Finance Committee that I am only doing that to safeguard our rights, because we really have not had an opportunity to even look at the bill; although, we now find on examination that it deals with cargo security measures in air terminals.

I might explain to the Senator from Louisiana (Mr. LONG), that we have a compact pending between New York and New Jersey on that subject. It has been the subject of extensive hearings by the Finance Committee.

In addition, other types of legislation are pending on the subject. It is a very big problem of crime, especially in our area, and perhaps in other areas. All that I would like, if the Senator would indulge us, is to leave the matter pending for a day. I will look into this and then come to him privately, or however, he prefers, and explain our situation to him. If we have any objection to the bill, I will explain to him and why.

Mr. LONG. Mr. President, I believe that, under the rules of the Senate, the Senator can just give notice of his intention to move to reconsider, and that will keep the matter in abeyance until he satisfies himself with respect to this matter. I believe that if he studies it, he will find that there is no reason why he would want to object.

One reason I say this is that we were notified of some opposition to this matter by people who do business in this area, particularly by people who seek to enforce the law in this area. We think we have modified the bill in a way that meets their objections, so that they now have no objection and are in favor of the bill.

I would certainly be happy to have the matter held in abeyance. I think it would be satisfactory if the Senator just gave notice of his intention to move to reconsider; and if he is then satisfied, he can withdraw the motion.

Mr. JAVITS. I thank the Senator.

I give such notice, Mr. President.

The PRESIDING OFFICER (Mr. TUNNEY). The Senator has entered a motion to reconsider, which will be noted on the Calendar.

Mr. JAVITS. The Senator from Louisiana prefers that I give notice of that intention.

A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. As I understand it, a motion to reconsider could be made tomorrow.

The PRESIDING OFFICER. Will the Senator please repeat his parliamentary inquiry?

Mr. JAVITS. Can a motion to reconsider be made tomorrow as well as today?

The PRESIDING OFFICER. It can be made today and the next 2 days of actual session.

Mr. JAVITS. Mr. President, I ask unanimous consent to withdraw my motion at this time.

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

Mr. JAVITS. I thank the Senator.

Mr. LONG. Mr. President, I would suggest that the papers be kept at the desk; and if the Senator wishes to enter his motion, he can do it at an appropriate time.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that, notwithstanding the fact that the able senior Senator from New York entered a motion to reconsider the vote by which H.R. 9463 was passed, which was withdrawn, it be in order, during the period allowed by the rule, to enter another such motion.

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORTS ON PROPOSED TRANSFER OF FUNDS APPROPRIATED TO THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

A letter from the Administrator, National Aeronautics and Space Administration, reporting, pursuant to law, on the proposed transfer of $740,000 of "Research and development" funds to the fiscal year 1972 "Construction of facilities" appropriation; to the Committee on Aeronautical and Space Sciences.

A letter from the Administrator, National Aeronautics and Space Administration, reporting, pursuant to law, on the proposed transfer of $660,000 of "Research and development" funds to the fiscal year 1972 "Construction of facilities" appropriation; to the Committee on Aeronautical and Space Sciences.

A letter from the Administrator, National Aeronautics and Space Administration, reporting, pursuant to law, on the proposed use of $375,000 of "Construction of facilities" funds for the modification of a building at the Manned Spacecraft Center, Houston, Texas; to the Committee on Aeronautical and Space Sciences.

REPORT ON FACILITIES PROJECTS PROPOSED TO BE UNDERTAKEN FOR THE ARMY NATIONAL GUARD

A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on certain facilities projects proposed to be undertaken for the Army National Guard; to the Committee on Armed Services.

PROPOSED SMALL BUSINESS TECHNOLOGY INVESTMENT ACT OF 1972

A letter from the Administrator, Small Business Administration, transmitting a draft of proposed legislation to amend the Small Business Investment Act of 1958, and for other purposes (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

REPORT OF AMERICAN REVOLUTION BICENTENNIAL COMMISSION

A letter from the chairman, American Revolution Bicentennial Commission, reporting, pursuant to law, on activities of that Commission; to the Committee on the Judiciary.

REPORT UNDER DRUG ABUSE OFFICE AND TREATMENT ACT OF 1972

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report under the Drug Abuse Office and Treatment Act of 1972 (with an accompanying report); to the Commitee on Labor and Public Welfare.

PROSPECTUS RELATING TO PROPOSED CONSTRUCTION OF FEDERAL OFFICE BUILDING IN COLUMBUS, OHIO

A letter from the Acting Administrator, General Service Administration, transmitting, pursuant to law, a prospectus relating to the proposed construction of a Federal office building and parking facility in Columbus, Ohio (with accompanying papers); to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. SPARKMAN):

A resolution adopted by the Legislative Council of the State of Arkansas, praying for the enactment of legislation relating to wages of certain employees; to the Committee on Labor and Public Welfare.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

H.J. Res. 1306. Joint resolution making further continuing appropriations for the fiscal year 1973 and for other purposes.

By Mr. INOUYE, from the Committee on Appropriations, with amendments:

H.R. 16705. An act making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1973, and for other purposes (Rept. No. 92–1231).

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. McGEE, from the Committee on Post Office and Civil Service:

Frederick Russell Kappel, of New York, to be a Governor of the U.S. Postal Service; and

Robert Earl Holding, of Wyoming, to be a Governor of the U.S. Postal Service.

ENROLLED BILLS SIGNED

The ACTING PRESIDENT pro tempore (Mr. ALLEN), on September 26, 1972, signed the following enrolled bills, which had previously been signed by the Speaker of the House of Representatives:

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.

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. GRAVEL (for himself, Mr. THURMOND, and Mr. RANDOLPH):

S. 4038. A bill to establish a National Amateur Sports Foundation. Referred to the Committee on the Judiciary.

By Mr. FULBRIGHT:

S. 4039. A bill to amend Public Law 90–553 concerning an International Center for Sites for Chanceries for Foreign Embassies. Referred to the Committee on Foreign Relations.

By Mr. BELLMON (for himself, Mr. ALLOTT, Mr. CURTIS, Mr. PEARSON, and Mr. TOWER):

S.J. Res. 271. A joint resolution to authorize the Secretary of Agriculture to correct certain inequities in the wheat certification program. Referred to the Committee on Agriculture and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAVEL (for himself, Mr. THURMOND, and Mr. RANDOLPH):

S. 4038. A bill to establish a National Amateur Sports Foundation. Referred to the Committee on the Judiciary.

NATIONAL AMATEUR SPORTS FOUNDATION

Mr. GRAVEL. Mr. President, sport is an integral part of American society. Our citizens are known the world over for their enthusiastic pursuit of sports, and the United States enjoys a long history of athletic accomplishments in such international competition as the Olympic and Pan American Games. Since 1900 American educators have recognized sports experiences as a fruitful environment for modification of behavior and the socialization of the individual, and physical education consequently has been made a basic ingredient in the curricular structure of our schools.

Yet, unlike most other nations, the United States does not have a national sports program. There exists no organization, either in the public or the private sector of our society, responsible for or concerned with the policy, planning, conduct, and development of all kinds of sports for individuals of all ages and socioeconomic status.

The administration of amateur sports in the United States is the responsibility of a multiplicity of independent, private, and largely voluntary associations known as the sports-governing bodies. There is no national federation of sports-governing bodies to concern itself with the broader interests of our amateur sports as a whole.

The U.S. Olympic Committee has responsibility for developing more than a score of Olympic sports, of course, but its concern does not extend much beyond administering our participation in the quadrennial Olympic and Pan American Games.

Each independent sports organization seems to be doing its job quite well, given the resources with which it must work, but none is concerned with the broader aspects of planning, coordination, promotion, and support of amateur sports in general. There is no focus for leadership that looks beyond partisan interests to serve the broader needs of the whole nation in amateur sports. The predictable result is the complete absence of any comprehensive policy.

The laissez-faire attitude toward amateur sports has failed to create equal opportunities for participation by all our citizens. It has resulted in disproportionate emphasis being placed on some sports to the detriment of others, and it has weakened the efforts of the United States in international athletic competition.

To correct these problems by strength-

ening and expanding the development of amateur sports in the United States, I today join with my colleagues from South Carolina and West Virginia, Senator THURMOND and Senator RANDOLPH, to introduce legislation to establish a National Amateur Sports Foundation.

The National Amateur Sports Foundation we propose will study national needs relating to amateur sports in order that a comprehensive national policy may be developed. It will broaden the opportunities for participation in a wide variety of amateur sports, it will provide a forum for the voluntary settlement of conflicts within the amateur sporting world, and it will arrange for the provision of much-needed sports facilities, especially in the financially neglected minor sports.

The administration of grants-in-aid to the existing sports-governing bodies and the stimulation of research and development through project funding also will be major functions of the sports foundation.

Most importantly, by strengthening our country's amateur athletic program, the National Amateur Sports Foundation will contribute to the health and physical well-being of our people and provide an alternative to the goallessness which has condemned too many of our young people to the cycle of drugs and delinquency.

Structurally, the sports foundation will be an operating institution, not merely a channeler of funds to already existing bodies. But it will preserve policy control over the conduct of amateur sports in the private sector. The foundation will be a private body corporate under congressional charter, with its initial board of trustees appointed by the President of the United States. Thereafter the board shall be self-perpetuating, except that one of the four vacancies occurring each year after the fourth year shall be filled by the President. The sports foundation will have no authority over existing sports associations, but will command their respect through its knowledge and prestige.

For purposes of organization the foundation will be appropriated $1 million for its first year of operation. These resources will be used to develop a staff and initiate a program of fund-raising in the private sector to seek an endowment which will then be invested to secure an annual operating income for future years. For each dollar raised from non-government sources the Congress will then appropriate $1 in matching funds, up to a total of $50 million. This will provide an endowment fund of $100 million, which conservatively invested can be expected to earn at least $5 million annually for the operation of the foundation.

Given the direction and support a National Amateur Sports Foundation will provide, amateur sports in America can continue to perform an invaluable role in developing the individual and enriching the variety of his experience, contributing to fitness physical well-being, and alleviating some of the pressing social problems facing the Nation.

Mr. President, in 1965, Arthur D. Little, Inc., under the direction of Gen. James M. Gavin, prepared a report of the amateur sporting needs of the United States, in which the idea of a National Amateur Sports Foundation was first proposed. We are deeply indebted to Arthur D. Little, Inc., as the ideas central to the legislation we introduce today were first formulated in that study. I therefore ask unanimous consent that their report, entitled "A Proposal for a National Amateur Sports Foundaton," be printed in the RECORD the text of the National Amateur Sports Foundation Act of 1972.

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

S. 4038

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 Amateur Sports Foundation Act of 1972".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. (a) The Congress hereby finds and declares that, given the proper direction and support, amateur sports have the effect of performing a useful role in developing the individual and enriching the variety of his experience, contributing to fitness and physical well-being, alleviating some of the pressing social problems facing the nation, and encouraging moral behavior and the pursuit of personal excellence. The Congress further finds and declares that, despite a history of important athletic accomplishments, the United States still does not have a comprehensive national amateur sports program; that, because of the multiplicity of private and largely voluntary organizations responsible for the administration of amateur sports activities, there is an immense variety of individual sports programs, in which imbalances, lack of coordination, and neglected functions are too often apparent.

(b) The Congress declares that in order—

(1) to encourage the achievement of individual excellence in the field of physical endeavor;

(2) to reduce inequalities among social, economic, and geographic groups in opportunities to participate in amateur sports;

(3) to coordinate by voluntary means the interests and activities of national sports associations with one another and with related educational and recreational programs of local, State, and Federal Government;

(4) to strengthen and expand development of amateur sports in the United States by—

(A) providing managerial, financial, technical, legal, informational, instructional, and promotional assistance to sports-governing bodies and related organizations responsible for development of individual sports; and

(B) sponsoring and stimulating the establishment of advanced or improved coaching, physical training, and physical education programs;

(5) to strengthen the position of United States competitors in significant international amateur athletic events;

(6) to extend knowledge and facilitate the practice of amateur sports by—

(A) sponsoring or soliciting useful research in such areas as sports medicine, athletic facility and equipment design, and performance analysis;

(B) identifying specific sports facility requirements and arranging for provision of facilities by appropriate public or private groups; and

(C) establishing and maintaining a data bank for the compilation, analysis, and dissemination of information pertaining to all significant aspects of amateur sports;

(7) to promote broadened cultural exchanges with foreign nations in the field of amateur sports; and

(8) to study national needs relating to amateur sports; it is the policy of the United States to establish a National Amateur Sports Foundation to plan, coordinate, promote, and support the conduct and development of amateur sports throughout the United States.

ESTABLISHMENT OF NATIONAL AMATEUR SPORTS FOUNDATION

SEC. 3. There is hereby established in the District of Columbia a body corporate by the name of the National Amateur Sports Foundation (hereinafter referred to as the "Foundation"), which shall not be an agency or establishment of the United States Government. The Foundation shall be directed in accordance with the provisions of this Act by a board to be known as the Trustees of the National Amateur Sports Foundation (hereinafter referred to as the "Board"), whose duty it shall be to maintain and administer the Foundation and to execute such other functions as are vested in the Board by this Act.

PROCESS OF ORGANIZATION

SEC. 4. The President of the United States shall appoint, in accordance with the provisions of section 5 of this Act, incorporators, by and with the advice and consent of the Senate, who shall serve as the initial board of trustees of the Foundation, of whom the President shall designate four to serve for one year, four to serve for two years, four to serve for three years, and four to serve for four years. Such incorporators shall take whatever actions as may be necessary to establish the Foundation, including the filing of articles of incorporation.

BOARD OF TRUSTEES

SEC. 5. (a) The Board shall be composed of sixteen voting members, and the President of the Foundation ex officio. Except for trustees first appointed (as provided in section 4 of this Act), the term of office of each voting member of the Board shall be four years, and replacements shall be selected by a majority vote of the Board, except that one of the four vacancies occurring each year after the fourth year shall be filled by the President of the United States, by and with the advice and consent of the Senate. A successor selected to fill a vacancy occurring on the Board prior to the expiration of a term shall serve only for the remainder of such term. No person shall serve as a member of the Board for more than two terms.

(b) One member of the Board (other than the President) shall be elected annually by the Board to serve as Chairman.

(c) Members of the Board shall be selected from the private sector of American society from among persons distinguished for their dedication to the highest ideals of amateur sports, for their knowledge and experience in sports, and for their freedom from partisan or vocational bias in sports. In considering nominations of persons for selection as members of the Board, due consideration shall be given to equal representation of the diverse interests represented in amateur sports, including differences in race, age, and sex.

(d) The Board shall meet annually at such place and at such time as shall be determined by the Chairman, but he shall also call a meeting whenever one-third of the members so request in writing. Each member shall be given notice, by registered mail mailed to his last-known address of record not less than fifteen days prior to any meeting, of the call of such meeting. A majority of the voting members of the Board shall constitute a quorum.

POWERS OF THE BOARD

SEC. 6. (a) The Board is authorized to solicit, accept, hold, and administer gifts, bequests, or devises of money, securities, or other property of whatever character for the benefit of the Foundation. Unless otherwise restricted by the terms of the gift, bequest, or devise, the Board is authorized to sell or exchange and to invest or reinvest in such investments as it may determine from time to time the monies, securities, or other property composing trust funds given, bequeathed, or devised to or for the benefit of the Foundation. The income as and when collected shall be placed in such depositories as the Board shall determine and shall be subject to expenditure by the Board.

(b) The Board shall appoint a President of the Foundation, who shall serve at the pleasure of the Board, and who shall serve as the chief executive officer of the Foundation. The President shall, subject to the supervision of the Board, manage and carry on the business of the Foundation, including the appointment of such other officers and employees as he may deem necessary for the operation of the Foundation. The Board shall fix rates of compensation for officers and employees of the Foundation.

(c) The actions of the Board, including any payment made or directed to be made by it from any trust funds, shall not be subject to review by any officer or agency other than a court of law.

GENERAL AUTHORITY OF FOUNDATION

SEC. 7. The Foundation shall have the authority to do all things necessary to carry out the provisions of this Act, including but without being limited thereto, the authority—

(1) to make such bylaws, rules, and regulations as may be necessary for the administration of its functions under this Act;

(2) to adopt an official seal which shall be judicially noticed;

(3) to sue and be sued, complain and defend in any court of competent jurisdiction;

(4) to contract and be contracted with; and

(5) to acquire, control, hold, lease, and dispose of such real, personal, or mixed property as may be necessary to carry out the purposes of the Foundation.

OFFICES

SEC. 8. (a) The principal office of the Foundation shall be in Washington, District of Columbia, or in such other place as may later be determined by the Foundation, but the activities of the Foundation shall not be confined to that place, but may be conducted throughout the United States and all other locations as may be necessary to carry out the purposes of the Foundation.

(b) The Foundation shall maintain at all times in the District of Columbia a designated agent authorized to accept services of the process for the Foundation. Service upon, or notice mailed to the business address of, such agent shall be deemed notice to or service upon the Foundation.

USE OF FOUNDATION ASSETS OR INCOME

SEC. 9. (a) No part of the assets or income of the Foundation shall inure to any officer or trustee or be distributable to any such person during the life of the Foundation or upon its dissolution or final liquidation. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to officers of the Foundation or reimbursements for actual necessary expenses in amounts approved by the Board.

(b) The Foundation shall not make loans to its officers, trustees, or employees.

PROHIBITION AGAINST THE ISSUANCE OF STOCK OR PAYMENT OF DIVIDENDS

SEC. 10. The Foundation shall have no power to issue any shares of stock nor to declare or pay any dividends.

DISSOLUTION OR LIQUIDATION

SEC. 11. Upon dissolution or final liquidation of the Foundation, after discharge or satisfaction of all outstanding obligations and liabilities, the remaining assets of the Foundation may be distributed in accordance with the determination of the Board and in compliance with this Act and all other Federal and State laws applicable thereto.

RESERVATION OF THE RIGHT TO AMEND OR REPEAL CHARTER

SEC. 12. The right to alter, amend, or repeal this Act is expressly reserved.

REPORTS

SEC. 13. The Board shall submit to the President of the United States for transmittal to the Congress in January of each year a report which shall include a comprehensive description of the activities and accomplishments of the Foundation during the preceding calendar year, together with an evaluation of such activities and accomplishments in terms of the attainment of the objectives of this Act and any recommendations for additional legislative or other action which the Board may consider necessary or desirable for attaining such objectives.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 14. (a) The accounts of the Foundation shall be audited annually, in accordance with generally accepted auditing standards, by independent certified public accountants or independent licensed public accountants, certified or licensed by the Government of the District of Columbia. The audit shall be conducted at the place or places where the accounts of the Foundation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Foundation and necessary to facilitate the audit shall be made available to the person or persons conducting the audit; and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(b) A report of such audit shall be submitted to the Congress not later than six months following the close of the fiscal year for which the audit was made. The report shall set forth the scope of the audit and shall include such statements as are necessary to present fairly the assets and liabilities of the Foundation; its surplus or deficit, with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the income and expenses of the Foundation during the year; and the independent auditor's opinion of those statements. The report shall not be printed as a public document.

APPROPRIATIONS

SEC. 15. (a) For the fiscal year ending June 30, 1973, there is authorized to be appropriated to the Board the sum of $1,000,000 for use by it in carrying out the provisions of this Act.

(b) For each fiscal year following the fiscal year ending June 30, 1973, there is authorized to be appropriated to the Board for use by it in carrying out the provisions of this Act an amount equal to the amount of donations, bequests, and devises of money, securities, and other property received by the Board during the fiscal year preceding the fiscal year for which such appropriation is made, except that the total aggregate amount appropriated pursuant to this subsection shall not exceed $50,000,000.

A PROPOSAL FOR A NATIONAL AMATEUR SPORTS FOUNDATION, JANUARY 1965

SUMMARY

In July, 1964, President Lyndon B. Johnson requested James M. Gavin to investigate the possibility of establishing a new national institution for the purpose of providing American youth with a better opportunity for achieving excellence in amateur sports.

The resulting study was financed and carried out as a public service by Arthur D. Little, Inc., with the assistance of a grant from The Fuller Foundation, Inc., of Boston. Our approach was:

(1) To evaluate the present status and future plans of competitive amateur sports in the United States and in selected foreign countries;

(2) To analyze data and opinion on scale of need for additional or improved administration, facilities, equipment, training, finance and research;

(3) To determine the organization, staff, program, budget, and financial plan for a new national institution designed to meet identified needs.

Findings

Amateur sports perform a useful role in developing the individual and strengthening the fabric of society. Given the proper direction and support, sports are a powerful force for enriching the variety of experience, contributing to fitness and physical well-being, alleviating some of the pressing social problems of the underprivileged, and encouraging ethical behavior and the pursuit of personal excellence in an important dimension of human endeavor.

Other nations recognize physical fitness and amateur sports as public responsibilities, and in recent years have expanded their national sports programs, supporting them with public funds. The evidence also points toward growing emphasis upon achievement at international athletic competitions, notably by the quadrennial Olympic Games.

Despite an unparalleled history of athletic accomplishments, the United States does not yet have a comprehensive national amateur sports program to meet changing conditions both abroad and at home. Because of the multiplicity of private, and largely voluntary, organizations responsible for the administration of sports activities, the dominant characteristic is immense variety with corresponding imbalances and neglected functions.

The most critical problems still unresolved are the following:

(1) There is no focus for leadership that looks beyond partisan sports interests to serve the broader need of the entire nation.

(2) There is no comprehensive amateur-sports policy or program for the nation as a whole, and no private or public body concerned with the formulation of such a policy and program.

(3) There is no center for coordination of existing sports programs with each other or with related activities such as education and medicine.

(4) There is need of additional financial and managerial assistance for underdeveloped sports, which lack backing and guidance beyond that provided by scattered voluntary enthusiasts.

(5) There is no source of technical support for amateur athletics such as sports medicine and facility and equipment design, and no sponsor for broadened programs of training and support to education in athletics.

None of these problems is likely to be resolved satisfactorily in the absence of a new organization of appropriate scale and quality; and, as a consequence, the United States in the long run risks falling behind other nations of the world in the quality of its performance in competitive amateur sports.

Our study thus confirms the widely held view that steps should be taken in the public interest:

(1) To reduce inequalities among social, economic, and geographic groups in oppor-

tunities to participate in amateur athletics at all levels;

(2) To assist in the solution of social problems of underprivileged younger people in both urban and rural areas;

(3) To strengthen the position of the United States in significant international athletic events;

(4) To promote broadened cultural exchanges of athletics and coaches with foreign nations;

(5) To exert a harmonizing influence on presently partisan athletic groups;

(6) To enrich and complement educational programs at all levels, and generally

(7) To encourage the achievement of excellence in the field of physical endeavor commensurate with national achievement in economic, scientific and other cultural fields.

Recommendations

We recommend the creation of a new institution, to be called the National Amateur Sports Foundation, to plan, coordinate, promote, and support the conduct and development of amateur sports throughout the United States.

Within these broad objectives, the Foundation should perform the following principal functions:

(1) Study and advise on national needs relating to competitive amateur sports, leading t the formulation and maintenance of a national policy to guide both Government and the private sector in their respective fields of activity;

(2) Coordinate by voluntary means the interests and activities of national sports associations with one another and with related educational and recreational programs of local, state, and Federal Government;

(3) Strengthen and expand the development of competitive amateur sports in the United States by:

(a) Providing managerial, financial, technical, legal, informational, instructional, and promotional assistance to sports-governing bodies and related organizations responsible for development of individual sports; and

(b) Sponsoring and stimulating the establishment of advanced or improved coaching, physical training, and physical education programs;

(4) Carry out activities that extend knowledge or facilitate the practice of amateur sports by:

(a) Sponsoring or soliciting useful research in sports, medicine, athletic facility and equipment design, performance analysis and the like;

(b) Identifying specific sports facility requirements and arranging for provision of facilities by appropriate public or private groups; and

(c) Establishing and maintaining a data bank for the compilation, analysis and dissemination of information pertaining to all significant aspects of amateur sports.

As illustrated in Figure 1 (not reproduced), the Foundation should be an operating organization in addition to serving as a source of financial assistance through grants-in-aid to sports programs of other bodies. It should have a permanent staff with diverse skills and be many different things, including impartial spokesman, planner, coordinator, catalyst, energizer, technical consultant, financial conduit, and fund-raiser. Thus it will perform most, if not all, of the essential functions that are not currently being carried out by existing organizations, and serve to mobilize existing financial, technical, and human resources in support of a comprehensive national amateur sports program.

The Foundation should be organized as a private body corporate under Congressional charter with the President of the United States bestowing upon it the prestige of his office by appointing the initial board of trustees and a minority of successor trustees as vacancies occur. It will thus represent a unique fusion of the public interest and private initiative in an area of activity traditionally free from Government control.

The board of trustees of the Foundation should be constituted of 16 distinguished citizens, selected in the first instance by the President of the United States from the private sector of American society for their dedication to the highest ideals of amateur sports, for their prominence in diverse fields of endeavor, for their ability to lead and guide, and for their freedom from partisan or vocational bias in sports. The normal tenure in office of trustees should be four years, with replacements being selected by a majority vote of the board itself, except that one of the four vacancies occurring each year after the fourth year should be filled by the President.

The Foundation's staff should consist of at least twenty-five highly qualified professionals together with clerical and secretarial help organized by function at three levels: management, technical staff to provide expert skills in specialized areas; and "line" staff to work directly with the sports organizations in an advisory capacity. Each individual on the staff must have outstanding competence in his specialty since he will be occupying a preeminent position in his professional field as well as filling a role of national importance.

The Foundation's management should consist of a president, a managing vice-president, and a manager of the Washington office, who are assisted by a treasurer-controller, outside legal counsel, and public relations skills of the attached technical staff. The technical staff should be composed of six highly qualified specialists (assisted by nine other working personnel in the following technical areas: statistical research; communications services; sports medicine; training and education; facility planning; and financial services. The two technical areas requiring the greatest amount of in-house capability in terms of personnel and operating budget are those in which it is expected the Foundation will perform original work—namely, statistical research and communications services. A staff of six sports advisers would provide assistance to governing bodies and related organizations by drawing on the technical and financial resources of the Foundation with the aim of strengthening those organizations to carry out more effectively their own independent sport-development programs.

To provide a point of contact for the Foundation on matters relating to Government programs, as well as to facilitate integration of federal activities affecting athletes, the internal organization of the Federal Government related to sports should be centralized and strengthened.

Organizing the Foundation during the first year will require an estimated $500,000. Once full-scale operations are reached, the minimum financial requirement for maintenance of a nationally significant sports program is estimated at $3 million per year, including $800,000 for the Foundation's internal operations and the balance for grants and research projects. Tremendous progress can be made with this nominal input of effort and money, which is modest compared with the effort other nations have mounted.

The Foundation should be financed from endowment which it should seek to raise within a three-year period in a manner that will not be competitive with its prospective beneficiaries. A secure income of $3 million from conservatively invested endowment for a tax-exempt organization will require assets on the order of $70 million. At least half can be expected from a well-organized appeal to the public at large, provided the Foundation has the enthusiastic backing of the President, the strong support of a distinguished board of trustees, professional fund-raising counsel and planning, and wide acceptance by leaders of amateur sports and public opinion, communications media, and the public.

We recommend one further measure, which would set the Foundation apart as a very nearly unique instrumentality in American life. The fact that the National Amateur Sports Foundation will be a truly *national* institution discharging, through private means, a function that serves the public interest should be recognized by the Government's participation in the financing of the new institution. We therefore recommend that the President request the Congress to authorize the appropriation of a matching grant to the trustees of the Foundation, for its endowment, one dollar for each dollar of funds contributed from private sources for a limited period of three years, up to a maximum of $50 million in matching funds. Thus, without risk of Federal control of basic policy in amateur sports, the Government can express its endorsement of the national goals to be served by the Foundation and, at the same time, stimulate the flow of private funds. Such legislation would ensure the success of the Foundation's drive for financial support from the private sector of the nation and establish its place in the world as a private institution entrusted with a public interest.

INTRODUCTION

There have been recurrent proposals in recent years for the establishment of a new national institution to plan, coordinate, and stimulate the further development of amateur sports in the United States. The common objective of these proposals has been to adapt existing U.S. sports programs to changing social and political conditions in this country and abroad by undertaking more comprehensive physical fitness and sports development on a national scale. Underlying all proposals is the belief that such a new institution could significantly contribute to the quality of our society by encouraging broadened athletic participation and the achievement of excellence in the field of physical endeavor at a level commensurate with national achievement in economic, cultural and scientific fields. Implicit in this belief is a recognition that the United States, unlike most other nations of the world, now lacks any public agency or private institution having broad responsibility to see that amateur sports of all kinds fulfill their potential in promoting the general welfare of the nation.

A first step toward more effective programs in this field was taken in August, 1963, when President John F. Kennedy under Executive Order 11117 established the Interagency Committee on International Athletics within the Executive Branch of the Federal Government "to collect, exchange, and review information concerning amateur athletics that might tend to affect the foreign relations or general welfare of the United States." This Committee subsequently recommended the creation of an independent, privately financed sports development foundation to supplement the work of existing sports bodies.

In July, 1964, President Johnson wrote to James M. Gavin, former U.S. Ambassador to France and now Chairman of the Board of Arthur D. Little, Inc., asking him to initiate a study which might lead to the establishment of a foundation that would "promote and underwrite action to improve the physical education of American youth, as a basis for improved national proficiency in amateur sports competition." (See Appendix.) His letter went on to say that "the improvement of the physical education of our young men and women thereby providing the opportunity for achieving high standards of excellence in amateur sports is a matter of great importance." Following James M. Gavin's acceptance of this assignment, The Fuller

Foundation, Inc., of Boston, offered to support the effort by jointly sponsoring a special study with Arthur D. Little, Inc. This report presents the results of that study.

At the outset it became apparent that astonishingly little comprehensive information of national scope is available on the status, problems, and developmental needs of amateur sports in the United States. Information that does exist is often fragmentary in nature, pertaining to only one sport, one class of participants, or one region of the country. There is, for example, no national inventory of indoor and outdoor sports facilities; there are few reliable estimates of the number of participants in various types of sports; no listing of technical research and development projects relating to sports medicine, equipment or facilities; and very little financial data on either public or private support of amateur sports activities.

We were therefore fortunate that, concurrent with the present study, Arthur D. Little, Inc., was retained by the United States Olympic Committee to undertake an independent analysis of the country's Olympic effort. The report of this more comprehensive study, extending over a longer period of time, will include profiles of individual Olympic sports as well as evaluation of a number of topics relevant to all amateur sports, including administration, training, equipment, facilities, medicine, data collection and retrieval, selection of athletes, and finance. Through the cooperation of the U.S. Olympic Committee, it has been possible for us to coordinate these two investigations to the extent permitted by their different schedules, and, as a basis for many of the judgments and conclusions reached in this report, to draw on the extensive field-interview and data-collection program being conducted for the U.S. Olympic Committee.

The study presented here, however, required additional data collection and analyses, with a separate interview program designed to meet its specific needs. Accordingly, a series of interviews on topics uniquely relevant to the proposed foundation has been conducted among selected sports leaders and key representatives of amateur sports associations and sports-governing bodies, educational institutions and allied physical education associations, philanthropic foundations and fundraising organizations, and various departments, agencies and committees of the Federal Government concerned with problems of public recreation and amateur sports.

Our approach has thus been to gather and examine a wide range of evidence and opinion submitted by organizations or individuals who are, in one way or another, concerned with furthering the aims of amateur sports within the American way of life. In addition, for purposes of comparison as well as contrast, we have investigated to a limited extent that which is being done in sports in other countries. Besides attending the 1964 Olympic Games—which is the quadrennial culmination of national achievement in the field of amateur sports—for the purpose of discussing foreign sports programs with knowledeable persons from many countries assembled in Tokyo, members of our staff met with sports officials in Canada and Great Britain, which have needs and activities similiar to those of the United States, to explore the nature of national programs under way in these countries for developing physical fitness and amateur sports.

THE STATUS OF AMATEUR SPORTS IN THE WORLD TODAY

Before turning to a discussion of factors that tend to inhibit sports participation and development in this country as a framework for evaluating the need for a new national institution, it seems worthwhile to consider the role of amateur sports in modern society, and to compare the level of support provided in this country against the standards being set by other nations. The fundamental question to be answered by this line of inquiry is whether the American society, either on its own terms or in comparision with other societies, provides adequate opportunity for all its people to engage in amateur sports and attain personal excellence in athletic performance. Underlying this question is an even more basic issue—whether amateur sports constitute a sufficiently significant element of our national life to merit additional public support.

The role of athletics in American society

Individual and Social Values

A very substantial body of literature has been devoted to the physical and social values of sports in the United States and abroad. So far as the physical aspects of sports are concerned, the general reasoning seems to be that athletic participation, by exercising and training the muscles of the body, will over time contribute to physical fitness and the enjoyment of good health. Although very little substantive evidence exists correlating exercise with health, the reason may be more the inadequacy of objective measures by which fitness and health can be judged than the absence of any causal relationship. Certainly most doctors support the claim that exercise influences control of body weight, development of greater physical efficiency and reserve capacity, and the acquisition of muscular strength and coordination necessary to handle normal physical work loads. It seems very likely that, barring conditions of illness, injury, or advanced age, participation in physical activity, whether it be for work or for play, has a beneficial influence upon the muscular development and physical well-being of the individual.

The assumption that exercise and play are especially valuable to children and youths in the developmental stage of their life is one of several reasons why physical training is now widely accepted as an essential element of the total educational process. Implicit in this acceptance is a recognition that the individual, if he is to realize his full potential, must develop the body as well as the mind, and become proficient in physical as well as intellectual skills. This was a principle which the civilization of ancient Greece exalted and revered, and which survived many centuries of change to become an inspiration for the modern Olympic Games.

Perhaps even more important than the physical are the emotional, ethical, and social values seen in sports. As the most inexperienced instructor of any children's physical-education course well knows, the pursuit of fitness through exercise for its own sake can often be a tedious process when it lacks the incentive or excitement of the game. It is not without reason that the dictionary defines sport first as "that which diverts and makes mirth," and second as an "athletic game." Few people will deny that recreation and games, even if only witnessed before the television set, are an integral part of our way of life. Competitive games are a source of interest and enjoyment for most individuals. Sports also provide a means of asserting individuality and achieving self-expression, particularly in an industrialized society, where the individual is often relegated to performing specialized roles involving repetitive, rather than creative activity. Sociologists suggest that participation in competitive games can lead to the development of qualities that are useful to society as well as to the individual—by sparking the motivation or drive for success; by teaching youth to strive either individually or in cooperation with his teammates for goals within a system of formal rules governed by a concept of "fair play," and by instilling the code of "sportsmanship," which, though difficult to define in the abstract, is a trait which people around the world understand and respect.

Another probable social value attributed to sports is that they constitute what is generally held to be a proper and constructive use of leisure time, a particularly important factor in the United States where leisure is becoming increasingly more available. Defined as a "time free from occupation or work," leisure is a period for play, one very obvious form of which is organized amateur sports. Assuming that the availability of leisure will grow as the work week diminishes and the standard of living rises, there will be increasing demand for play opportunities, one consequence of which will be a continually expanding need for amateur athletic programs and facilities to serve all age levels of our society.

Of prime importance, however, are the play needs of the nation's youth. There are indications that denial of those needs can give rise to serious social problems, particularly among underprivileged classes in both urban and rural areas. It is widely believed, for example, that juvenile delinquency in our large cities can be attributed in part to the lack of opportunity for underprivileged youths to engage in constructive forms of physical activity, such as organized games. Some of the more successful efforts by church and welfare organizations to combat juvenile delinquency in urban areas have involved instituting active neighborhood athletic programs as a means of channeling the physical energy of children and youths into socially acceptable forms of play. On the other hand, it appears that relatively less effort has been directed at helping youths who live in remote rural areas. This is not to say that similar social problems do not exist among low-income rural families, but merely that public attention is not repeatedly directed to the conditions in rural areas by dramatic incidents, such as race riots, gang warfare, and other forms of group violence.

Besides striving to correct social inequities and to improve the general living conditions of the underprivileged, however, we appear as a society to have accepted a broader responsibility, perhaps most appropriately classified as a cultural objective, to cultivate the ideal of the whole man having highly developed physical as well as intellectual, cultural, moral, and ethical attributes, sometimes referred to as "the pursuit of excellence." It thus seems to be widely accepted that one of our national goals is to furnish the individual and the public with adequate opportunities for organized play, while at the same time encouraging the attainment of excellence on the athletic field. The notion of providing opportunity for the unusually talented athlete to rise to the limits set by his ability does not appear to be out of line with democratic traditions and principles. In considering this matter, we have been much impressed with the reasoning presented in a recent report appraising the position of sports in Great Britain: [1]

"We also want to see such of these young people as are exceptionally gifted given opportunities for participation at a high level. We are thinking not of professional sport but of the possibility, for the outstanding boy or girl, of really high-level performance. Obviously there must be safeguards against exploitation, and obviously these particular boys and girls will be a tiny minority. But our evidence has convinced us that these outstanding individuals make a valuable contribution to the sport or pursuit in which they excel. The ordinary performer regards these exceptional persons as ideals; standards are set by them; and they represent to the ordinary performer a standard of achievement which is beneficial to all. There is, of course, a danger that the outstanding will be 'spoilt,' physically, emotionally or in char-

[1] *Sport & The Community*, Report of the Wolfenden Committee on Sport, published by The Central Council of Physical Recreation, London, 1960.

acter. But again, our evidence has convinced us that in the vast majority of cases, where they have sensible parents and understanding coaches, these young 'stars' grow in maturity and responsibility by reason of their successes. So it is to the benefit of everybody concerned that the fullest opportunities should be available to them."

There is thus believed to be an interrelationship between the wholesome participation of the many and the excellence of the few; and large-scale participation increases the probability of the emergence of outstanding performers, whose great achievements in turn inspire the participation of others. The Wolfenden Report on Sport further comments upon the importance of offering breadth as well as depth of experience:

"We want to see young people, particularly at the stage of adolescence, given the opportunity for tasting a wide range of physical activities. To make this possible there is need for a correspondingly wide range of facilities, so that they may, by trying their hand at different activities, discover which among the possibilities is the one for them. There is need also for sympathetic teaching or coaching, not primarily in order to turn them all into experts but in order that they may have the chance of making the best of their abilities in this line as in others; playing a game better is almost the same as enjoying it more, and there are not many young people who do not want to play better."

In short, the evidence indicates that amateur sports can perform a useful role in developing the individual and strengthening the ethical fabric of society. Given the proper direction and support, sports can become a powerful force for enriching the variety of our experience, for contributing to our general fitness and physical well-being, for alleviating some of the social problems of the underprivileged, and for encouraging the pursuit of excellence in still another dimension of endeavor.

International Implications

We find sharply divided opinions regarding the importance of amateur sports competition in the foreign relations of the United States. To illustrate the extreme viewpoints: There are those who claim that international competitions, such as the quadrennial Olympic Games, constitute a form of political arena in which national teams compete as seriously for success as do armies on the field of battle. Since national prestige is at stake, the argument runs, it is just as vital to field a consistently "winning" team, however unofficial its victory may be, as it is to demonstrate continued supremacy in scientific, technological, and economic achievements. On the other hand, there are those who claim that international amateur sports have no political dimensions or significance and that international competitions are in fact, and should be regarded as, individual and personal, rather than national, performances.

Whatever one's private convictions on this subject may be, it seems clear that international amateur sports competitions, such as the Olympics, are enormously popular and widely publicized events in which people of all nationalities and races can meet and compete equally on a friendly basis, achieve meaningful self-expression, and oftentimes demonstrate superb achievement, regardless of the size or economic power of the country producing or sponsoring the athletes. It is also a fact that nations are deeply concerned with the image they project before the world, and they understandably take great pride in the accomplishment of their athletes at international games. In the minds of many, to perform well in a variety of different sports is to convey an image of vigor, strength, and accomplishment on behalf of the nation or society which fields a successful team.

While we agree that excessive emphasis upon the political or propaganda aspects of international competitions is unfortunate and can injure the spirit in which such games as the Olympics were conceived and are conducted, we nevertheless are impressed by the evidence of keen concern over Olympic performance displayed in communications media around the world, and in the substantial financial and political support given to fielding strong competitors by most countries of the modern world. We thus conclude that it is in the national interest for this country, as a part of its total international relations program, to create and maintain the kind of environment which produces athletes of the highest caliber. The critical question thus becomes not whether we should desire to excel in whatever we undertake, but rather selection of the means through which we can best encourage excellence. As background for discussion of means as well as evidence of foreign country determination in this field, we next review briefly the status of amateur sports abroad.

Foreign sports programs

Since our investigation here was aimed at gaining further perspective on the role of amateur sports in modern societies as well as developing a standard of comparison for the sports effort of this country, we considered the nature of sports programs in selected foreign countries. In view of the complexity of the subject and the number and diversity of countries to be covered, our investigation was limited in scope and detail to basic information available in printed form or else readily obtainable through interviews with key sports personnel. For this purpose, we met with a considerable number of officials attending the Olympic Games in Tokyo, visited both Canada and Great Britain for discussions with private and government sports figures there, and reviewed the results of a recent survey of foreign sports programs undertaken by the U.S. State Department covering some 200 diplomatic posts in 120 different countries.

The basic questions to be answered were:

1) How important a role do amateur sports play in the affairs of other nations?

2) To what extent do other countries have a national sports policy and programs for the conduct and development of sports?

3) What is the scale of sports programs currently under way, and how successful have they been?

4) How are such programs administered and financed, particularly with regard to the respective roles of public and private sectors?

It was found, with few exceptions, that foreign nations officially recognize and admit the importance of physical training or fitness and proficiency in amateur sports. A surprisingly large number of European, Asian, African, and South American countries have created ministries, departments, directorates, or agencies within the central government for the specific purpose of planning, coordinating, promoting, and providing financial assistance to national sports programs. For the most part, foreign countries tend to view the physical fitness of the population and the amateur sports achievements of athletes as a public responsibility within the broader definition of education and health. Besides expanding opportunities for youth to engage in recreational and competitive sports by provision of public facilities, coaching staffs, and equipment both within and outside of the educational system, they frequently establish and support at public expense special facilities or training centers for grooming an elite corps of athletes. Such programs give implicit recognition to the fact that athletic achievement is an instrument of foreign, as well as domestic, policy.

Although it is difficult to generalize upon the extremely diverse patterns of foreign sports programs, one useful approach is to characterize these programs by the degree to which the central government is directly involved in administering or supporting sports activities. Here we see four broad categories of government participation:

1) In a very few countries, such as the United States, Australia, and New Zealand, there is little or no direct governmental responsibility for or support of sports activities. All amateur sports events and development activities are sponsored and financed by independent sports-governing bodies or associations with the aid of private contributions. The government generally provides indirect assistance, however, in the form of public recreational lands and facilities, aid to education, and military participation in amateur sports competitions.

2) Most countries of Western Europe have adopted a compromise approach wherein the central government provides financial assistance to sports, either through financial grants or the allocation of a percentage of the proceeds of national sports lotteries, while control over sports activities remains in the hands of privately administered associations. The majority of these countries, however, maintain a staff of officials within a ministry or department of the Government such as Education, Health, and Welfare, or Interior, with responsibility for evaluating programs and recommending policy on physical fitness and amateur sports.

3) New nations in Africa and Asia tend to view sports as an opportunity within their means to achieve national recognition and standing among established world powers. For this reason, these governments tend to promote sports as a matter of national pride not only by furnishing direct financial assistance to organizations and athletes, but sometimes by directly administering the conduct of important national sports programs. A similar position has been taken by France, which has also appointed an official at Cabinet level who supervises and provides financial assistance to the national sports federations, the national Olympic committee, and other bodies.

(4) Almost total state or party domination of sports is found in the USSR, which appears to be the prototype for other Communist Bloc countries. Until 1959, the USSR administered its national sports program through the All-Union Committee of Physical Culture and Sport (AUC), which was attached to the USSR Council of Ministers and was responsible for the overall direction, planning, and financing of sports. In 1959, the AUC was dissolved and its functions assumed by the Union of Sport Societies and Organizations (USSO), ostensibly having a democratically elected leadership. Sports thus have been the first state function in the Soviet Union to be replaced by a pseudo-private organization.

To the extent that trends are discernible, the evidence indicates: (a) increasing recognition by central governments of a responsibility to promote both physical fitness and amateur sports programs, usually in combination with, and as an adjunct of, youth education; (b) growing emphasis upon participation and achievement in international sports competitions, notably the quadrennial Olympic Games; and (c) a greater tendency to allocate public monies in support of amateur sports programs. This gradually intensifying national interest in sports seems to have evolved from a combination of factors, in particular the emergence of new nations, which seem to view sports as a means of attaining recognition more difficult to achieve in other spheres of influence; the apparent decision of Communist nations in the early 1950's to project a positive image of physical vigor and athletic excellence by aggressive sports development and participation in international competitions—a move which is now being countered to some extent by the

Western countries; and heightened interest in physical well-being by people throughout the world.

Some insight may be gained into the importance with which other nations view their sports programs by inspection of supporting expenditures of central governments. Information on the financing of sports programs is incomplete and frequently misleading because of the difficulty in segregating expenditures for amateur sports from those for broader applications, such as health, education, and recreation. Futhermore, since foreign government systems tend to be more centralized, the figures are not necessarily comparabale with those of the United States, where extensive local and state funding supplements that of the Federal Government. Even so, such statistics as have been published indicate an impressive level of support of athletics by national governments.

It is a common practice among European countries to allocate to sports a portion of the national football (soccer) lotteries.[2] During the most recent year for which figures are reported, for example, Italy channeled over $10 million of its national lottery into sports through its national Olympic committee, Comitato Olympico Nazionale Italiano (CONI); West Germany spent over $10 million, most of which was allocated for construction of new facilities; and Holland spent almost $3 million, consisting of both direct Government grants and proceeds of a national sports lottery administered by the Netherlands Sports Federation. An equivalent level of *per capita* expenditure in the United States, where the population is much greater, would range between $30 million and $40 million per year.

Although information on Communist nations is more limited, their expenditures for sports programs appear to be even greater both in absolute and relative terms. In 1960, the *New York Times* reported that the Czech Government announced that during the preceding four years the sports pool earned profits of $250 million, all of which went to the support of sports, including subsidization of teams, coaches' salaries, travel expenses, and facilities. Meaningful data are not available on the financing of the USSR's elaborate sports program. Until issuance of *The National Economy for 1959*, published budgets in the USSR always combined sports with public health expenditures. Issues of *The National Economy* have now, however, listed the following appropriations for sports:

[In millions]

	New rubles	U.S. dollars
1950	28	32
1955	58	66
1958	49	56
1959	58	66
1960	64	73

Although Soviet sports officials have refused to clarify the figures, these statistics are believed to be incomplete. It is known, for example, that sports societies received other income from membership dues, gate receipts, rental of facilities to other societies, and, in some cases, production of athletic equipment. Trade union sports societies typically receive 20% of the total trade union budget. Rural sports societies and facilities are financed principally by collective and state farms; and presumably the Soviet Army and security police also contribute to the upkeep of their sport societies, which are the largest and most powerful in the USSR.

Of particular interest to us is the recent history of sports in Great Britain and Canada, which are the countries to which the United States is most closely tied in terms of heritage, traditions, interests, and politics. Late in 1957, The Central Council of Physical Recreation, which is a voluntary association of all national sports bodies in England, Wales, and Northern Ireland concerned with the development of post-school physical recreation, appointed an independent committee under the chairmanship of Sir John Wolfenden for the purpose of examining the status of sports in Great Britain and recommending "what action should be taken by statutory and voluntary bodies if games, sports and outdoor activities were to play their full part in promoting the general welfare of the community."

The report of the Wolfenden Committee, *Sport & the Community*, published in 1960, recommended among other things that, while no significant changes should be made in the present system of administering amateur sports through independent, privately operated sports-governing bodies, the Government should provide greater financial assistance to recreation and sports, amounting to about $28 million per year, through a new agency entitled the Sports Development Council. The primary function of this council would be to supervise expenditure of Government funds for recreation and sports, but it was felt that to accomplish this task properly would require a substantial amount of preliminary information-gathering and research on such questions as the need for additional facilities, improved design of facilities, the relationship between exercise and health, etc. Although the Conservative Government did not officially enact the Committee's recommendations, we understand that many of its proposals were quietly implemented. Financial grants to amateur sports by other departments of the Government have been increased in recent years. During its preelection campaign, the present Labor Government announced its intention to enact the Wolfenden Committee's recommendations.

Canada's experience is perhaps even more immediately relevant than that of the United Kingdom. In 1961, Canada passed a Fitness and Amateur Sport Act, which provided an annual appropriation of $5 million in support of athletics and, at the same time, established a National Advisory Council on Fitness and Amateur Sport, composed of 30 prominent individuals appointed by the Government to advise on sport policies and programs. The responsibility for administering the annual appropriation of funds was given to the Department of National Health and Welfare, which created a Fitness and Amateur Sport Directorate for this purpose. Since its establishment, the Directorate has actually spent only between $2 million and $3 million per year of the appropriated funds. In 1963, approximately one-third of this money was allocated to the provinces on a cost-sharing basis; another third to sports-governing bodies and to agencies or organizations operating national recreational programs; and one-third to federal projects. These projects included establishment of a documentation center and three research centers at Canadian universities, production of instructional-promotional kits for selected sports such as figure skating and skiing, support of provincial efforts to attract international games to Canadian cities, and subsidy of a scholarship-fellowship-research program at the undergraduate and graduate university level. Although this appropriation can be used to support construction of facilities, no money has yet been allocated for that purpose.

Thus, both the British and Canadian Governments have found it expedient to assist development of amateur sports on a nationwide scale. In the case of Great Britain, it was reported that $2.25 million was actually expended during fiscal 1964, exclusive of grants for capital facilities. All of this money is accounted for by grants to The Central Council of Physical Recreation, The British Olympic Association, nationally recognized sports-governing bodies, and individual sports clubs. It was the conclusion of the Wolfenden Committee on Sport that about $14 million per year should be authorized for this purpose, plus another $14 million for capital facilities. In the case of Canada, $5 million has been appropriated, primarily for uses other than construction of fixed facilities.

If the U.S. Government were to provide the same level of assistance to fitness and sports *on a per capita basis* as has been recommended for Great Britain and appropriated in Canada, an amount approximating $50–56 million per year would be required, exclusive of any grants for facilities. While we view a figure of tihs magnitude to be out of scale for the United States in terms either of practicability or national needs, we believe it provides significant commentary on the seriousness with which our sister democracies view their sports programs, as well as the degree to which they interpret sports development to be a public, as well as a private, responsibility.

U.S. sports programs

The Organization of Amateur Sports in the United States

At the outset, it seems necessary to recognize that the United States, whose citizens are known around the world for their enthusiastic pursuit of sports and which enjoys an unparalleled history of athletic accomplishments at the international Olympic and Pan American Games, does not have what can be called by any stretch of the imagination, a truly *national* sports program. There exists today no single individual or organization, either in the private or the public sector of our society, responsible for or concerned with the policy, planning, conduct, and development of all kinds of sports for individuals of all ages and socio-economic status.

The administration of amateur sports in the United States is the responsibility of a multiplicity of independent, private, and largely voluntary associations known as the sports-governing bodies, a number of which are listed in an Appendix. Unlike most nations of the world, we have no national federation of sports-governing bodies that might presumably concern itself with the broader interests of amateur sports *per se*. A number of composite organizations do exist, however, which, though limited in scope, embrace a wider interest. The United States Olympic Committee (USOC), for example, concerns itself with each of some 27 Olympic sports, but primarily for the purpose of administering our participation in the quadrennial Olympic and Pan American Games. The Amateur Athletic Union of the United States (AAU), which is the governing body for some 15 different amateur sports, is generally responsible for the conduct and development of out-of-school athletic programs. Within the educational system there are many different athletic federations, including the National Collegiate Athletic Association (NCAA), which is the largest college athletic association with a membership of 536 colleges and universities; the National Association of Intercollegiate Athletics (NAIA), representing 475 smaller colleges and universities; the National Junior College Athletic Association (NJCAA), with a membership of more than 420 junior colleges; the American Association of Health, Physical Education, and Recreation (AAHPER), which is a department of the National Education Association; the National Federation of State

[2] *The Bulletin du Comité International Olympique* reports that some 24 nations now permit their national Olympic committees to raise funds through sports lotteries. The list includes Andorra, Austria, Belgium, Bulgaria, Czechoslovakia, Denmark, East Germany, Finland, Great Britain, Greece, Holland, Hungary, Iceland, Italy, Luxembourg, Monaco, Norway, Poland, Rumania, Spain, Sweden, Switzerland, Turkey and West Germany.

High School Athletic Associations; and a variety of smaller educational associations and their affiliates. While the work of these and other organizations to promote and develop amateur sports in the United States has been exemplary in many respects, the resulting proliferation of responsibility has created a number of serious problems at the national level.

Despite the extremely complex and fragmented way in which sports are organized and administered, however, the system as a whole works surprisingly well in terms of creating opportunities for youth to participate in athletic activities and to become outstanding athletes, especially in the major sports. Children are exposed to physical fitness and athletic programs at an early age when they enter elementary schools, most of which have compulsory physical education courses covering several hours each week. This program is continued in the secondary schools, which typically expose students to a variety of different competitive sports. About one half of the high school graduates continue their education at the junior college or college level, where the athletic programs offered students generally cover an even wider assortment of sports. As a result of our educational system's sponsorship of competitive sports programs, this country produces an impressive corps of outstanding athletes, as well as a vast number of sports enthusiasts who acquire skills in various games and continue to engage in physical activities for recreational purposes only.

When students leave the educational system, however, the transition into post-school competitive programs is not always easily accomplished. This is particularly true for those who engage in team sports, which involve organized games, and those who prefer less popular sports, such as handball, fencing, speed skating, or rowing, as well as for superior athletes who require top-caliber competition to improve their skills. First, because of the almost total separation between school and post-school athletic programs, the aspiring athlete may be unacquainted with what limited opportunities are available to him outside of the educational system. Second, suitable sports facilities may not be generally available for public use outside of the school system. And third, the problems of creating time to practice and of financing participation now become the responsibility of the individual, who may find it difficult to sustain his or her interest in amateur sports in the face of other pressing demands of adult life. If some means could be found for bridging this "gap" between school and post-school athletic programs, amateur sports activity among older age groups would be materially facilitated, and the quality of our performance at international competitions improved, since in most sports top proficiency is typically attained by post-school athletes.

The Position of "Minor" Sports

The fact that responsibility for development of amateur sports resides with a large number of independent organizations both within and outside of the educational system necessarily means there are wide variations in the emphasis, quality, and success of the programs they undertake. No reasonable person is likely to dispute the claim that the most popular sports probably receive more than adequate attention in terms of the values and overall position of sports in our society. In fact, there are some in educational circles who maintain that too much emphasis is being placed upon certain collegiate sports programs at many of the larger universities. This seems to be characteristic of those sports in which professional athletic contests also command widespread public interest, as in the case of football, baseball, and basketball. Yet the existence of very active professional programs does not always result in inordinate emphasis, excessive activity or development at the amateur level, as illustrated by other popular professional sports such as ice hockey, boxing, wrestling, and tennis.

For the most part, the amateur sports in which we as a nation seem to do best are those which are currently stressed in the secondary schools and colleges, such as football, baseball, basketball, track and field events and swimming. In such events, our accomplishments have been well demonstrated at international games, where we understandably excel in certain areas but perform poorly in others. The resulting imbalance was clearly illustrated by our recent performance at the 1964 Olympic Games in Tokyo, where no fewer than 30 of the total 36 gold medals won by the U. S. team were gained in only two sport categories (swimming and track and field events). On the other hand, the United States was unable to field a qualifying team in soccer, which is the most popular national sport in the world. This is not to say that we should necessarily promote soccer in the United States simply because other nations enjoy the sport, but at least it raises a question of national sports policy. There are obvious advantages to achieving a somewhat better balance in our national amateur sports program, not the least of which is to create a wider range of opportunities for young people to participate in and excel at different kinds of sports.

Inequality of Opportunity

Our essentially *laissez-faire* attitude toward amateur sports in the country has also failed to create equal opportunities for participation by all classes and types of individuals. We have not yet, for example, satisfactorily defined the role of women in competitive sports. This has long been a controversial issue involving popular folklore and social mores more than medical fact or opinion. Evidence seems to indicate, however, that women can and do benefit as much as men from involvement in competitive sports. For this reason we see an increasing number of women's athletic events being added to international competitions. Without attempting here to resolve the differences between medical fact and social opinion relating to this subject, we are nonetheless compelled to take note of the fact that women in the United States are to a large extent excluded from athletic competitions and that even the educational environment affords very limited opportunities for women athletes to participate in the events at which their foreign counterparts often excel.

The question has also been raised whether amateur, as opposed to professional, sports may not be structured for the greater benefit of higher income groups, who can best afford to pursue their pleasure because they have the leisure and money to do so. There is no doubt that physical training in our public school system, activities of various youth service organizations such as the YMCA and YWCA, and provision of public recreational facilities and programs at the local, state, and national levels have, over the years, steadily increased the number and range of opportunities for underprivileged and lower-income groups to participate in recreational athletic programs. Yet it appears to be true in a great many different sports that the nonprofessional athlete who lacks financial resources of his own typically finds it difficult to maintain a high level of proficiency without sacrificing his amateur status. Because of the inadequate financing of so many minor sports, competitors are oftentimes required to pay most, if not all, of their own expenses when they enter the important regional, national, or international competitions. Even the U.S. Olympic Committee, whose activities in recent years have been well financed through voluntary contributions amounting to several million dollars each four-year period, does not defray any expenses of participating athletes until after final selection of the team. During the Olympic trials at the New York World's Fair grounds this past summer, for example, we encountered instances where hopeful contenders of Olympic caliber had hitchhiked across the country and were existing on what little pocket money they had been able to save in order to enter the qualifying trials. In other instances, individual participation was supported by contributions from sports associations or private individuals, but the fact remains that aspiring amateurs from lower economic classes are often seriously handicapped by the inadequate financing of competitive sports activities.

The Role of the Federal Government

It has been noted that the administration of amateur sports in the United States lies almost wholly within the private sector of our society. Unlike most major countries of the world, the United States Government does not ordinarily provide *direct* financial assistance to national sports associations or to the U.S. Olympic Committee, which traditionally raise their funds from private financial contributions, membership dues, gate receipts to Olympic events, and other private sources. *Indirect* assistance, however, is provided in the form of public recreation programs, aid to education, and special services performed by departments within the Executive Branch of the Government. Modest appropriations are allocated for this purpose to the Department of Defense which conducts an athletic program at the military academies and in various branches of the Armed Services, and which supplies a significant number of athletes to the U.S. Olympic teams and participates in international CISM (Conseil International du Sport Militaire) games; and to the State Department, which has instituted small programs for exchanging coaches and athletes with foreign nations. In recent years, the total annual expenditures by the Federal Government for military and diplomatic athletic programs (exclusive of the academies) has probably averaged less than $750,000, which is very small compared with the expenditures of other central governments.

It was not possible within the scope of this study to determine, even roughly, the total of public expenditures for provision of recreational sport facilities at the local, state, and federal levels. Some idea of the magnitude of public expenditures for recreational land and facilities can be gained from the study of the Outdoor Recreation Resources Review Commission, which reported a total outlay by local, state, and federal agencies of $8.6 billion during the 1951–60 period for the general purpose of "outdoor recreation," including conservation, land, parks, waterway systems, etc. According to the Bureau of Outdoor Recreation, only a fraction of this money has been spent on competitive sports facilities, such as the bobsled run operated by New York State, the state owned and operated ski areas of New Hampshire, municipal and county outdoor swimming pools, and the like. No similar estimate has yet been developed of public expenditures on indoor recreation facilities.

Facilities for Amateur Sports

This country has produced through public and private construction an enormous reservoir of indoor and outdoor athletic facilities of all types, a large proportion of which are maintained and operated for public or semipublic use. In the absence of any comprehensive inventory of sports facilities, by type and by location, however, it is difficult to reach fully meaningful conclusions regarding the adequacy of facilities.

When adequacy is understood to include type, distribution and quality as well as

number of installations throughout the country, it is generally known, for instance, that certain specialized sports facilities are either missing or in short supply; examples of these are luge and bobsled runs, speed-skating tracks, velodromes, water-polo pools, shooting ranges, ski-jumps and rowing courses meeting international specifications, and the like. To illustrate the difficulty of maintaining such specialized facilities under private ownership, our attention was called to the excellent 400-meter artificially refrigerated speed-skating track that was constructed at a cost of approximately $600,000 at Squaw Valley, California, for the 1960 Winter Olympic Games. This was a very successful prototype installation, so well conceived that its design has subsequently been copied at 12 other locations in five nations (Japan, Sweden, USSR, Austria, and Holland). Four additional installations are now being built in Norway and Holland.

Yet, because it was believed the Squaw Valley facility could not be operated at a profit, it has been torn down to make way for a new parking lot, so today we have no artificially refrigerated 400-meter track on which to train our speed skaters for future international competitions. Likewise, the United States lacks any luge runs for training Olympic teams, although the luge event will be continued in future Winter Games. We currently have one bobsled run located at Lake Placid, New York; and this facility, which is the only one in North America, is now operated by the state at a deficit of approximately $50,000 per year.

Regarding the distribution of various kinds of facilities throughout the country, we find signs of imbalance in the specific needs of given regions, of metropolitan areas, and of low-income rural areas—examples of which are too numerous to mention. Little is known at present about the adequacy of design and quality of facilities, although in this connection it can be noted, first, that in certain sports such as shooting, rowing, and cycling, we lack facilities of proper international specification, which inhibits our participation in international events; and, second, that the United States, unlike many European nations, does not now possess any large public sports complexes, such as London's Crystal Palace (National Recreation Center) or the giant Soviet sport complexes, which could be used to stage multiple-event games along the lines of the Olympics.

Hence, our investigation of the adequacy of facilities leaves many important questions unanswered, chiefly because of the lack of data. One of the first steps of a new national institution should be to undertake or sponsor a facilities inventory, since too little is now known about the adequacy of our multiple overlapping local, state, and national programs to meet the specialized needs of amateur sports.

The Technical Aspects of Sports

So far as we have been able to determine, the United States remains for the most part surprisingly indifferent to certain technical aspects of sports, particularly those relative to minor sports and to general sports functions, such as medicine, information gathering, equipment design, and training methods. Sports medicine, for example, does not appear to be well regarded or actively pursued as a field of inquiry for the medical profession in this country. Since no particular group or agency is attempting to stimulate work in this field, very little sports medicine research has been undertaken, except by individual doctors who personally happen to be interested in sports. Much, if not all, of the significant progress in this field is being made in Europe and Japan, which, for example, founded the Keishi Memorial Laboratory devoted to study of Olympic athletics. We note that on this continent Canada has just recently established three small centers for conducting research in sports medicine at the universities of Alberta, Montreal, and Toronto.

Whereas a wealth of statistical data exists on popular sports in the United States, our investigation revealed a dispiriting lack of information concerning the minor sports and the general position of amateur sports in this country. In this connection, we have already cited the absence of any comprehensive inventory of the nation's athletic facilities and the general absence of information on sports medicine research projects completed or under way. In the course of surveying certain minor sports, we were unable to obtain such basic data as reliable estimates of participation, records of achievement, listing of coaches and outstanding performers, or a detailing of developmental requirements. We were also surprised to find that, despite widespread recognition of the important role of athletics in international relations, no agency of the Government could furnish a comprehensive list of international championship events at which U. S. athletes are invited to participate.

In short, the present position of amateur sports in this country almost defies description because of the wide range of conditions existing with respect to different sports. Because of the multiplicity of private organizations responsible for administration of different sports activities, the dominant characteristic seems to be one of immense variety with corresponding imbalance and neglected functions. To the extent that one can generalize, it would appear that our national sports posture suffers most from two factors: (a) the lack of any formal body concerned with broader issues of national importance having to do with amateur sports, and (b) insufficient development of the less popular, but not necessarily less significant, minor sports.

THE NATIONAL AMATEUR SPORTS FOUNDATION

The need for a new institution

Our examination of the status of amateur sports in this country reveals persistent problems and unrealized opportunities for improving the quality of our society through a more effective national amateur sports program. The more important problems have been discussed in the previous section. The opportunities for improvement within grasp include:

Reducing inequaliites among social, economic, and geographic groups in opportunities to compete in amateur athletics;

Assisting in the solution of the social problems of underprivileged young people in both urban and rural areas;

Strengthening the position of the United States in significant international athletic events;

Broadening opportunities for cultural exchange of athletes and coaches with foreign nations;

Exerting a harmonizing influence on presently partisan athletic groups;

Enriching and complementing educational programs at all levels; and, generally,

Encouraging the achievement of excellence in the field of physical endeavor at a level commensurate with national achievement in economic, cultural, and scientific fields.

Solutions to most of the shortcomings which we identify in the present situation are unlikely to be found, we believe, within existing patterns of organization and administration. Indeed, the more pressing problems seem to arise in large part from the way in which sports are organized and administered by a multitude of independent, voluntary organizations, each of which may be doing its own job quite well, but none of which is concerned with the broader aspects of planning, coordination, promotion and support of amateur sports in general. The situation resembles that which would face a very complex corporation having a large number of separate operating divisions but no corporate staff to coordinate divisional efforts. By citing this analogy, we do not mean to imply a need for a supreme decision-making or management authority in sports, but only to suggest that certain top-level functions are not now being performed. The most important of these functions are the formulation of over-all goals and the coordination of effort at various levels of activity to facilitate achievement of these goals.

As a result, there is need and opportunity at the national level for a new institution concerned with the over-all conduct and development of amateur sports. The rationale behind this conclusion may be summarized as follows:

First, there is no focus for leadership that looks beyond partisan interests to serve the broader needs of the whole nation in amateur sports.

Second, there is no comprehensive policy or program regarding amateur sports for the nation as a whole, and no private or public body concerned with the formation of such a policy and program.

Third, there is no center for coordination of existing sports programs or related activities.

Fourth, there is need of adidtional financial and managerial assistance for underdeveloped sports, which lack backing and guidance beyond that provided by scattered voluntary enthusiasts.

Fifth, there is no institution capable of providing technical support for amateur sports development or for devising and executing broadened programs of training and support to education in athletics.

None of these needs is likely to be met satisfactorily in the absence of a new organization of appropriate scale and quality. We next examine each requirement briefly.

The Need To Provide a Focus for Leadership

The United States is almost the only nation without a national organization representing the broadest interests of amateur sports. The most obvious explanation seems to be that, whereas most other countries have willingly brought their sports programs into the public domain, this country has traditionally insisted that the government be excluded from having any policy control whatsoever over the conduct of amateur sports. Yet, it is interesting to observe that other nations in which sports continue to be administered by the private sector typically have strong composite sports bodies at the national level. In Great Britain, for example, there is The Central Council of Physical Recreation (CCPR), composed of representatives of 199 national bodies, including the British Olympic Association, the National Playing Fields Association, 41 sport-governing bodies, 16 national outdoor activity associations, 34 voluntary youth organizations, Community center organizations, physical and health education organizations, local government authorities, and the armed services. Moreover, it has been recommended that a national Sports Development Council be created to channel public finances into sports development. Canada, which has a reportedly weak national federation of sports associations, recently established a National Advisory Council on Fitness and Aamateur Sport, consisting of 30 prominent private individuals serving in an advisory capacity, and also created a Fitness and Amateur Sport Directorate within the Government to administer its national sports program.

The United States, on the other hand, not only shuns Government intervention in the sphere of amateur sports, but also lacks any composite national sports organizations comparable in scope to the CCPR in Great Britain. CONI in Italy, the National Sports Institute in Belgium, and the Netherlands Sports Federation. The organization having

the broadest concern for amateur sports in this country is probably the U.S. Olympic Committee, but the scope of its activity is primarily confined to administering our participation in the Olympic and Pan American Games, which together include fewer than half of the more common competitive sports. The AAU has circumscribed interests, since it is directly concerned with the development of only some 15 sports for which it is the governing body, and tends to concentrate its activity among post-school age groups. The interests of various educational athletic associations, such as the NCAA and NAIA, are even narrower, since they are confined to athletic programs for member institutions at a given level of the educational process.

As a result, none of the existing U.S. sports organizations is chartered to provide the breadth and depth of leadership necessary to give direction to our national sports effort. Goals have not been established, planning is not being carried out, coordination is minimal, and insufficient attention is being directed to such fundamental questions as the desired role athletics should play in our society, particularly as it concerns women; the relationship between sports and physical fitness; the need for new or different facilities; and many other issues.

THE NEED TO FORMULATE POLICY

The absence of a policy-formulator means the absence of policy—or at least the existence of conflicting policies. This is as true of amateur sports as of any other human endeavor. At what level should the nation financially support participants in amateur sports? How should inequalities in opportunity among economic, social, or geographic groupings of citizens be dealt with? Is the national interest in strong international competition in sports adequately expressed in present methods for identifying potentially outstanding athletes at an early stage of development? If not, what means are available for improvement? What should they cost? The list of questions of policy could be endlessly extended. The point, however, is simply that there is today no organization responsible and competent for answering them or even for assembling the data out of which answers can be developed.

The need for informed policy can be illustrated in one particularly important area where fundamental questions of national policy await resolution: the adequacy of facilities for competitive amateur sports. Anyone who attempts to evaluate adequacy in this field is met at the outset by the lack of assembled, reliable information on either the quantity or quality of facilities for sports. We elsewhere noted the absence or scarcity of certain specialized facilities needed to train Olympic competitors in sports such as shooting, ski jumping, rowing, luge, bobsled, and speed skating. These needs are relatively easy to identify, but virtually nothing is known about the adequacy of facilities in crowded urban areas for more participation of youths in competitive sports. Outdoors there is a magnificent opportunity for planing new facilities for competitive amateur sports as a part of the new outdoor recreation program entrusted to the Department of the Interior and the states by the Land and Water Conservation Fund Act passed by the last Congress. Yet there is no authoritative voice representing the interests of amateur sports in the evolution of this multimillion dollar program of resource development. It seems likely that one of the most useful early tasks of a new institution would be to define the nation's needs for sports facilities of all kinds and make these needs known to the units of national, state, and local government who, along with private organizations, can do something about meeting them.

In short, there is no home today for continuing study, data collection, analysis and dissemination of knowledge about the key issues of a national policy for amateur sports. These issues are important, and a new institution, if properly staffed and financed, could do much to help the nation deal with them.

The Need To Coordinate Existing Programs

Whether or not our recommendations for expanded and reorganized intra-government activities in support of amateur sports are accepted, there are a number of ways in which both Federal and state government programs affect sports activities.

Through establishment of the President's Council on Physical Fitness, a public commitment has been made to support a national physical fitness program, which embraces competitive as well as recreational athletic activities. Moreover, creation of the Interagency Committee on International Athletics is recognition of the fact that U.S. participation in international athletic competitions and in athletic exchange programs carries important foreign-policy implications affecting our national stature and our relations with other countries. The support rendered by the Department of Defense to certain Olympic sports has been mentioned elsewhere. Through these and other activities, decisions of the Federal Government increasingly affect sports. State programs in education and recreation also concern amateur sports and will grow in importance. Because of the multiplicity of separate sports bodies, each with limited interests and responsibilities, the agencies of the Government charged with responsibilities touching sports today have nowhere to turn for balanced, objective judgments on issues of national importance relating to amateur sports. As impartial spokesman for non-Governmental interests in amateur sports, a new institution could serve as a useful coordinating instrumentality linking the public and the private policy-makers.

A second area of need for coordination arises from the co-existence of amateur sports activities conducted within and by educational institutions—from school through university—with amateur sports activities outside the educational system. As we have observed elsewhere in this report, the great majority of American sportsmen receive their principal training in athletic activity through school programs. On the other hand, many remain active after finishing school, and a larger number participate in competitive sports even during their school years through organizations not affiliated with the schools or universities. Athletic clubs and associations, the YMCA and YWCA, open meets of many kinds, the Pan American and Olympic Games, all represent the latter class of important, non-school-sponsored amateur sports activities.

This diverse, rich, and loosely integrated pattern reflects a desirable quality of American culture. Unfortunately it has also led to conflicts among sponsoring groups for control of the administration of some sports. While the complexity of the long-standing struggle for control of accreditation of amateur contests in which students and non-students compete places it beyond the scope of this report, its threat to the international repute of the American sports system, and the potential limitations it could impose on opportunities for American athletes to profit from competing freely with the best amateur contestants regardless of their status as students or as non-students, make the problem a national concern.

We believe that the new institution, once established as a non-partisan, non-competitive, authoritative voice for the best in American amateurism, could provide on a continuing basis the forum, the occasions, and the mediating capability for resolving long-standing conflicts and for avoiding future difficulties.

It is important to emphasize that we do *not* see a new institution as exercising authority in any form over any organization in the field of amateur sports, but rather as holding itself and its resources available, in the spirit of *amicus curiae*, as an informed and interested counselor and, on request, mediator, with a fresh, uninvolved, but profoundly friendly interest in resolving problems that organizations active in closely related and necessarily overlapping programs will always encounter.

The Need to Strengthen Underdeveloped Sports

As noted previously in this report, disproportionate emphasis is being placed upon some sports, particularly those attractive to large groups of spectators, to the detriment of other so-called minor sports, many of which enjoy international stature and all of which serve to enhance the range as well as the variety of opportunities for athletic participation by young men and women. This condition is likely to continue so long as individual sports are dependent upon popular appeal to meet their financial requirements. By definition, minor sports presently lack the widespread participation necessary for financing and carrying out an effective development program. Yet without large-scale development effort they cannot be expected to broaden their appeal. Assuming that direct Government assistance to minor sports is neither acceptable nor desirable, the new institution of which we speak might serve to identify and underwrite the development effort necessary to achieve a more balanced national sports program.

In 1958, the U.S. Olympic Committee, realizing the need for further strengthening certain Olympic sports in this country, created a special committee for the purpose of distributing excess funds remaining after Games to the sports-governing bodies for short-range sports-development projects, the results of which might be expected to immediately benefit our future Olympic effort. While we certainly endorse the aims of this program and feel that it is a step in the right direction, we do not believe it represents a permanent solution to the problem of sports development in this country for the following reasons: (1) the inadequacy of available funds (a total of $432,265 was spent between November 1958 and April 1963); (2) the temporary nature of the program (its continued existence depends upon the ability of the USOC to raise contributions in excess of those needed to support our participation in the Pan American and Olympic Games); and (3) the fact that it consists only of financial aid, the application of which is significantly confined to short-range development projects of immediate interest only to Olympic sports.

Our analysis of the development needs of some 30 different sports convinced us that tremendous developmental progress can be made with very little additional input of effort and money. Given managerial assistance and modest financial support, the sports-governing bodies can accomplish a great deal, and very probably become self-sustaining through increased participation within a few years.

The Need to Expand Technical Support and Training Programs

For a nation which has stressed the creative value of research and the indispensability of advanced training in most fields of endeavor, the United States is surprisingly deficient in the technical support of sports and in programs for advanced training in physical education and recreation.

It has already been observed that the United States is falling behind other major

nations of the world in the field of sports medicine, which includes not only injury prevention and treatment, but also ways of improving human performance under stress conditions, of extending the endurance required for prolonged physical exertion, and of developing better training methods that permit athletes to obtain peak performance at the time of an important competition.[3] We have also learned that other nations are experimenting successfully with advanced techniques such as high-speed photography as a means of analyzing and improving athletic performance. And we are told that U.S. achievement in international competitions is being hampered by our failure to provide adequate athletic facilities meeting international specifications or the kinds of ingeniously designed equipment necessary to win in some types of competition with foreign teams. These examples only illustrate the complex technical support that top-level amateur athletic performance requires and is receiving elsewhere today.

Our investigation shows that technical support of this nature is not readily available to amateur sports in this country. Voluntary sports organizations usually lack the money to undertake basic or advanced research. The medical profession generally does not tend to hold sports medicine in high regard. Insufficient attention is being given to the design of new or specialized athletic facilities. And manufacturers at times cannot justify costly development of new specialized athletic equipment because its limited sales potential offers no assurance of an economic return on the required investment in research and development. What is missing is an adequately funded organization dedicated to the advancement of amateur sports in general that will evaluate such technical needs, and either sponsor or arrange for the undertaking of worthwhile research and development projects.

Also missing is a central source of information and statistics pertaining to amateur sports in this country which could serve as a data bank and statistical research center, a national repository of sports data. The accumulation and analysis of now widely scattered information relating to athletics is prerequisite to understanding the status and specific needs of sports in the United States, and to formulating a comprehenseive plan for sports development.

In addition to requiring reinforcement of our technical support of sports activities, implementation of an effective sports-development program will require increasing the existing pool of instructors, coaches, and psysical educators, and, to some degree, raising the level of their proficiency. There is a pervasive misconception among some educational administrators that individuals who have done well at one or another sport at some stage in life necessarily qualify as coaches without much additional training. The fact is, however, that playing sports and teaching sports are different activities often involving different qualities and skills. If the instructor or coach is to do an outstanding job of training other athletes, he should have a sympathetic understanding of the needs, attitudes, and abilities of individual students, as well as proficiency in the sports which he teaches, he must have experience in setting up an effective training program and schedule of competitive events; he must be capable of inspiring his students to perform well; and, if he is to produce the very best athletes, he must be able to apply existing scientific and technical knowledge to helping the exceptionally gifted realize their full potential.

Furthermore, development of "minor" sports such as fencing, soccer, judo, water polo, speed skating, and ski jumping—if development of such sports is indicated after formulation of a national sports policy and program—will necessarily involve enlarging our current reservoir of qualified instructors by recruiting new personnel and broadening the skills of present coaches. This can be accomplished partly through voluntary organizations outside the educatonal system, but large-scale development necessarily involves diversifying school athletic programs. The purpose would be to expose students to a wider range of athletic experience, create additional opportunities for individual achievement, and thereby arrive at a well-balanced athletic program which meets the over-all educational objectives of the school or institution. If this is ever to come about, it seems necessary that physical educators and athletic directors be provided opportunities to better understand the less popular sports and the role that each can fill in the developement of individuals. Thus, after the values of underdeveloped sports have been identified and where emphasis should be placed is determined, a program must be worked out to promote those sports both within and outside the educational system. Concurrently, a program must be worked out to ensure availability of the coaching skills required.

Although we have gained only limited knowledge of the broad field of physical education in the United States, our investigation indicates that there are opportunities to improve the number and quality of programs now being offered, particularly at the graduate level. Our educational system should turn out more highly qualified specialists in the field of physical education just as it does in the sciences, the arts, engineering, business, and law. Talented graduates with a bachelor's degree in physical education or recreation should be encouraged to continue their education by proceeding for advanced degrees in this field; and they should be offered a wide range of stimulating graduate programs. Likewise, adequate funds should be available to support educational research into important questions of recreation, physical fitness, and competitive athletics.

Some of these activities in technical support of sports and in the expansion of training can be directly undertaken by an adequately funded new institution. Others are so large or so complex that it will be best to encourage and support existing institutions in carrying them on. In both instances, however, there is a role of leadership for analyzing, planning, and stimulating that a new national institution can fill, to the end that both technical support and broadened training programs become available to reinforce the national amateur sports effort.

Nature of the proposed foundation

Our study confirms the widely held view that the best way to strengthen amateur sports in America today is through the organization of a new national institution, the National Amateur Sports Foundation, to plan, coordinate, promote, and support the conduct and development of amateur sports throughout the United States. Within these broad objectives it should perform the following principal functions:

1. Study and advise on national needs relating to competitive amateur sports, leading to the formulation and maintenance of a national policy for amateur sports to guide both government and the private sector in their respective fields of activity.

2. Coordinate by voluntary means the interests and activities of national sports associations with one another and with related educational and recreational programs of local, state, and Federal Government.

3. Strengthen and extend the development of competitive amateur sports in the United States by:

a. Providing managerial, financial, technical, legal, informational, instructional, and promotional assistance to sports-governing bodies and related organizations.

b. Sponsoring and stimulating the establishment of advanced or improved coaching, physical training, and physical education programs.

4. Carry out activities that extend our knowledge, or facilitate the practice, of amateur sports by:

a. Sponsoring or soliciting useful research in such diverse areas as sports medicine, athletic facility and equipment design, performance analysis and evaluation, and the like.

b. Identifying specific sports facility requirements, and arranging for provision of needed facilities by appropriate public or private groups.

c. Establishing and maintaining a data bank for the compilation, analysis, and dissemination of information pertaining to all significant aspects of amateur sports.

The consensus of both public officials and private citizens concerned with the development of amateur sports in this country is that the Foundation should be a private institution supported in whole or in part by private contributions and directed by private individuals who are not associated with any vested interests of the amateur or professional sports world. A major source of strength and influence of the Foundation would be the organization's ability to provide financial assistance to worthy projects (in the traditional role of grant-making foundations) and for strengthening sports-governing bodies and associations. The financial requirements do not appear to be great in relation to the importance of the assignments the Foundation must undertake or to the results it seems likely to achieve.

We envision, however, something more than a philanthropic benefactor of amateur sports. Our concept is one of an *operating* foundation, which, in addition to serving as a source of financial assistance, would have a substantial permanent staff to carry out studies and advise both public agencies and private groups; act as liaison between public and private policy-makers in sports, coordinating the vast array of national sports programs on a voluntary basis; provide managerial and technical assistance to sports bodies; produce new instructional and promotional materials; sponsor and stimulate useful research on sports problems; and maintain an information center on amateur athletics. The institution we have in mind would therefore perform most, if not all, of the essential functions that are not currently being carried out by existing organizations, and mobilize existing financial, technical, and human resources in support of a comprehensive national amateur sports effort.

To accomplish these objectives, the Foundation must be more than an organization of working specialists. To achieve a position of leadership at the national level, it must be directed by trustees who not only are knowledgeable and enthusiastic about sports, but who also have prominence and personal stature in such diverse fields as education, industry, science, and the arts.

Because the Foundation should represent a unique fusion of the public interest and private initiative in an activity traditionally free from Government control, we recommend its organization as a private body corporate under Congressional charter, and that the President of the United States bestow upon it the prestige of his office by appointing the initial board of trustees and a minority of successor trustees as vacancies occur.

[3] Sports medicine is technically defined as the scientific study of the body's responses and adaptations to exercise and environmental, psychological, and physical stress; the application of physiological and medical findings to the training and care of athletes; and the prevention and treatment of injuries related to sports.

Finance for the Foundation should be sought primarily from the private sector but in view of its public purpose we propose that it should receive an initial capital grant from the Federal Government, matching the private funds which will make up its initial endowment. We have estimated that about $3 million per year will be adequate for at least the first three years of operation. In order to reduce the need for annual fundraising and avoid competing with the periodic solicitations, on which almost all amateur sports organizations, including the U.S. Olympic Committee, principally rely, we recommend that the Foundation should operate principally on the income from an endowment fund, which ultimately should be on the order of $70 million.

We believe a key to the long-term success of the Foundation is that it usurp none of the existing rights, powers, and responsibilities of the sports-governing bodies, but rather seek to work cooperatively through those bodies to achieve mutually desired goals. This can be accomplished only if the long-range aim of the Foundation is to strengthen each independent association so as to make it a self-sustaining entity that ultimately requires no subsidy or financial support. For this reason, in structuring the Foundation we have created a group of sports advisers, whose sole responsibility is to work closely with a designated group of the sports bodies and in their support. Supplementing the work of these "line" advisers will be a staff of technical experts, who will provide the specialized skills necessary to assist the governing bodies and to carry out independent projects for the Foundation itself.

Searching for a useful analog to the Foundation as we have conceived it, we find certain similarities to the National Science Foundation, the American National Red Cross, the National Academy of Sciences, the Smithsonian Institution, and a number of grant-making private foundations, such as the Carnegie Corporation of New York. In the fusion of private and public initial financing it shares elements of similarity with the Communications Satellite Corporation, the International Executive Service Corps., and the John F. Kennedy Center for the Performing Arts in Washington. It is clear that the National Amateur Sports Foundation, as we conceive it, will differ importantly from exclusively grant-making foundations in that it will be required to perform in-house functions of a technical nature and to carry out independent projects by use of outside consulting staff. It will also be very nearly unique in its sources of finance and in the manner in which the public interest is expressed through continuing Presidential participation in the selection of a portion of the board of trustees.

As we see it, the National Amateur Sports Foundation must be many different things, including impartial spokesman, planner, coordinator, catalyst, energizer, technical consultant, financial conduit, and fund-raiser. Lacking any inherent authority or policy-making power of its own, the Foundation must command respect through its knowledge and prestige, and accomplish its aims through persuasion and influence. It must be capable of communicating directly with leading sports officials and top echelons of Government, and also reach down to the grass roots level where the games are actually played and new athletes are being developed. Above all, it must embody and exalt all of the essential principles and values upon which amateur sports are based.

Projected scale of activity

Although the Foundation is proposed to be national in scope, we do not forsee the need for a singularly large organization or a prodigious operating budget. The demand is for quality rather than quantity. Our investigation shows that the desired level of results can readily be achieved with a surprisingly small input of personnel and money at the proper points. The organization we propose would have a professional staff of 25 people, excluding clerical, stenographic, and secretarial help. It will require an annual operating budget of approximately $3 million per year, of which $800,000 will be used for staffing and operating the Foundation, $1.2 million for project funding, and $1 million for grants to sports bodies. A more detailed description of the organization is presented later in this report.

As noted previously, a major function of the Foundation, in addition to making grants to sports bodies, will be to provide financial and technical assistance to sports associations through a group of six sports advisers, reinforced by a staff of some 15 technical specialists; and to undertake independent projects of its own through use of those same specialists. This technical staff will include experts in the following fields:

a) Sports medicine;
b) Facility planning;
c) Statistical research;
d) Communications services; and
e) Education and training

The two specialist areas requiring the greatest amount of in-house capability in terms of personnel and operating budget are those in which it is expected the Foundation will perform original work and provide the highest level of service—namely, in statistical research and communications services. With regard to the first, we anticipate that the Foundation will want to establish a data-processing center for the accumulation and analysis of statistics and other reference material pertaining to amateur sports. With regard to the second, we foresee the organization actually preparing public information projects, producing instructional films and training manuals, and developing mass communications programs on behalf of various sports. In the remaining specialist areas, however, it is felt that present agencies can and should handle the majority of the work and that activity within the Foundation will be limited primarily to study, planning, coordination, advising, and negotiation in order to mobilize existing resources.

Key working relationships

If the National Amateur Sports Foundation is to achieve its stated objectives, it must necessarily establish well-coordinated relationships with the national sports bodies, with education, with Government, and wtih the private sector. Ultimately, it may also come to serve as the logical instrument for coordinating amateur sports activities in the United States wtih the sports programs of foreign nations, although it will not supplant or diminish the importance of the AAU or the USOC in the conduct of sports competitions. Because of the critical nature of the Foundation's working relationships, it seems necessary to discuss each briefly in relation to the underlying concept and modus operandi being proposed for the Foundation.

Relations With National Sports Bodies and Educational groups

We envisage the Foundation as working closely wtih the various national sports bodies and educational groups that now administer amateur athletics. By working cooperatively through these bodies to achieve common goals, the new institution will not in any way infringe upon the existing rights, powers, and responsibilities of the independent organizations, but rather will serve to reinforce their current development efforts. For this reason, a group of sports advisers are proposed for the Foundation's staff to facilitate day-to-day liaison with the sports bodies, and to provide whatever technical or management assistance those bodies may request. Likewise, a very substantial portion of the projected annual operating budget of the Foundation is being allocated to programs to be carried out by other organizations, many of which are desperately underfinanced today. Thus grants may be used to underwrite the expense of sending top teams to important competitions; to defray the costs of conducting sports clinics, producing new or better instructional material, and designing effective promotional programs; or to subsidize age-group programs, which stimulate participation by younger children and, as has been demonstrated by the remarkably successful swimming program, often lead to developemnt of an outstanding corps of young athletes. It is conceivable that the Foundation might also serve as a recipient of gifts designated for specific sports.

Besides providing direct financial assistance, the Foundation will itself be able to carry out several of the vital functions just described. Its statistical research center, for example, can act on behalf of the associations as a central clearing house for all types of information relating to sports. And through its publications services, the Foundation can actually prepare the training manuals, films, and other promotional materials for distribution by the sports bodies. Most important of all, we believe, will be the role the Foundation can play in strengthening the internal organization of the sports bodies by making available needed consulting services in such areas as management, administration, financial control, fund-raising, data-processing, etc. With few exceptions, the national sports bodies, especially those of a voluntary nature, lack the administrative manpower and experience necessary to function efficiently and to capitalize fully upon the resources presently available. It will be the aim of the Foundation through its staff of sports advisers and specialists to provide whatever management or technical assistance is required to strengthen the sports bodies so that each will be capable of meeting the long-range development needs of its sport without outside subsidy. This does not seem to be an unrealistic goal for a nation as populous and well endowed as the United States.

It is expected that the Foundation will maintain a close working relationship with the USOC, which it is hoped will view the Foundation as a logical instrument for developing Olympic sports, particularly those which require appreciable broadening of the participating base as a means of evolving excellence at the top. Observing that the United States historically excels at only a small proportion of Olympic sports, notably swimming and track and field events, we find good reason for reinforcing the past or current development programs of a great many other sports having international stature, including soccer, fencing, volleyball, cycling, canoeing, gymnastics, wrestling, weight-lifting, hockey, skiing, luge, bobsledding, and speed skating. As a result of its recent study of the present status of all the Olympic sports, the USOC will be in an unusually favorable position to guide the Foundation regarding specific sports-development programs to improve the performance of the U.S. team and strengthen our national image of excellence in international athletics.

Once under way, the Foundation can further assist the USOC by making available research and data-processing services that will facilitate selection of the most highly qualified athletes, as well as coaches and other training personnel, to represent this country in the Olympic and Pan American Games. It may ultimately be possible for the Foundation to gather and analyze information relating to foreign athletic performance, which might provide a useful measure of the level of competition to be anticipated at the all-important Games and might also serve to identify significant new trends taking place in international athletics. In fact, every project that the Foundation undertakes in support of amateur sports, whether

it pertain to development programs, facility design and construction, medicine, training methods and coaching, or statistical research, will directly or indirectly benefit the U.S. Olympic effort; and for this reason coordination between the USOC and the Foundation must be harmonious at all times.

Because its major effort will focus upon sports development, which is being carried out in this country to a considerable degree by the schools and colleges, the Foundation will itself be required to perform an educational role and to work extremely closely with existing national educational athletic organizations, such as the National Collegiate Athletic Association; the National Association of Intercollegiate Athletics; the National Junior College Athletic Association; the National Education Association and its American Association of Health, Physical Education, and Recreation; the National Federation of State High School Athletic Associations; and a number of other independent or affiliated educational organizations. In cooperation with these groups, the Foundation can, in addition to providing the research and technical services previously described: (a) design and help implement a soundly based, balanced sports program to meet existing and projected national needs; (b) stimulate, and in some cases underwrite, the establishment of specific sports-development programs at secondary-school and college levels; and (c) by offering informed advice, as well as direct financial assistance, reinforce our physical education programs at both the undergraduate and graduate levels. Specific projects to be undertaken by the Foundation might include sponsoring of nationwide sports clinics; producing instructional "kits" (e.g., manuals, films, and equipment) that can be used by athletic departments to initiate new sports programs; and establishing scholarship and fellowship grants to encourage better physical-education programs, to improve training methods, to diversify coaching skills currently available within institutional athletic departments, and to stimulate needed research on problems relating to competitive sports.

The success of the Foundation in stimulating development of amateur sports in the United States will depend heavily on how well it is able to coordinate its programs with those of the national educational groups. Much of the potential leverage in the situation derives from the fact that, by virtue of our having a system of compulsory education, the nation's youth is presently organized and accessible at a critical stage in life when they can profitably be exposed to a wide range of physical, as well as intellectual, experiences. It would appear that any development program aimed at substantially expanding the participating base of any given sport would meet with only qualified success if it were, by necessity, restricted to extracurricular programs requiring the support of a large number of unrelated local volunteer organizations scattered throughout the county. Some idea of the degree of leverage inherent in the present situation is gained if one reflects: (1) upon the valuable contribution that an outstanding full-time coach can make to the level of participation and to the achievement of excellence in amateur athletics; (2) upon the sizable number of potential athletes who can be influenced by a relatively small number of first-rate coaches teaching at larger schools throughout the country; and (3) upon the very substantial number of member institutions that can readily be reached through the national athletic associations previously cited.

Because of the critical nature of these relationships with the various sports bodies and educational groups, the Foundation may eventually find it necessary or desirable to create a special advisory council composed of high-level representatives of key athletic organizations to counsel the Foundation on matters relating to amateur sports development. It is our opinion that such a council should not be established until the Foundation has been in operation for one or more years, after which time it will be possible to define more precisely the nature of its developing relationships with other sports and educational organizations and the kind of mechanism required to further facilitate these relationships. If, at that time, it appears desirable to create an advisory council for effecting closer liaison with the sports policy-making groups, special care should be taken (a) to preserve the independence of the Foundation from factions of the sports world and (b) to avoid excessive representation of all types of sports interests that would result in an assembly of unwieldy size and composition.

Relations With Government

Through independent but well-coordinated relationships with national, state, and local government in the United States, the Foundation can have profound impact on the quality of competitive amateur sports. Its primary role in these relationships should be that of catalyst, stimulating Government at all levels to exercise its powers in support of sound development of amateur sports. The Foundation's catalytic functions can be performed in many ways. It can provide the reservoir of fact about amateur sports from which Government can draw background data for policy-making or legislation. It can prepare and publish studies of policy questions facing government in the field of sports. Its trustees and officers can be called to testify in formal hearings and to provide informed opinions for staff work of legislative and executive agencies whose decisions affect amateur sports. Through its public statements and public activities, it can continuously contribute to a climate of opinion and interest in amateur activities from which support will grow for Government programs that serve to strengthen amateur sports.

A secondary but still important role for the Foundation in its relationships with Government can be that of contractor or recipient of financial grants for research and publication. As the competence of its staff and the scope of its facilities, such as the sports data center, grow, the Foundation can offer research capabilities which should be of interest to national and state government research programs in medicine, recreation facility development, welfare, and education. Government research contracts or grants would complement contracts and grants from the private sector. If the Foundation is successful in attracting private funds to support expanded scholarship, fellowship, or training programs, it may also be in a position to receive and administer government funds for such programs, should these ultimately become available as suggested below.

At the outset, the principal points of contact within the Federal Government will be The President's Council on Physical Fitness; the Interagency Committee on International Athletics; the Department of the Interior's newly created activities concerned with expanding outdoor recreation facilities; the Department of Defense's programs in support of military athletic activities and facilities; the Department of Health, Education and Welfare; and the State Department.

In looking ahead, it seems important that the internal organization of the Federal Government be strengthened to provide a single point of contact for the Foundation in its relationships with national programs, better integration of Federal activities affecting athletics, and a new source of Federal financial support for facilities, research, and training. While the issues are sufficiently complex to justify more thorough study, our analysis suggests that two steps are indicated: (1) the establishment of a small but permanent full-time staff in the Executive Office of the President under high-level leadership to coordinate and guide the broad and varied interests of all Federal departments and agencies whose activities touch amateur athletic affairs, both nationally and internationally, and (2) initiation of studies which we would expect to lead to legislation to establish programs of Federal financial support for athletic facility construction and maintenance in addition to those possible under the new Department of Interior outdoor recreation facilities program, as well as Federal financial support of research, development, and training activities through grants, scholarships, and fellowships. The logical agency within which to locate the latter programs would be the Department of Health, Education and Welfare.

Of particular importance to the Foundation will be the personal attitude of the President toward its program. Much of the impetus which has heightened the prestige of amateur athletics and physical fitness in recent years in the United States can be attributed to the strong interest of President Dwight D. Eisenhower, the late President John F. Kennedy, and President Lyndon B. Johnson in sports and in the relationship of sports both to U.S. international prestige and to the well-being of American youth at home. It is fortunate that the new Vice President, Hubert H. Humphrey, has also exhibited enthusiasm for the development of strong national programs in amateur athletics.

State and local governments can also be important sources of strength for amateur athletics, particularly with respect to construction and operation of sports facilities, the conduct of recreation and sports programs, and in their traditional role in education from kindergarten through university levels. The Foundation will thus have to develop means for reaching and cooperating with a vast range of organizations and officials who make up the highly decentralized U.S. state and local government apparatus. One means to be considered would be the organization of a council of Governors' representatives advisory to the Foundation. If a Federal program of grants and contracts in support of sports facilities and training can be developed under the aegis of the Department of Health, Education and Welfare, it might well take the form of matching grants to the states along the lines of the program of Federal grants in support of educational facility construction embodied in the National Defense Education Act. A council of Governors' representatives interested in such a program could also then function in an advisory role to the Department of Health, Education and Welfare, as well as to the Foundation, thus providing a further integration of activities and channels of communication.

Relations With the Private Sector

In order to fulfill its role as catalytic agent and coordinating body, the Foundation must also establish firm relationships with various elements of the private sector of society by serving as an institutional image of a national sports effort, as independent adviser to both public and private policy-makers, as public educator with respect to competitive sports, and as general fund-raiser in support of amateur sports activities. If the Foundation is to have national significance, it must necessarily have widespread public appeal, must be regarded as a force representing all types of sports at the amateur level, and must become identified by the public as an embodiment of all the values of a vigorous sports program. If it is to mobilize existing resources of the private sector to strengthen competitive sports on a national scale, it must be able to communicate effectively with key individuals in labor and industry, particularly equipment manufacturers, with the medical profession, and with philanthropic foundations. Most important of all it must have the prestige and broad

public appeal that will attract the funds necessary to carry out its initial program, as well as provide any additional financial support that might be sought in subsequent fund-raising campaigns.

Relations With Foreign Sports Programs

By virtue of its being a national institution concerned with the overall development of amateur sports, the Foundations can serve as an important link with the sports programs of other nations. Working through national sports bodies and governmental agencies of foreign countries, the Foundation can facilitate a free exchange of knowledge pertaining to technical aspects of sports, including medicine, training methods, facilities constructon, and equipment design, so that our athletes can benefit from research and development in other countries. It can arrange for the exchange of statistics on athletic performance and records. In cooperation with our own State Department and various independent sports bodies, it can materially assist in the implementation of special programs for exchanging coaches and teams. Such programs tend to create international goodwill and to promote the development of sports on a worldwide basis. And it can stimulate needed additional U.S. participation in international competitions other than the Olympic, Pan American, and CISM Games through provision of financial aid either to U.S. teams for travel and subsistence or to domestic organizations that might thereby be encouraged to act as hosts of world championship matches and other important international tournaments.

Geographical location

In evaluating alternative locations for the Foundation, our major consideration was practical convenience in carrying out day-to-day working relationships. The Foundation, as presently envisaged, will have to maintain closest and most frequent contact with the sports-governing bodies. Analysis of the location of national sports associations listed in the *Directory of National Organizations of Recreation* reveals that almost three-fourths of 53 different competitive amateur sports are headquarted on the East Coast, and over half of these are situated in the New York City area.[4] Likewise, New York is the headquarters of two of the major composite sport bodies, the USOC and the AAU, and the larger philanthropic foundations. As a practical means of facilitating day-to-day coordination with these organizations, we therefore recommend that the National Amateur Sports Foundation establish its permanent headquarters in the New York City area.

In view of the legal requirements of its proposed Congressional charter, as well as the need to maintain close liaison with agencies of the Federal Government, it will also be necessary for the Foundation to maintain an office in the District of Columbia. We do not advise headquartering the organization there, however, for the more important reason cited above, and to avoid too close an identification with the Federal Government.

ORGANIZATIONAL STRUCTURE OF THE FOUNDATION

Our analysis of the sports-development needs of the nation reveals that the most compelling demands are for leadership, planning, coordination, and technical support of amateur sports. For this reason, we strongly propose the establishment of an operating, as opposed to a mere grant-making, foundation with a skilled permanent technical staff. We also recommend a grant-in-aid program, but we consider this to be less critical than the operating functions described in this section.

The organization we have in mind will consist of two distinct parts—a board of trustees and an operating staff. It is essential that the board be comprised of distinguished figures from both the private and public sectors of society; it is equally essential that highly qualified personnel be recruited for the staff. We treat our recommendations on board and staff separately in the following pages.

Board of trustees

The keystone of the Foundation's structure will be the board of trustees. The caliber and competence of the trustees will determine the Foundation's success, particularly in the early years. We recommend a board constituted of sixteen distinguished citizens selected in the first instance by the President of the United States from the private sector of American society for their dedication to the highest ideals of amateur sports, for their prominence, for their ability to lead and guide, and for their freedom from partisan or vocational bias in sports. A chairman of the board, who should be one of the trustees, should also be named by the President of the United States for an initial term of four years, the chairmanship to be subject thereafter to the pleasure of the board. If practicable, this first board should be formed into a body corporate by being personally named in the Congressional statute establishing the Foundation, symbolizing the national interest thus entrusted to a private institution.

The terms of four of the initial trustees should be four years; four should be five years; four should be six years; and four should be seven years. Length of terms of the initial trustees should be allocated by lot. Consistent with the private character of the institution, when a group of four trustees reaches the end of its term of office, replacements should be selected by majority vote of the board itself, except that one of each four vacancies should be filled by the President. Thus the board will ultimately have a membership of which three quarters are selected by the board itself and one quarter by the President, further emphasizing the private character of the institution while acknowledging the degree to which it is entrusted with a public interest. We recommend that trustees hold office for four years so that each will have an opportunity to serve through the cycle of at least one Olympics.

We recommend that trustees serve with only nominal compensation but be reimbursed for expenses. A majority vote of a quorum of the board should govern all questions except removal of a trustee, which should require thirteen votes. We suggest a quorum of eight for regular business. No trustee should be eligible to serve after reaching his seventy-first birthday. Organization of an executive committee and other standing and special committees should be left to the discretion of the board.

Professional staff

The ability, objectivity, and imagination with which the professional staff carries out its work will be a key factor in the success of the Foundation, particularly during the initial years of operation when it will be seeking to establish a leading position in the sports world. We therefore recommend a level of staff compensation required to attract personnel of unusually high qualifications.

As shown in the organization chart (Figure 1), the structure of the Foundation below the board level broadly divides into three major parts: management; the technical staff, who provide expertise in various specialized areas; and the "line" staff, who work directly with the sports bodies. As presently envisioned, the organization, exclusive of the board of trustees, will total 25 people, which we view as the minimum for an effective organization to meet the diverse needs previously described. It is expected that each individual will be required to have outstanding competence in his own specialty, since he will be occupying a pre-eminent position in his professonal field as well as filling a role of national importance. The principal professional employee will be the president, who will be responsible directly to the board of trustees.

President

The key appointment will be that of the president, who will set the tone of the internal organization. His professional reputation in whatever field in which he may have been trained should be such as to give him access to the highest levels of education, industry, Government, recreational organizations, and foundations. He must himself be a prominent figure who is knowledgeable about amateur sports but not closely identified with any partisan athletic group. He should be energetic, imaginative, and worthy of public trust. His background should include experience in the public environment, and demonstrate his capability for dealing with sensitive or controversial issues in full public view. His position will demand his full-time participation, but must be viewed as partly honorary because the remuneration of his office, while liberal compared with that of most public officials, will be less than a person of this level of capacity could probably earn as the head of an important private enterprise in trade, commerce, or manufacturing.

At the outset, the duties of the president will include the following:

(1) Working with the board of trustees to establish detailed objectives and organizational policies.

(2) Articulating an initial work program.

(3) Hiring top administrative and professional staff.

(4) Designing and carrying out a fund-raising campaign aimed at creating an endowment fund to cover operating expenses.

(5) Establishing liaison with existing sports bodies; educational groups; officials of relevant agencies of Federal, state, and local Government; other foundations; and representatives of foreign sports programs.

(6) Creating the image of the Foundation through public appearances to explain the goals of the organization and to enlist the support of a wide range of private individuals and groups.

Once the Foundation has been placed on a sound financial and operating basis, the president's role will be largely that of implementing the policies created by the board of trustees, of establishing a continuing work program and managing the organization, of maintaining effective high-level liaison with public and private groups whose activities relate to sports or recreation, and of raising whatever additional funds may be required to carry out useful research or assistance programs in support of amateur sports.

We recommend the president be given a salary on the order of $50,000 per year. He should be appointed by the trustees for a term of office lasting one fiscal year, subject to annual renewal for an indefinite period up to a compulsory retirement age of sixty-eight.

Managing Vice President

Because so much of the president's time is likely to be spent away from the organization, owing to extensive travel for meetings and speaking engagements, we suggest that he be assisted by a managing vice president, who can be delegated responsibility for day-to-day supervision and administration of the Foundation's staff. The man who occupies this position should be reasonably young, energetic, and capable of building up an

[4] These percentages are, of course, skewed by the fact that one organization (the AAU) serves as the governing body for multiple sports. If the AAU were counted as a single body, however, it is found that about one-third of the national sports bodies are situated in the New York City area—a far higher proportion than occurs in any other city or region of the country.

entirely new organization under the direction of the president, but still sufficiently experienced in management to gain the cooperation and respect of senior staff members. His training and background should primarily be in business or foundation administration, but should include an understanding of and appreciation for amateur sports. Ideally, he should have prior exposure to supervision of major areas of activities in which the Foundation will be engaged; namely, the administration of technical research, the design of public communications programs, and the institution of management and controls.

Initial duties of the managing vice president will include assisting the president in developing a detailed work program for the Foundation and hiring of second-level staff to carry out this program. After the organization has been staffed, he will:

(1) Assist in implementing the policies and programs established by the trustees and president.

(2) Direct and coordinate the day-to-day operations of the staff.

(3) Maintain close liaison with sports organizations and other agencies whose activities relate to those of the Foundation, and act as official representative of the president in his absence.

(4) Perform whatever other duties the president may delegate.

Because of his close working relationship with the principal officer of the Foundation, the managing vice president should be appointed by, and serve at the discretion of, the president. For purposes of projecting the Foundation's operating budget, we have estimated his salary at $30,000 per year.

Manager—Washington Office

If the Foundation operating under a Federal charter is to be headquartered in New York City, it will be necessary to establish at the outset a separate branch office within the District of Columbia. More than fulfilling a legal requirement, the Washington office can perform a useful service to the Foundation by facilitating necessary liaison with officials and agencies of the Federal Government. For this reason, we recommend that the Washington office be staffed with a senior individual serving the dual function of office manager and Government coordinator. This person should be familiar with the structure, operations, and programs of the Federal Government, and should have the ability and reputation that will gain him access to top administrators of Government programs being carried out by The President's Council on Physical Fitness, the Interagency Committee on International Athletics, and the Departments of Interior, State, Defense, and Health, Education and Welfare and others. Since he will have no "official" standing in Government circles, he must be able to win the respect, confidence, and cooperation of elected or appointed public officials, although clearly he cannot be, or even imply that he is, a lobbyist for sports interests.

As described under "Working Relationships," the duties of the Washington manager will be to supply objective facts and information required by the Government for policymaking or legislation, and to help coordinate private and public programs relating to amateur sports. This means that in the course of his work he must acquire and maintain intimate knowledge of the capabilities and current work programs of the Foundation, as well as be familiar with the needs of various national amateur sports organizations, so he can readily identify opportunities for mutual reinforcement of public and private efforts on behalf of physical recreation and competitive sports.

To attract the caliber of man who is capable of effectively carrying out this difficult coordinating job, we believe it will be necessary to offer a salary ranging between $16,000 and $20,000 per year.

Management Staff

The Foundation's management will also require its own financial, legal, and public relations services. Most important will be the financial control of the Foundation's assets and operating budget. For this purpose, we recommend appointment of a full-time treasurer-controller to (a) work with the finance committee of the board of trustees in managing the Foundation's own investment portfolio, (b) institute and supervise an accounting control system for the organization, and (c) provide senior advice, where required, to the financial services staff group, consisting of one individual working largely on outside consulting projects undertaken on behalf of the sports bodies. It is believed, however, that the financial services staff will be able to apportion some of its time to assisting the treasurer-controller on internal projects and administration of the accounting system.

We recognize that the president, because of the sensitive nature of his position as head of a national institution, will require staff assistance in public relations, although we doubt that he could effectively use a full-time man for this purpose. Ordinarily under such circumstances the president would retain the services of an outside public relations firm; however, in the case of the proposed Foundation, such assistance can be obtained as required from within the communications services staff group, whose primary duty will be to promote development of amateur sports on behalf of the sports bodies. Thus, as subsequently explained under our discussion of the technical staff, it will be the responsibility of the director of communications services to handle all public relations matters of the president and of the Foundation.

It is believed that, during the early years of operation at least, any legal problems of the Foundation can be adequately handled by outside legal counsel. At some later date, the scale of activities of the Foundation may increase and make it necessary to acquire legal counsel on the permanent staff.

Technical Staff

If we are to strengthen the U.S. sports effort substantially and assure continued achievement of excellence in amateur athletic competitions, it is essential that our athletes and our national athletic programs be bolstered with more and better technical support. In order to satisfy this critical need, which is not being met today, we propose recruitment of a staff of 15 technical specialists in the following areas:

Statistical research
Communications services
Sports medicine
Education and training
Facility planning
Financial services

In certain of these areas, such as medicine, education, and facility planning, current resources and capabilities are adequate but need to be mobilized and brought to bear upon sports problems. In such areas, we propose that the Foundation be staffed with only one or two qualified individuals, whose main function will be to identify specific problems and to stimulate the application of existing resources to these problems. In certain other areas, we find the mechanism for providing technical support generally unavailable today, and we therefore recommend that responsibility for carrying out such vital tasks be accepted by the Foundation. The two major functions to be performed in-house will be compilation and analysis of sports data and production of sports promotional and training materials. Following is a discussion of each technical area in which it is believed the Foundation can perform a useful role.

Statistical Research

It is proposed that the Foundation establish a statistical research center for the purpose of gathering, storing, analyzing, and publishing both domestic and foreign sports data. Examples of the kinds of information that might be dealt with at the center are:

(1) Athlete records (including participants, proficency by age group, and possibly achievements of foreign competitors).

(2) Listing of athletic organizations (including membership, officers, by-laws, rules and regulations).

(3) Sports publications and reports.

(4) Abstracts of important sports documents.

(5) Rosters of physical education and training personnel, and records of coaching skills.

(6) Inventory of sports facilities by type and by location.

(7) Listing of sports and physical fitness research projects (including abstracts of reports covering completed projects and descriptions of new projects under way).

(8) Recording of conditions surrounding outstanding athletic performances (location, equipment used, athlete characteristics, coaching method, training period, etc.).

(9) Copies of instructional and promotional materials used for various sports and fitness programs.

The center would furnish data, as requested, to sports organizations, educational groups, and government agencies. Its value would consist in its acting not only as a reservoir of information, but also in carrying out sophisticated analyses of sports data for the purpose of detecting trends, learning how to capitalize upon past experience, and improving techniques and training methods.

Because of the pioneering nature of much of its work, and the need to develop and apply advanced techniques of data analysis, this activity must be staffed with highly qualified personnel. The most critical position to fill will be that of the director of the center who should possess analytical ability and experience and be thoroughly familiar with data-processing techniques. A man of these qualifications can ordinarily command an annual salary of about $20,000. At full-scale operation, he would be assisted by a staff of five, including a librarian, two statistical analysts, machine programmer, and machine operator. It is expected that the Foundation will ultimately have to lease or own a high-capacity computer to handle the volume of data that must be stored and analyzed.

The cost of operating a full-scale statistical research center at the Foundation is estimated at $64,000 for direct salary expense, and $300,000 for computer rental and research projects.

Communcations Services

A second major area of in-house activity for the Foundation would be the operation of a public information and communications services group. The responsibilities of this group would be to provide public relations support for the Foundation's management and board of trustees, and to carry out public information projects on behalf of the sports associations. Typical projects would include the planning, design, and actual production of promotional and instructional films and training manuals; issuance of technical handbooks on such subjects as rules and regulations governing sports competitions, facility design specifications, and the like; and working up mass-communications programs to promote amateur sports of all kinds. Since the basic function of the communications services staff would be to disseminate information furnished by other elements of

the technical staff, it would have to coordinate its work closely with other staff departments, such as statistical research, facilities planning, education and training, and sports medicine.

The director of this department should be a seasoned communications specialist with extensive experience in public relations and in effective use of mass media, such as publications, films, radio, and television. He should be sufficiently familiar with and interested in athletics to be willing to devote his time almost entirely to promotion of amateur sports. It is felt that a minimum supporting staff for the senior director would consist of a production supervisor and two assistants including an editor. Initially, the communications services group would be able to undertake major promotional programs for only two or three sports a year, requiring an annual project budget of about $250,000 (for outside production of films, manuals, brochures, and other informational material). Salary requirements have been estimated at $51,000 per year ($20,000 for the director and $31,000 for the remaining staff).

Education and Training

The Foundation's technical staff should include at least one senior person who is concerned with the advancement of physical education and of improved athletic training methods. Because so little is currently known about the problems of physical education and athletic training, an early step in this program would be to gain sponsorship of a series of studies aimed at identifying specific educational, as well as training, needs relating to amateur sports. Following study of the status of physical education at both graduate and undergraduate levels and a survey of current training practices, the director of education and training will be in a sounder position to:

(1) Work with existing educational groups and sports bodies to develop approved training methods for underdeveloped sports, and, by dissemination of such methods, promote participation in these sports.

(2) Sponsor sports clinics that will raise training, coaching, and judging standards, and promote sports participation among various age groups.

(3) Prepare effective instructional and training materials, including manuals, films, and "kits," and, by working through the communications services group, arrange for the production and distribution of these materials.

(4) Stimulate and sponsor research and development on superior training methods and improved athletic equipment.

(5) Work for the creation of additional scholarship and fellowship programs for carrying out research and training of personnel.

(6) Encourage the establishment of new graduate physical-education centers to create a larger reservoir of qualified judges, instructors, coaches, athletic directors, and physical educators.

Since the role of the director of education and training is conceived of as being largely that of catalyst and coordinator, it is believed that one properly qualified individual can adequately carry out these duties during the Foundation's early years. He may be described as a senior physical educator having advanced degrees and substantial experience in supervising a widely diversified sports program, possibly as athletic director of a large university. In carrying out his work at the Foundation, he may be assisted by a junior training specialist, who can logically share his time and effort with the sports medicine department. With this arrangement in mind, we have estimated the salary requirements of the education and training group at $23,000 per year, including allocation of $5,000 for an assistant to be shared with another department. In addition, approximately $200,000 has been allocated for funding selected projects, the nature of which will be determined by the Foundation's management in its initial work program but which might include such undertakings as a survey of present training methods, establishment of standards for judging athletic competition, or special fellowship grants. It is believed that manufacturers will continue to support limited development of new or improved athletic equipment, although the Foundation may wish to carry out development projects offering no promise of economic return. The financing of coaching and sports clinics, on the other hand, has been included in a separate budget for association grants, since it is felt that such programs should be administered by governing bodies or educational athletic groups.

Sports Medicine

Sports medicine, a relatively new field, is growing in importance throughout the world. Our study indicates that in recent years the United States has become more active in this field, but is still seriously lagging behind many other nations. The major deficiencies seem to be the absence of any centralized source of information and knowledge about sports medicine, insufficient collaboration between different groups or individuals working in the field, and a shortage of experimental laboratories, research programs, and scientific coursework at medical schools. In short, what seems to be missing is a stimulating and coordinating force to promote the development of sports medicine in this country.

We propose that the Foundation include on its technical staff a director of sports medicine to serve this largely catalytic function. His duties would be to:

(1) Accumulate and disseminate existing knowledge pertaining to sports medicine.

(2) Encourage closer collaboration between educational, medical, and other scientific groups concerned with human performance.

(3) Identify the research needs of sports medicine and stimulate sponsorship of such research and creation of adequate laboratory facilities to carry out the work.

(4) Generally promote the advancement of medical knowledge pertaining to fitness and sports.

The nature of the role is such that it can probably be performed adequately by one very capable senior individual, who would be assisted part-time by a junior member of the technical staff, working jointly for the sports medicine and education and training departments, which have interrelated interests. Eventually, the director of sports medicine may want to work for the establishment of a national committee composed of representatives of key public agencies and private organizations concerned with development of knowledge pertaining to physical performance.

The director of sports medicine should himself be a medical doctor who is research-oriented, but who also has extensive administrative experience, since he will be required to coordinate his activities with those of a large number of scientific and educational groups and research agencies of the Federal Government. It is important that he command the respect of his profession if he is to become an effective coordinator of established organizations and programs, and, through his affiliation with the Foundation, to enhance the prestige of sports medicine as a professional field of endeavor. We believe that, in order to attract a professional man of such stature, it may be necessary for the Foundation to permit the person selected for this position to continue in private practice or to serve in other official capacities related to his professional career; however, he must be willing to devote a major portion of his time to Foundation activities.

Although our study indicates that money is generally available for funding medical research, we foresee a need for the Foundation itself to sponsor certain projects, particularly at the outset. Following its establishment, for example, the Foundation's staff may wish to undertake a broad survey of the present status of sports medicine in order to formulate the basis for a practical long-range work program in this area. We have therefore allocated a nominal amount of money in the Foundation's operating budget for the purpose of funding medical research projects.

Facility Planning

While our investigation shows that several minor sports, such as luge, bobsledding, and water polo, face very severe facilities problems, we have concluded that a privately sponsored institution cannot possibly undertake the costly construction and operation of specialized sports facilities. The most the Foundation can hope to accomplish in this regard is to identify specific facility needs throughout the nation, and to stimulate the commitment of public and private funds for this purpose. One possible source of Government financial support for sports facilities, for example, is the Land and Water Conservation Fund recently created by the Federal Government in support of outdoor recreation. Others are the very substantial expenditures for athletic facilities regularly being made by state and local governments and by educational institutions.

Hence, the major duties of a director of facilities planning on the Foundation's technical staff would be to:

(1) Identify sports facility needs and potential sources of funds with which to construct and operate such facilities.

(2) Stimulate and coordinate public and private construction programs to meet national and regional needs for new facilities.

(3) Provide technical assistance in the form of design specifications, improved layouts, etc.

It is believed that this function can be adequately handled by one senior management analyst with proven skills in evaluating technical material and in promoting facility-development programs among communities, educational institutions, and Government agencies. Eventually, he may wish to add specialized engineering skills to his permanent staff; however, initially we recommend the use of outside consulting services to deal with specific design problems or development of specification manuals and other technical brochures. Besides allowing for consultant fees, the facility planning staff budget includes a nominal allowance for sponsoring special studies, possibly including a nationwide inventory of sports facilities to identify critical needs and lay the basis for enlightened planning of new construction.

On this basis, we have projected for facility planning an annual budget of $168,000 ($18,000 for direct salary and $150,000 for research and development projects).

Financial Services

Our examination of the status and problems of a great many different sports bodies indicates that their financial needs can be met at least in part by introducing sounder techniques of financial management and control. Because so many of the organizations are voluntary in nature, they lack the staff and experience necessary to raise and administer the funds required to develop the sports which they govern. For this reason, we have included on the Foundation's technical staff a director of financial services, whose responsibility it will be to:

(1) Work with the sports bodies at local and national levels in maximizing revenue from all possible sources including membership fees, gate receipts, media rights, donations, and general fund-raising campaigns.

(2) Advise and counsel sports bodies in installing and using modern accounting sys-

tems designed to make the most effective use of available funds.

(3) Administer the grant-in-aid program of the Foundation.

(4) Assist the treasurer-controller, as required, in administering the Foundation's own accounting system.

We view this position as only slightly junior to that of the treasurer-controller, and requiring somewhat different qualifications and experience. The director of financial services should be a certified public accountant, rather than an investment manager, and should have graduate training in business administration. He should be thoroughly familiar with the construction of operating statements and balance sheets and with financial audits. He should further be capable of taking an imaginative approach to identifying novel means of raising additional revenues for small organizations. It would be extremely useful if he had prior experience with fund-raising for charitable or voluntary groups.

It is expected this position could be filled with a man who is five to eight years out of graduate business school for a salary of $15,000 per year.

Sports Advisers

We are convinced that the Foundation cannot be successful over the long term unless it coordinates closely with, and works through, the existing sports bodies. The long-range objective of the Foundation should be to strengthen these bodies so that they can ultimately become self-sustaining and require minimum assistance and financial support from the Foundation to carry out their own sports-development programs. With this principle in mind, we propose to include on the Foundation's staff a group of sports advisers, whose purpose will be to provide individual sports bodies and athletic associations with professional management assistance, and to act as liaison with the Foundation's technical specialists.

Our concept is to group a number of different sports by related characteristics (e.g., aquatic, racket, combative, winter, etc.), and to assign one sports adviser to each group. This adviser will then be responsible for working very closely with each sports body within his assigned category to provide the management, technical, and financial assistance required to strengthen that sports body and to implement an effective long-range development program for that sport. To perform his job well, the adviser must necessarily become intimately familiar with each of the sports for which he is responsible, as well as the technical capabilities of the Foundation, so that he can bring all available resources to bear on problems which he encounters. He must be able to analyze the development needs for his assigned sports, conceive of a practical and yet effective program to meet those needs, and secure the cooperation of officers and personnel of the independent sports bodies and any related organizations in adopting and implementing the program. In addition, it will be necessary for him to recognize and evaluate special projects deserving financial aid, and to assist the sports bodies in making applications for grants from the Foundation and in carrying out approved projects efficiently and successfully.

Since the ultimate success of the Foundation will be dependent to a large extent upon the effectiveness of its staff of sports advisers, we recommend that special care be taken to select only the best qualified individuals for this work. These positions will be difficult to fill because they require unusual qualities, such as creative imagination combined with practicality, enthusiasm, salesmanship, tact, and diverse business skills. The most likely source of talent will be fairly young business generalists, having graduate schooling and several years of practical experience (possibly in management consulting or as administrative assistant to the top management of a small organization) who might view the job as a challenging and worthwhile experience in their business careers. It is felt that in order to attract qualified individuals into this kind of work it will be necessary to offer a competitive salary of $15,000 per year.

Annual operating budget

Table 1 summarizes our estimate of the projected annual operating budget of the Foundation for the first full year of operation. Assuming a professional staff of 25 people having the qualifications previously discussed, direct salary expense will total approximately $400,000 per year. On the basis of the experience of comparable operations, overhead can be assumed at 100% of direct salary, or $400,000 per year. Overhead expense includes such items as clerical and secretarial help, taxes and insurance, rent and office expenses, staff travel, office equipment, and the like.

The projected budget also include $1.2 million per year for project funding, based on foreseeable requirements for research and development. Certain of the research and development projects would be undertaken by the Foundation's own technical staff; others might be contracted out to other organizations which specialize in the type of work to be done.

The third major item on the operating budget is $1 million for grants to sports associations, representing the minimum level of financial assistance that should be given to sports bodies and other athletic groups responsible for the conduct and development of amateur sports in this country. The estimate is based upon a careful analysis of the specific financial needs of the national organizations representing approximately half the competitive amateur sports being played in this country today, although we fully recognize that the amount allocated for this purpose is arbitrary and will vary considerably from sport to sport.

We thus foresee a need for obtaining $3 million per year to support the initial program outlined for the National Amateur Sports Foundation. In the following section we discuss potential sources of funds and outline alternative programs for financing the Foundation.

TABLE 1.—*National Amateur Sports Foundation: Projected operating budget at full-scale operations*

Salaries of professional staff	$400,000
President	
Managing vice president	
Controller	
Manager—Washington office	
Technical staff:	
Statistical research:	
Director	
Assistant	
Statistical analyst	
Librarian-analyst	
Programmer	
Machine Operator	
Information services:	
Director	
Communications specialist	
Production man	
Editor	
Sports Medicine:	
Director	
Assistant (part-time)	
Education and Training:	
Director	
Assistant (part-time)	
Facility Planning: Director	
Financial Services: Director	
6 sports advisers	
Overhead and administration (100% of salaries)	400,000
Project funding (including data-processing center)	1,200,000
Grants to associations	1,000,000
Total	3,000,000

FINANCING THE FOUNDATION

Financial planning for the Foundation can be considered in two phases: (1) the period of initial organization, which we estimate will require a minimum of a year following assumption of office of the initial board of trustees; and (2) the subsequent years of full-scale operation. For practical reasons, we have not attempted to estimate requirements beyond the first three years.

Earlier we suggested that operating costs at full-scale, apart from grants in support of the activities of other organizations and the financing of research projects directed by the Foundation's own staff, will approximate a rate of $800,000 per year. It thus seems reasonable to estimate that total expenditures during the year of organization will be about $500,000. We take this figure as the requirement for Year I.

Assuming that the Foundation can be in full operation by the beginning of Year II, we project annual requirements at $3 million per year, including $800,000 for internal operations and the balance for grants and research support. We take this figure as the basis for financial planning for Years II, III, and forward. It is hoped that the Foundation's programs for building the income-producing capabilities of sports-governing bodies and others of its beneficiaries will be successful and thus that this requirement will fall off somewhat in later years; however, we believe that by then other needs will have been perceived that will demand at least the funds made available during the earlier years before the Foundation's program of strengthening existing sports groups has had its effect. Accordingly, we consider $3 million per year the minimum requirement for maintenance of a nationally significant program for an indefinite period.

How should the Foundation be financed? The major alternatives are these:

1. If it were to be organized as a new agency of the Federal Government, such as the National Science Foundation, it could seek an annual appropriation from the Congress.

2. If it is to be a private body corporate, it must obtain income from voluntary private contributions or from some sort of revenue-producing activity compatible with its purposes, such as the sponsorship of regional or national sports competitions, or from endowment.

From the point of view of financial security, the first alternative has much to commend it. The requirement of $3 million per year for a program of national significance is small in comparison with those of even the lesser Federal agencies. The expenditure for support of research by the National Science Foundation, in its fourteenth year, for example, was $341 million, having risen steadily from $3 million during its second year of operation (1952). In the perspective of foreign sports programs financed directly by central governments, $3 million per year is even more modest, compared, for example, with Canada's annual appropriation of $5 million, Great Britain's proposed program of $28 million, and West Germany's allocation of national lottery funds at a rate over $10 million. We observed earlier that if these sums were adjusted in ratio to the much greater population of the United States, a comparable U.S. annual figure would exceed $50 million per year.

But, as we elsewhere explain, the inevitable Federal policy control which would accompany annual Federal appropriations through a Federal agency runs counter to a deeply felt American concept of amateur sports in a free society, and is almost universally rejected, for sports as for direct support of education, by those whom we have interviewed, both within and outside of Government and whose support for the Foundation concept we deem essential.

We thus conclude that the Foundation must be financed in some other way as a pri-

vate body corporate. The obvious and widely practiced method is to resort to periodic fund-raising campaigns, sometimes combined, in the case of sports which have spectator appeal, with reliance on admission receipts and radio or television rights. This kind of a program would pose serious problems, however, in that it would make the Foundation competitive with the same sports-governing bodies, associations, and educational institutions it is designed to help, including, most significantly, the U.S. Olympic Committee, which raised on the order of $3 million by direct public appeal, admissions and TV rights to finance U.S. participation in the 1964 Games.

A second fundamental problem with periodic fund-raising is the hand-to-mouth existence it would impose on the Foundation wtih consequent grave difficulty in attracting and retaining a career professional staff of the magnitude and quality we elsewhere recommend. While this obstacle has been successfully overcome by a few organizations with smaller professional staffs, even some in the field of sports, it became formidable indeed for a large, new organization when combined with the competitive aspect just described.

The principal remaining alternative is for the Foundation to seek endowment in a period of time and in a manner in which it would not be seriously competitive with any of its prospective beneficiaries. A secure income of $3 million from conservatively invested endowment for a tax-exempt organization will require assets on the order of $70 million. With this figure in mind, we have investigated recent experience of other endowment campaigns we deemed relevant and discussed with experienced advisers the feasibility of undertaking such a campaign for the Foundation. The consensus is that the goal is a reasonable one, and that it can safely be accomplished in two to three years of concentrated effort if certain conditions obtain. The crucial conditions are:

(1) The enthusiastic backing of the President of the United States.

(2) The strong support of a distinguished board of trustees.

(3) Professional fund-raising counsel and planning.

(4) Wide acceptance by leaders of amateur sports and public opinion, communication media, and the public.

We believe that a major contribution to the Foundation's endowment can be expected from a well organized appeal to the public at large, particularly if the backing of the President of the United States is obtained. We also have been advised that the obvious importance of the Foundation's program to welfare, education, and the national culture will make it eligible for substantial assistance from other private foundations. The objectives sought by the Foundation are also consistent with those of corporate giving, particularly from manufacturers of products which are related in one way or another to sports and fitness.

An eminently desirable by-product of a nationwide fund-raising campaign conducted with high-level backing would be to stimulate public interest, enlist widespread support, and generally encourage grass roots participation by the American public in the act of creating an important new national institution.

We recommend one further measure, which would set the Foundation apart as a very nearly unique instrumentality in American life. Our recommendation arises not only from the realities of endowment fund-raising, but from a more profound consideration. As conceived in this report, the National Amateur Sports Foundation is a truly *national* institution discharging, through private means, a function which serves the public interest in a number of ways. We have provided recognition of that interest, for example, in recommending that all of the original board of trustees and one out of each four successor trustees when vacancies occur should be appointed by the President of the United States. We further expect that the Foundation will be regularly called upon by the President, agencies of the Executive Branch, and the Congress to develop and present, in an advisory capacity, views on a wide range of public policy questions which vitally affect the national interest in amateur sports. This necessarily close working relationship with Government and the wide range of tasks in which the Foundation will be working in the national interest should be recognized by the Government's participation in the financing of this new institution in a manner consistent with its essentially private character.

We therefore recommend that the President request the Congress to authorize the appropriation of a matching grant to the trustees of the Foundation for its endowment, one dollar for each dollar of funds contributed from nongovernment sources during a limited period of three years, up to a maximum of $50 million in matching funds. Thus, without risk of Federal Government control of basic policy in amateur sports, the Government can express its endorsement of the national goals to be served by the Foundation and, at the same time, stimulate the flow of private funds.

While the Congress has, over the years, made a number of capital grants to supplement privately contributed funds for the creation or expansion of national private institutions serving a public purpose—the Smithsonian Institution and the National Academy of Sciences being perhaps the most venerable examples, and real estate the principal asset granted—the most nearly direct analogy is the $15 million dollar-for-dollar grant authorized in 1964 to the trustees of the John F. Kennedy Center for the Performing Arts in Washington, under Public Law 88–260, 78 Stat. 4. The extension of this technique to stimulate and expand the national pursuit of excellence in amateur sports, a theme as close to the personal interests of the late President as that of excellence in the arts, seems a fitting companion piece to the earlier legislative decision and well within the precedent then established.

There is no question that such legislation would ensure the success of the Foundation's drive for financial support from the private sector of the nation and establish its place in the world as a private institution entrusted with a public interest.

APPENDICES

President Johnson's letter

THE WHITE HOUSE,
Washington, D.C., July 15, 1964.

Gen. JAMES M. GAVIN,
Chairman of the Board,
Arthur D. Little, Inc.,
Cambridge, Mass.

DEAR GENERAL GAVIN: I believe the discussions held in my office on Friday afternoon, June 12, with the Attorney General and you on the problem of achieving excellence in sports in this country were most helpful. Improving the opportunity for our young men and women to attain this excellence has been a matter of continuing concern to this Administration. As you know, President Kennedy thought it necessary to take steps to resolve the differences between the AAU and the NCAA last year.

Further, an Interagency Committee on International Athletics has been keeping abreast of amateur sports development in the United States. The Committee has recommended the establishment of an independent, privately financed sports development foundation to supplement the work of existing sports bodies, and the U.S. Olympic Committee is on record favoring the principle of creating such a foundation. The foundation should promote and underwrite action to improve the physical education of American youth, as a basis for improved national proficiency in amateur sports competition.

I believe a study leading to the establishment of such a foundation should be undertaken without delay. Based upon our discussions of last month, I would appreciate your initiating such a study, which will require the support of public-spirited citizens. It seems to me your efforts could lead to a variety of recommendations, and that the program could be financed by contributions or appropriated funds, or possibly a combination. In any event, I am pleased by your willingness to undertake this study and look forward to hearing from you upon its completion which, I assume, will be in several months.

The improvement of the physical education of our young men and women thereby providing the opportunity for achieving high standards of excellence in amateur sports is a matter of great importance, and I wish you well in this undertaking.

Sincerely,

LYNDON B. JOHNSON.

Selected national associations for competitive amateur sports

Amateur Athletic Union of the United States.[5]
Amateur Badminton Association.
Amateur Bicycle League of America.
Amateur Fencers League of America.
Amateur Hockey Association of the United States.
Amateur Skating Union of the United States.
Amateur Softball Association of America.
American Bowling Congress.
Women's International Bowling Congress.
American Canoe Association.
American Horse Shows Association.
American Lawn Bowling Association.
American Trapshooting Association.
American Water Ski Association.
Field Hockey Association of America.
National Amateur Baseball Federation.
National Archery Association.
National Association of Amateur Oarsmen.
National Duckpin Congress.
National Horseshoe Pitchers of America.
National Parachute Jumpers-Riggers.
National Rifle Association of America.
National Shuffleboard Association.
North American Yacht Racing Union.
Skate-Sailing Association of America.
U.S. Amateur Roller Skating Association.
U.S. Figure Skating Association.
U.S. Lawn Tennis Association.
U.S. Golf Association.
U.S. Modern Pentathlon Association.
U.S. Polo Association and Indoor Polo Association of America.
U.S. Revolver Association.
U.S. Ski Association.
U.S. Soccer Football Association.
U.S. Squash Racquets Association.
U.S. Table Tennis Association.
U.S. Volleyball Association.
U.S. Women's Lacrosse Association.

Arthur D. Little, Inc., staff credits

This project to evaluate the need for a National Amateur Sports Foundation was carried out under the direction of William A. W. Krebs, in close association with Peter J. Fernald. Substantial contributions were made by Howard P. Colhoun, Dr. Charles Halbower, John F. Magee, Richard T. Murphy, Dr. Bruce S. Old, Peter L. Oliver, Phyllis Rutter, Paul Sanderson, Peter Stern, and Raymond J. Waldmann, all of the ADL

[5] Governing body for the following sports: basketball, baton twirling, bobsledding, boxing, gymnastics, handball, horseshoe pitching, luge, judo, swimming and diving, track and field, volleyball, waterpolo, weight-lifting, and wrestling.

professional staff, and Tenley Albright, MD, Dr. Raymond A. Bauer, Warren S. Berg, and William Gulliver, consultants. Many other members of the ADL staff, who were concurrently carrying out the company's study of Olympic sports for the U.S. Olympic Committee under the direction of Dr. Old, also contributed. Throughout the project, James M. Gavin, Chairman of the Board, provided critical review and guidance.

Mr. THURMOND. Mr. President, today, I join with the Senator from Alaska (Mr. GRAVEL) in sponsoring a bill to establish a National Amateur Sports Foundation. This foundation will be governed by a board of trustees, and the President will initially appoint the 16 members. The term of office will expire for four trustees each year with the board appointing three new members and the President the remaining one.

This foundation will be empowered to solicit gifts from the general public which will be met by matching grants from Federal appropriations. I would like to carefully point out that the total appropriation for the whole life of the foundation will not exceed $50 million. The board will submit a report to the President to be transmitted to Congress each year. The accounts of the foundation shall be audited each year by independent accountants and a report sent to Congress.

Mr. President, the National Amateur Sports Foundation is to be an overseeing organization to give the proper support and direction to our national sports program. This foundation will provide the necessary coordination between the various existing organizations who so often in the past have worked at cross purposes. With the development of amateur sports comes physical fitness and personal achievement which encourages moral behavior and provides a goal for our Nation's youth. This foundation will work with the present amateur athletic organizations but is in no way an attempt to surplant or assume control over these organizations. This foundation will be completely independent and is not an effort to involve the Federal Government in amateur sports.

Mr. President, I urge favorable consideration of this legislation.

By Mr. FULBRIGHT:

S. 4039. A bill to amend Public Law 90–553 concerning an International Center for Sites for Chanceries for Foreign Embassies. Referred to the Committee on Foreign Relations.

Mr. FULBRIGHT. Mr. President, I introduce for appropriate reference a bill to amend Public Law 90–553, which was enacted in October 1968 to create an International Center to make sites available for chanceries of foreign embassies in Washington and for a new headquarters for the Organization of American States.

The bill has been requested by the Assistant Secretary of State for Congressional Relations and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I have long been concerned with the problem of finding and preparing suitable sites in the District of Columbia for foreign chanceries and this measure will help to alleviate this problem. I expect the Committee on Foreign Relations to hold hearings on this measure in the near future.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the Assistant Secretary of State to the Vice President dated September 22, 1972.

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

S. 4039

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 6 of Public Law 90–553 (82 Stat. 958), is hereby amended to read as follows:

"There is hereby authorized to be appropriated, without fiscal year limitation, not to exceed $2,200,000 to carry out the purposes of section 5 of this act: *Provided,* That such sums as may be appropriated hereunder shall be reimbursed to the Treasury from proceeds of the sale or lease of property to foreign governments and international organizations as provided for in the first section of this Act."

DEPARTMENT OF STATE,
Washington, D.C., September 22, 1972.

Hon. SPIRO T. AGNEW,
President of the Senate.

DEAR MR. PRESIDENT: There is transmitted herewith a proposed bill to amend Public Law 90–553, which was enacted in October 1968 to create an International Center to make sites available for chanceries of foriegn embassies in Washington and for a new headquarters for the Organization of American States.

The purpose of the proposed amendment is to revise Section 6 of the existing law so as to authorize an appropriation for the capitalization of the account established by this Section of the Act, not to exceed $2,200,000. Such an appropriation is required to create the fund needed to finance the authorized site improvements which under the Act the Secretary of State is responsible for carrying out.

The legislation as enacted contemplated that the site development work incident to preparing property in the chancery section of the Center for delivery to foreign government purchasers should be funded from the proceeds of sale or lease of such property. The Department of State agreed with the cognizant committees of Congress at the time that the project would be self-liquidating and would require no appropriations. In recent months, however, it has become evident to both the Department and the General Services Administration, its agent for all site development work associated with the International Center, that the purpose of the Act cannot be implemented without an initial appropriation for capitalization of the special account established by PL 90–553. The basic reasons are as follows:

(1) Our experience from negotiations makes it clear that the foreign governments will not enter into final sales contracts and advance the purchase price of lots until the United States has shown its firm commitment to the Center by commencing the site improvements and demonstrating that it has funds available to complete first-phase site development.

(2) No purchaser can be assured by the United States that the improvements will be made by any reasonably determinable date, since in the absence of assured funding the timing is contingent on future sales. This has a severely inhibiting effect on all prospective buyers, in that no government is willing to commit time and money to architectural design and planning, as well as to budget funds for construction, without knowing when it can take delivery of its cleared site.

(3) Sales of most lots in the first phase of development would have to take place before the General Services Administration could finance improvements related to that phase, which cannot be done economically on a piecemeal basis. Under the circumstances it is unrealistic to assume that a sufficient number of such commitments by foreign governments would be forthcoming to allow GSA to contract for site development.

For these reasons both GSA and the Department of State have concluded that Government funds adequate to finance first-phase site development are required to bring the International Center to reality. We wish to emphasize that the change we request will entail no departure from the requirement that the project must be self-liquidating, in that all outlays from the funds appropriated are to be reimbursed through receipts from sales to foreign governments.

In the interest of clarification we should like further to point out that site development embraces the demolition of existing buildings of the old National Bureau of Standards; grading; construction of planned public streets and sidewalks; installation of necessary utilities; and related landscaping—all in accordance with the master plan for the project which was developed through the General Services Administration and which the National Capital Planning Commission approved after detailed consideration and hearings.

We should like to add in conclusion that enactment of the proposed legislation at this time derives added urgency from the circumstance that it would enable the Department of State to complete the sales to the Governments of Finland and Israel which are now pending. A further advantage of action in this session of Congress is that it could be expected to give impetus to additional sales in time to make possible a substantial degree of realization of the International Center project by the Bicentennial Year.

Last December the Congress, in enacting fiscal year 1972 appropriations for the District of Columbia, made funds available for the first stage of construction of a new campus for the Washington Technical Institute (WTI) on the north half of the Van Ness site. That action made possible this spring the preliminary planning of the phased removal of the Institute from the area reserved for chancery development. Resolution of the difficult WTI relocation problem, which has taken two years, has overcome one of the two major obstacles to progress on the International Center. Action by the Congress to authorize an appropriation for a special fund for the Center's first-phase site development would remove the sole remaining obstacle to fulfillment of this much needed and overdue project. It is the Administration's hope and expectation that both WTI and the International Center would thus be enabled to attain sizable stages of fruition by the year 1976.

The Office of Management and Budget has advised that enactment of this proposal would be consistent with the Administration's objectives.

It would be appreciated if you would lay the proposed bill before the Senate. An identical bill has been transmitted to the Speaker of the House.

Sincerely yours,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

By Mr. BELLMON (for himself, Mr. ALLOTT, Mr. CURTIS, Mr. PEARSON, and Mr. TOWER):

S.J. Res. 271. A joint resolution to authorize the Secretary of Agriculture to correct certain inequities in the wheat certification program. Referred to the Committee on Agriculture and Forestry.

Mr. BELLMON. Mr. President, as a representative of one of our great wheat producing States, no one could be more pleased than I about the recent wheat sales to Russia and China. In addition to improving farm income currently, the sales provide a healthier U.S. agriculture for many years to come. This unprecedented demand for American wheat will increase the average market price during the first 5 months of the marketing year, and hopefully for the remainder of the year.

Mr. President, therein lies a problem, for under the farm bill of 1969 the first 5 months average price is of extreme importance to wheat farmers. It is this average price upon which the Government payment to all producers is based. This will mean a reduction in the wheat certificate payment, which makes up the difference between market price and support levels on wheat grown for domestic consumption.

Since the amount of the wheat certificate payment is calculated by subtracting the national average market price during the first 5 months of the marketing year from the parity price—presently $3.02 per bushel—some farmers will automatically receive more than parity and others will automatically receive less. Therefore, the purpose of the resolution I introduce today is not to guarantee parity to every farmer who received less than the national average market price but is simply to give the Secretary of Agriculture the authority to make adjustments to aid those thousands of farmers in the wheat-producing areas who harvested and sold their crops before the spectacular increase in prices began.

The unforeseen circumstances which have driven up the price of wheat after thousands of farmers in the southern wheat belt had already harvested and sold their 1972 crop are of such an extenuating type as to require corrective action.

For example, many of these farmers sold their wheat at $1.32 per bushel while others are now selling theirs in excess of $2 per bushel. If the national average market price turns out to be $1.60 per bushel each participating farmer will receive a certificate payment of $1.42. Thus, the farmer who sold his wheat at $1.32 will be receiving a total of $2.74, while the farmer who sells at $2.15 will receive a total of $3.57. In a normal year this spread would be much narrower.

Mr. President, I do not believe that Congress foresaw such a disparity between the price different farmers would receive under the farm program. Because of the unforeseeable and unprecedented foreign demand for wheat during the late portion of the 1972 marketing year, in contrast to the regular and usually predictable wheat price pattern, I believe it only equitable that the Secretary of Agriculture be given authority to make appropriate adjustments in wheat certificate payments for those farmers who were not able to share in this unanticipated market development.

The resolution I am introducing today for myself, Mr. ALLOTT, Mr. CURTIS, Mr. PEARSON, and Mr. TOWER would give the Secretary of Agriculture such authority.

Mr. President, the resolution is brief, and I ask unanimous consent that it be printed in full in the RECORD.

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

S.J. RES. 271

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That

Whereas, under normal circumstances wheat prices during the first five months of the marketing year follow a regular and predictable pattern,

Whereas, during the 1972 marketing year the market price has been unduly affected by an abnormal demand which could not generally be foreseen because of its foreign origin,

Whereas, this unprecedented increase in demand will result in losses of wheat certificate payments to many farmers because of its occurrence subsequent to harvesting their crop but prior to completion of harvest by many others,

Whereas, it was the intent of Congress in enacting the Agricultural Act of 1970 to assure wheat farmers an average of 100 percent of parity for that portion of their crop grown for domestic consumption; Now, therefore, be it

Resolved, notwithstanding any other provision of law, the Secretary of Agriculture may during the 1972 marketing year adjust the face value of individual farm domestic wheat marketing certificates issued as provided in the Agricultural Act of 1970 (P.L. 91–524) in such a manner as he deems appropriate in order to correct inequities that have been brought about as a result of this unprecedented increase in market prices after many farm sales had been consummated.

Mr. PEARSON. Mr. President, the legislative history of the Agricultural Act of 1970, Public Law 91–524, is clear: Congress intended to guarantee wheat producers who participate in the wheat program 100 percent of parity on production destined for domestic consumption. In House Report 91–1329, submitted by the House Committee on Agriculture on July 23, 1970, the following statement is made:

Section 402 amends section 379b and 379c of the Agricultural Adjustment Act of 1938, as amended, to provide for the issuance of domestic certificates to producers and for a voluntary set-aside program for wheat. Domestic certificates would be issued on the farm domestic allotment. The face value per bushel of the domestic certificates would be in such amount as, together with the national average market price received by farmers during the first five months of the marketing year for the crop, the Secretary determines will be equal to the parity price for wheat as of the beginning of the marketing year for the crop.

In order to achieve this objective, the Congress approved legislation which directed the Secretary of Agriculture to issue to participating wheat farmers domestic wheat marketing certificates whose face value is equal to the difference between 100 percent of parity and the average market price between July 1 to December 1 of the marketing year.

The cash wheat price varies from day to day, of course, but certificate payments to participating farmers for the 1971 crop year, on the average, accomplished the congressional intent.

Mr. President, a significant number of wheat producers in Kansas, Colorado, Oklahoma, and Texas sold their winter wheat shortly after harvest this year. The price which these farmers received averaged less than $1.40 per bushel. Those farmers in the northern States with a later harvest, and those farmers from the middle and southwestern States who held their crop in storage, have had the opportunity to receive a cash price for their production in excess of $2 per bushel. The increase in the cash price, of course, is due to extraordinary purchases of U.S. wheat by the Soviet Union and mainland China.

Mr. President, those farmers who sold low—without the remotest idea that major purchases would be made by the Soviets and Chinese—will suffer an inequity this year that Congress never anticipated or intended. The value of the certificate payments this year will be based on the difference between the July 1 to December 1 market price and 100 percent of parity—currently $3.03 per bushel. Thus, those farmers whose harvest season was completed before the major August and September cash price advances have not only suffered a low cash price for their wheat, but also will suffer a dramatically reduced marketing certificate payment.

Those farmers who sold low, in short, will receive substantially less than 100 percent of parity for the wheat which they produced for the domestic market—about 42 percent of their total wheat production.

Mr. President, I am cosponsoring today a resolution offered by the distinguished Senator from Oklahoma (Mr. BELLMON), authorizing the Secretary of Agriculture to make adjustment in wheat certificate payment for those farmers who sold their wheat at a level substantially below the probable July 1 to December 1, 1972, national average market price. This resolution does not in any way jeopardize the integrity of the Agricultural Act of 1970. Indeed without enactment of this resolution, the Secretary lacks authority to carry out the intent of Congress in approving the 1970 act.

I would make this observation regarding the cost of this resolution: Had the Soviets purchased American wheat in the modest amounts anticipated by knowledgeable observers as late as July, the national average market price of wheat in the United States would not have advanced so dramatically. The modest estimates of Soviet wheat purchases being made as late as July would have stimulated the market price, but the increases would not have approximated those triggered by the massive commitments for overseas shipment that have been obtained.

Thus, those Texas, Oklahoma, Colorado, and Kansas wheat producers who

sold early had every reason to anticipate greater certificate payment than is possible now. The lower July 1 to December 1 national average market price which was anticipated would have required the issuance of higher certificate payments.

Therefore, the enactment of this resolution would permit the Secretary to issue wheat marketing certificates to all participating farmers with an overall value roughly equal to the liability of the Government in the absence of extraordinary price increases. This resolution anticipates no Federal expenditures in excess of those which the Government expected to pay for wheat certificates prior to the dramatic price increase. This is true, of course, because certificate payments to farmers who sold high, under the law, will be reduced to reflect the higher national average market price during the July 1 to December 1 marketing period.

Mr. President, I would urge the Committee on Agriculture and Forestry to consider this resolution promptly. If the resolution is enacted into law, I would urge the Secretary to adjust certificate payments to farmers who sold low in order to carry out the intent of the Congress.

The cost to the Treasury of the United States in no event will be greater than the anticipated cost of the 1972 wheat program at the beginning of the marketing year.

There is no other way, in my judgment, that justice can be done. Wheat farmers should receive the compensation which Congress gave them reason to rely upon.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 3758

At the request of Mr. NELSON, the Senator from Illinois (Mr. PERCY) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 3758, a bill to encourage and support the dissemination of news, opinion, scientific, cultural, and educational matter through the mails.

S. 4010

At the request of Mr. PASTORE, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of S. 4010, a bill to amend the act providing an exemption from the antitrust laws with respect to agreements between persons engaging in certain professional sports for the purpose of certain television contracts in order to terminate such exemption when a home game is sold out.

SENATE RESOLUTION 370—SUBMISSION OF A RESOLUTION TO ESTABLISH A SENATE OVERSIGHT COMMITTEE ON THE CONFERENCE ON SECURITY AND COOPERATION IN EUROPE AND THE CONFERENCE ON MUTUAL AND BALANCED FORCE REDUCTION

(Referred to the Committee on Foreign Relations.)

Mr. BELLMON. Mr. President, we are on the threshold of perhaps the most significant diplomatic event of this decade, an event that could immeasurably change our present pattern of international relations, an event that could bring forth a new era of détente in the world; but an event that also holds the dangerous prospect of compromising our national security.

This November, diplomats from some 30 European nations, plus the United States and Canada, are slated to meet in Helsinki, Finland, in a plenary session as a prelude to an all-encompassing Conference on Security and Cooperation in Europe and possibly a parallel Conference on Mutual and Balanced Force Reduction.

This Conference is a direct result of the Soviet Union's determined efforts since 1954 to reach an agreement with the West to hold such a conference. It was finally agreed upon during the Moscow summit.

It can be rightfully said that the realization of this Conference is a direct result of the spirit of détente that exists in the world today, a spirit exemplified by the Peking summit, the Moscow summit, the ratification of Russo-German and Polish-German Treaties, the signing of the Berlin Accord and the ratification of the ABM Defensive Treaty and the Interim Agreement on Offensive Weapons. All of these very significant events have created an atmosphere in the world of renewed hope for a reduction of tension; for negotiations in place of confrontation and for a mood of normalization that could bring about a lasting era of peace in the world.

Mr. President, these treaties and agreements will have a profound impact upon the world in the years to come. They may become the cornerstone for building a new era of peace in the world. They could become the foundation upon which to build an age of monumental change, an age of transition that will undoubtedly alter dramatically the structure of international relations as we know them today.

Mr. President, these major changes call upon the Congress and the American people to achieve a higher degree of international understanding and awareness than ever before. Both the Congress and the American public must seek ways to become more informed of these important developments to be better able to evaluate the changes that are taking place around us, and make the decisions we will be called upon to make.

Mr. President, the upcoming Conference on Security and Cooperation in Europe and the parallel Conference on Mutual and Balanced Force Reduction by their very nature demand a high degree of awareness. These negotiations will encompass a range of questions from commerce to foreign policy and military preparedness affecting our relationships with each of more than 30 nations. It will be a conference that can be partially likened to the Congress of Vienna held in 1814, which restructured Europe and brought about relative European stability for eight decades. These conferences will be on a far grander scale because the subject matter is not just Europe alone, but the western alliance as well.

These proceedings, which will be arduous and lengthy, deserve the continuing attention of the Members of Congress. Unfortunately, Mr. President, I strongly feel the strategic arms limitation treaties and agreements did not receive the degree of attention and scrutiny required to produce full understadning of the issues involved.

Mr. President, my purpose is not to criticize what has happened in the past; I wish only to bring to the attention of the Senate the dramatic changes taking place in the world today; changes requiring a new sense of awareness and the full understanding by the Congress.

For this reason, Mr. President, I submit, for myself and on behalf of Senator ALLOTT, Senator BROOKE, Senator BUCKLEY, Senator CURTIS, and Senator SCHWEIKER, a resolution that calls for the establishment of a Senate oversight committee for the Conference on Security and Cooperation in Europe and the Conference on Mutual and Balanced Force Reduction. This oversight committee can become an important vehicle to assist Members in maintaining a continuous awareness of these very important proceedings.

This resolution is brief. I ask unanimous consent that it be printed in full in the RECORD.

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

S. RES. 370

Whereas in the past important international diplomatic discussions have occurred without direct Congressional oversight of the substance of these discussions, and

Whereas economic and security discussions vitally concern the well-being of the United States and its Allies, and

Whereas the Congress will utlimately be presented with the results of these discussions and asked to act in an expeditious manner, and

Whereas past negotiations have resulted in a need for Congressional consideration, such consideration would have been greatly facilitated by a continuing oversight, and

Whereas the upcoming Conference on Security and Cooperation in Europe and the Conference on Mutual and Balanced Force Reduction are most important international diplomatic events, perhaps the most significant of this decade, encompassing issues of foreign trade, foreign policy and military preparedness, and

Whereas a continuous indepth oversight by the Congress of these proceedings would facilitate legislative action: Now, therefore, be it

Resolved, That a sixteen member Ad Hoc Senate Oversight Committee for the Conference on Security and Co-operation in Europe and the Conference on Mutual and Balanced Force Reduction be established, with two members, including the Chairman, to be selected by the Majority Leader of the Senate, two members to be selected by the Minority Leader of the Senate, and four members each appointed by the Chairmen of the Committees on Armed Services, Commerce, and Foreign Relations.

There is hereby authorized to be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the Committee a sum not to exceed $250,000.

ADDITIONAL COSPONSORS OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 97

At the request of Mr. THURMOND, the Senator from Massachusetts (Mr.

BROOKE), the Senator from Maine (Mr. MUSKIE), and the Senator from Oklahoma (Mr. BELLMON) were added as cosponsors of Senate Concurrent Resolution 97, on behalf of the prisoners of war and missing in action.

CONSUMER PROTECTION ACT—AMENDMENT

AMENDMENT NO. 1608

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

Mr. COOK submitted an amendment 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.

AMENDMENT NO. 1611

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

Mr. COTTON submitted an amendment intended to be proposed by him to the bill (S. 3970), supra.

SOCIAL SECURITY AMENDMENTS OF 1972—AMENDMENTS

AMENDMENTS NOS. 1609 AND 1610

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

Mr. NELSON. Mr. President, the Senate Finance Committee has reported to the Senate floor H.R. 1, a bill making substantial and necessary improvements in the social security law.

Among the major improvements approved by the Senate Finance Committee, H.R. 1 would:

Raise minimum benefits to $200 a month for low-income workers who have been employed at least 30 years;

Make disabled workers under 65 eligible for medicare;

Extend medicare coverage to certain prescriptions, the so-called "life prescription"—drugs—used by chronicaly ill older persons who are not hospitalized;

Increase widow's cash benefits from the present 82½ percent of husband's benefit to a full 100 percent; and

Increase from $1,680 to $2,400 the amount an elderly person on social security can earn without loss of any social security benefits.

These are all necessary and justifiable improvements. Unfortunately, to pay for these improvements, substantial increases in the payroll tax are proposed.

The estimated $6 billion tax increase approved by the committee would be on top of increases approved by Congress in June to finance the 20 percent benefit rise.

The earlier approved tax increase scheduled to go into effect in January 1973, would raise the payroll tax rate from 5.2 to 5.5 percent, and the wage base on which the tax is paid will rise from $9,000 to $10,800 with still another wage base increase to $12,000 a year later. The additional taxes most recently approved by the committee would come entirely from a rise in the tax rate from 5.5 to 6 percent effective in January. Taken together, the two increases would raise the maximum social security payroll tax on some employees from the present $468 a year to $648—an increase of $180 or 38 percent in 1973.

Congress must face up to what is being proposed. Congress can no longer mindlessly approve more and more increases in the payroll tax.

The effective social security tax rate has been raised nine times in the preceding 12 years, not including the increase approved by Congress in June.

Social security taxes are now the second largest source of Federal revenue, having passed corporate taxes in fiscal 1969.

The payroll tax achieved its present importance in a very short time. It is the most rapidly growing Federal tax. In 1950, it produced only 5 percent of Federal revenue. Today it produces 23 percent of Federal revenue.

Social security tax levied on wages without exemptions or deductions, and with a ceiling on the amount of individual wage subject is highly regressive. It violates the fundamental principle of sound tax policy that the tax be based on ability to pay.

Because the burden of the payroll tax is focused on the low- and middle-income worker, increases in the payroll tax in recent years have largely eliminated the tax relief Congress attempted in 1964 and 1969 to extend to these Americans. At rates proposed by H.R. 1, the payroll tax burden will be larger in 1973 than the income tax burden for the average family of four with an income of $13,900 or less.

It is now proposed that we increase this highly regressive tax even more. Additional increases in the payroll tax would be financially crippling to the middle- and low-income wage earner. Increasing the tax rate from 5.5 to 6 percent would mean for a family of four with one wage earner in the $3,000 or $4,000 tax bracket a 9.1-percent increase in Federal taxes. The following table shows that the proposed increases place a disproportionate tax burden on the low- and middle-income wage earner. I ask unanimous consent that the table be inserted in the CONGRESSIONAL RECORD at this time.

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

TABLE I.—*Percentage increase in total Federal taxes paid from increasing the social security tax from 5.5 to 6 percent*

Tax bracket:	
$3,000	9.1
$4,000	9.1
$5,000	6.7
$7,500	4.1
$9,000	3.6
$10,000	3.4
$10,800	3.3
$12,500	2.8
$15,000	2.2
$20,000	1.5
$50,000	.4
$100,000	.1

Mr. NELSON. Mr. President, the proposed new tax rates would result in a really dramatic increase in the tax burdens of the middle-income Americans. For example, for a wage earner with a $12,000 income in wages, his social security taxes would increase in the 1 year from 1972 to 1973 by $180, a 38-percent increase. In 1974, his social security tax would have increased by $252—a 54-percent increase. This wage earner will have undergone a 75-percent increase in social security taxes in the 4-year period from 1971 to 1974.

Mr. President, I ask unanimous consent that a table showing the amount of increase in social security taxes from 1972 to 1974 for various levels of wage earners be inserted in the RECORD at this time.

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

TABLE II.—1972-74 SOCIAL SECURITY TAXES, EMPLOYER AND EMPLOYEE (EACH), LAW PRIOR TO CHURCH AMENDMENT, LAW AFTER CHURCH AMENDMENT, AND UNREPORTED COMMITTEE ON FINANCE BILL

Wages	Prior to Church amendment			After Church amendment			Finance Committee bill		
	[1] 1972	[2] 1973	[3] 1974	[1] 1972	[2] 1973	[3] 1974	[1] 1972	[2] 1973	[3] 1974
$5,000	$260	$282.50	$282.50	$260	$275	$275	$260	$300	$300
$7,000	364	395.50	395.50	364	385	385	364	420	420
$9,000	468	508.50	508.50	468	495	495	468	540	540
$10,000	468	508.50	508.50	468	550	550	468	600	600
$12,000	468	508.50	508.50	468	594	660	468	648	720

[1] Tax rates apply to annual earnings up to $9,000.
[2] Tax rates apply to annual earnings up to $10,000.
[3] Tax rates apply to annual earnings up to $12,000.

Mr. NELSON. Mr. President, Congress should thoroughly examine and exhaust all other possible sources of Federal revenue before it imposes such an onerous tax on the average American worker.

I believe that another source of Federal revenue does exist. I believe that it is not necessary to levy an unjust tax on the American worker to provide for a just retirement for the elderly American. I propose that we raise the necessary revenue by the enactment of tax reform measures. I propose that Congress pass two tax reform measures—repeal of the assets depreciation range and strengthening the minimum tax provision—which would raise almost $42 billion between now and 1980. I ask unanimous consent

that two brief explanations of my tax reform amendments be inserted in the RECORD at the conclusion of my remarks. In this way, Congress can improve the lives of elderly Americans, restore some equity to our tax system, and save the American worker from an additional tax burden.

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

NELSON AMENDMENT TO STRENGTHEN THE MINIMUM TAX

A. MINIMUM TAX

Congress enacted the minimum tax in an attempt to obtain some tax contribution from wealthy individuals who had previously escaped income taxation on all or most of their income.

B. MINIMUM TAX FAILS

Under the present minimum income tax, it is very easy for a taxpayer to avoid paying any minimum tax or to pay a very small amount of minimum tax. For example, a taxpayer filing a joint return with a regular income of $100,000 and preference capital gain income of $50,000, who happens to have itemized deductions of 15 percent and two exemptions, would pay no tax on his preference income. If his preference income were $100,000 he would pay a tax of $3,463 on that $100,000 of income. To take another example, a financial institution with taxable income of $500,000 and preference income of $250,000 of excess bad debt deductions would pay no tax on that preference income.

C. THE EXTENT OF THE FAILURE

In 1970 106 individuals with adjusted gross income exceeding $200,000 pay no federal income tax. Three individuals with incomes in excess of $1 million pay no federal income tax. When the minimum tax was enacted, it was estimated that it would raise $590 million in federal revenue. In fact, it raised only $117 million in 1970. The effective rate of the minimum tax is 4% instead of the statutory rate of 10%.

D. PROPOSED AMENDMENT

The proposed amendment would make three major changes in the tax treatment of the four major tax preference items—stock options, bad debts, depletion, and capital gain—of the minimum tax. First, it would repeal the provision of existing law that allows regular income taxes to be deducted from these tax preference items. Second, it would lower the present $30,000 exemption to $12,000. Finally, it would increase the minimum tax rate from 10 percent to 50 percent of the regular income tax rate that would otherwise apply. The tax treatment of the other items of tax preference in the minimum tax provision would not be changed.

This amendment would save the Federal Treasury $1.9 billion in 1972 and $25.9 billion between now and 1980. The savings to the Treasury for the rest of the decade would be:

Savings to Treasury

Year:	*Billion*
1972	$1.9
1973	2.1
1974	2.3
1975	2.5
1976	2.8
1977	3.1
1978	3.4
1979	3.7
1980	4.1

NELSON AMENDMENT TO REPEAL ADR

This amendment would repeal the Asset Depreciation Range (ADR) approved by Congress as part of the Revenue Act of 1971.

The major change brought about by the ADR system was a 20 percent shortening of guideline lives. Thus, an asset which had previously had a guideline life of 10 years could now be depreciated over 8 years.

This amendment would repeal the 20 percent speed-up in guideline lives. It would save Federal Treasury $1.8 billion in 1973 and $26.0 billion between now and 1980. The savings to the Treasury in each of the next 8 years would be as follows:

Savings to Treasury

Year:	*Billion*
1973	$1.8
1974	2.5
1975	3.0
1976	3.7
1977	4.0
1978	3.8
1979	3.6
1980	3.6

ARGUMENT

There is now substantial evidence that the ADR has had little or no impact on investment. According to the Commerce Department's Survey of Current Business (June 1972):

"There is some evidence that capital spending this year is stimulated by the liberalized depreciation rules and the new investment tax credit enacted last December. According to a survey of spending plans taken by McGraw Hill Publications Company in March and April, businessmen reported that their expected 1972 outlays are $¾ billion higher than they would have been in the absence of these two stimulants. Roughly $500 million of that amount was attributed to the investment tax credit and $250 million to liberalized depreciation."

The ADR is costing the Treasury $1.8 billion in 1972, $2.4 billion in 1973 and increasing amounts thereafter. So the McGraw-Hill survey in effect tells us that ADR is increasing investment by 10–15 percent to its cost to the Treasury.

ADDITIONAL STATEMENTS

THE ACHIEVEMENTS AND CHALLENGES OF SPACE

Mr. ALLEN. Mr. President, modern society has been moving at such an accelerating pace that it seems almost inconceivable that only 15 years have gone by since man's first successful entry into the space age. It was on October 4, 1957, that the Soviet Union startled the entire world by launching its Sputnik I, man's first space satellite. Since that time, of course, the United States has taken supremacy in man's exploration of space and the awesome technological advances which have brought so many changes to the way man lives on earth.

On Monday, September 25, 1972, the estimable Christian Science Monitor published the first article of a five-part series in which it examines the achievements and the challenges of space. The series has been written by Robert C. Cowen, the knowledgeable staff correspondent for the Monitor, who points out that after 15 years in space, man has barely begun to probe the universe. While our successes have been many, including the outstanding manned Apollo flights, future plans are clouded with uncertainties.

I believe that it would be time well spent for everyone of us to read this series of articles, and I ask unanimous consent that the first article be printed in the RECORD.

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

SPACE: THE CHALLENGE AHEAD

(By Robert C. Cowen)

Friday evening, Oct. 4, 1957. A fire crackling on my Concord, Mass., hearth illumines books placed beside me for review. They foretell a someday world in which machines rocket through space.

The telephone interrupts reading. It's the Massachusetts Institute of Technology. A Russian-made "moon" is cutting the sky and MIT's computation center is gearing up to compute the orbit as data come in from the Smithsonian Astrophysical Observatory up the street. I rush to the only such center outside Russia capable of this.

Fire and books are forgotten. Reality has made the prophesies obsolete. The old familiar world of vast continents and trackless seas will never be the same. It has become in fact what we long knew it to be in theory—a fairly small planet, isolated in space, soon to be girdled by the machine of men.

Fifteen years later, the United States has yet to face up fully to this challenge.

PURPOSE STILL UNCLEAR

Catapulted reluctantly into the new age by Soviet achievement, it has made a prodigious effort to catch up and excel. Yet, with its astronauts' footprints on the moon and its communications satellites relaying their exploits to the world, America still lacks a clear sense of what it wants to achieve in space. Its forward planning reflects the equivocal outlook of an uncertain vision.

Meanwhile, its own planning hidden in secrecy, Russia continues to give an impression of purposeful space progress.

This epoch should bring new cooperation between America and Russia. Practical space uses will expand as earth-observing satellites help us better to cope with environmental management. Both American astronauts and Soviet cosmonauts will get down to the less glamorous, but badly needed, business of learning in detail how men can function in space through extended experiments in orbiting laboratories.

FORECAST VERSUS ACHIEVEMENTS

One way to gain a quick impression of what the past 15 years have accomplished is to compare early forecasts with subsequent achievements. As I write, I have some of those forecasts in front of me.

Pioneer space prophet Arthur C. Clark described how communications satellites would someday help integrate mankind. According to the Communications Satellite Corporation, 70 antennas at 57 ground stations in 43 countries now share the Intelsat system. For some of these countries, it's their only communications link with the outside world.

Meteorologists in the 1930's speculated about looking down upon the weather rather than only probing it from below. Today, satellite observations are part of their routine data. You regularly see the cloud patterns they observe from orbit during the evening's televised forecast.

TOUCHING MANY BASES

Many scientists in the 1950's talked eagerly of probing the solar system. Well, Russia's second Venus lander touched down last July 22. America's Mariner 9 has provided a striking close-up chart of much of Mars's surface. The Pioneer 10 Jupiter probe is heading for that giant planet right now. And astronauts and instruments have explored the moon with a thoroughness and on a time scale the '50's didn't even anticipate.

These researches, plus data from hundreds of other satellites and space probes launched by, or for, a number of countries,

have given scientists a wholly new picture of the solar system. They have also given mankind a new view of Earth itself which many space experts think to be their most significant contribution to human thought.

Before the sputniks, we all looked up from Earth, as from a vast two-dimensional plane, at a distant moon set in an unreachable sky. Now, through the marvel of television and photography, we virtually stand on that moon with the astronauts and see Earth for what it is—a beautiful blue planet, unique in the solar system. We know it's the only home we've got. And that has made all the difference.

As Dr. James C. Fletcher, administrator of the U.S. National Aeronautics and Space Administration (NASA), observes, We "begin to see how isolated Earth is. * * * We appreciate it more. I don't think we would have had quite so much concern for Earth's environment without the Apollo pictures showing our world isolated in space."

MANNED FLIGHT CAME

Here's an especially intriguing 1957 forecast. George S. Trimble Jr., vice-president of the Martin Company, expected some kind of manned spaceflight within four or five years. He also expected the first moon rocket to blast off within a decade. Not bad foresight at all. Yuri A. Gagarin inaugurated manned orbital flight on April 12, 1961. The first unmanned test flight of the Saturn 5 moon rocket successfully blasted off Nov. 9, 1967, although Neil Armstrong didn't take his "giant leap for mankind" until July 20, 1969.

And what of that glamorous project to put Americans on the moon? As rocket pioneer Wernher Von Braun has pointed out, it "has never been considered so much an end in itself as a most effective focus for developing a broad U.S.-manned spaceflight capability."

DISSIPATION SEEN

In this, the Apollo-Saturn program succeeded brilliantly. But America has come close to throwing away that capability because it can't make up its national mind what to do with it. Dr. Fletcher says America has dissipated the industrial base of the Apollo-Saturn program. NASA now pins hope for salvaging spaceflight know-how on development of a reusable shuttle craft to ferry men and equipment cheaply into orbit.

"We hope and expect that many of the people who worked on Apollo will be in that program so we won't lose all the basic spaceflight know-how," Dr. Fletcher says. "Hopefully, we won't have to go through the entire long process in developing shuttle know-how that we did with Apollo. But if we wait too long with the shuttle, we may lose so much basic know-how that we will have to do this. That would be a dangerous loss."

PROJECT IS NO CERTAINTY

Last July, after much opposition in and out of the Congress, NASA gave North American Rockwell a six-year contract to develop a version of the shuttle. The overall cost of the program, including boosters, should be about $5.15 billion. That's just under NASA's annual budgets in the peak years of 1965 and 1966. Criticism continues, however, and there's no certainty congressional support will carry NASA through this project.

If it does succeed, the shuttle should give America far cheaper, more reliable access to Earth orbit than have the one-shot rockets. It would consolidate hard-won spaceflight know-how into a transport system that would give the United States an open-ended option on the future of spaceflight.

Dr. Fletcher explains that, if America dropped the shuttle, it still could do many things in space within NASA's present budget level of about $3 billion. But the country would enter the next decade with no shuttle and no real route to the space future.

"IT GIVES US THE OPTION . . .

"Without the shuttle, the budget level we're talking about is dead-ended," Dr. Fletcher says. He adds, "Having the shuttle does not require us to spend extra money. It only gives us the option of doing many things. We could have the same budget level in the 1980's which we have now and we could do many more things with it than we will be able to do if we don't develop the shuttle.

". . . We could do virtually all those things we have talked about doing in this century. We could go back to the moon and establish crude bases. These would be storage igloos that would help explorers live and work up there for some time. We could establish a permanent space station. We just might be able to send men to Mars and get them safely home."

NO RELUCTANCE WITH RUSSIANS

America doesn't know whether it wants to have such options. Beyond the last Apollo moon mission next December, its only authorized manned flight projects are three extended experimental missions in the crude Skylab space station next summer and a rendezvous and docking experiment with Soviet cosmonauts, probably in 1975.

The Russians seem to have no such reluctance for space. While secrecy makes their program hard to fathom, two recent analyses give as good a picture of it as you can get. One is a book—"The Kremlin and the Cosmos," by Nicholas Daniloff (New York: Alfred A. Knopf, 1972). The other is a report by Library of Congress staff for the Senate Committee on Aeronautical and Space Sciences entitled "Soviet Space Programs 1966–70." A postscript carries it through June, 1971.

STORMING THE COSMOS

Both studies describe the Soviet program as determined, balanced, and well funded. It seems to be a long-term effort to gain whatever national strength is to be had from "storming" the cosmos. Military and civilian aspects are blended without the self-conscious separation of American programs.

The Soviets appear to have adopted this attitude toward space long before their sputniks startled the world. The congressional study calls the Soviet program today "a strong and growing enterprise." It adds that the "total level of Soviet space activity and total level of hardware commitment is running higher than did the U.S. program at its peak in 1966."

Although the Soviets dropped out of the moon race in the 1960's, the congressional analysts find no hint they have abandoned manned lunar exploration. The study's senior author, Charles S. Sheldon II, thinks that, in their own way and their own time, the Soviets could well head for the moon. He suggests they might do so later in this decade. They may be waiting, among other things, to perfect a giant rocket whose teething troubles helped cut them out of the moon race.

Dr. Sheldon expects stepped-up activity in such practical fields as use of weather and communications satellites. And in general space research, he says, "the level of activity currently runs ahead of the corresponding level of work in NASA." Although America has taken pride in making the larger number of scientifically important space contributions, he warns that Russia "seems likely" to take over such leadership.

CONTENTION FOR PAY DIRT

In contrast to Russia's apparent fascination with the cosmos, America entered the space age with its face set firmly against its challenge. Most Americans couldn't have cared less for what lay beyond the atmosphere before the first sputnik.

Their subsequent space program unfolded as a reaction to Russian accomplishment rather than as a response to their own vision of space destiny. When the moon landing killed the sense of competition, the poverty of such a policy left their space program spiritually bankrupt. That is why, discerning no clear national purpose, so many Americans consider space a costly boondoggle. That is why America's biggest space need remains one of vision.

NONCOMMISSIONED OFFICERS ASSOCIATION'S HONORARY MEMBERSHIP FOR SENATORS VANCE HARTKE AND J. GLENN BEALL

Mr. THURMOND. Mr. President, recently the Noncommissioned Officers Association of the United States of America—NCOA—bestowed one of its highest awards, an honorary membership in the association, upon two distinguished Senators, the Honorable VANCE HARTKE, of Indiana, and the Honorable J. GLENN BEALL, of Maryland.

As a recipient of this honor and subsequently the association's first annual L. Mendel Rivers Legislative Award, I can attest to the importance the 88,000-member organization places on an honorary membership. It is an expression of sincere gratitude and recognition to those who have furthered the principles of the noncommissioned and petty officers' corps of the Army, Marine Corps, Navy, Air Force, and Coast Guard.

Mr. President, this award recognizes Senators HARTKE and BEALL as outstanding supporters of our military community.

Senator VANCE HARTKE was one of the first in this body to recognize the injustice to our military retirees. He offered an amendment to the Military Procurement Authorization Act of 1973, proposing a one-time recomputation of retired military pay. Although it was defeated without prejudice by a joint committee of the Senate and House, its passage by the Senate, 82 to 4, awakened Congress to the inequities in the military retirement system. As a matter of concern, the House Committee on Armed Services will soon conduct hearings on retired pay revisions.

Senator J. GLENN BEALL led the military survivors benefit bill to a successful conclusion in the Senate. His determination and concern for career-military dependents will be successful in eliminating another injustice to our Armed Forces personnel.

I was privileged to join both of my distinguished colleagues in moving these proposals through the Senate.

Mr. President, I take this opportunity to extend the appreciation of the entire career-military community, active, and retired, and their dependents, for the devotion, dedication, loyalty, and support Senator HARTKE and Senator BEALL have tendered to our country's military professionals.

Again, as one of the association's first honorary members, I welcome the two distinguished Senators aboard.

THE 100TH ANNIVERSARY OF MAIL ORDER BUSINESS

Mr. PERCY. Mr. President, today is the 100th anniversary of the mail order business and selling by mail. The mail

order business was begun 100 years ago in Chicago by Aaron Montgomery Ward. From that beginning, selling by mail has become the largest industry headquartered in Chicago.

The business begun by Aaron Montgomery Ward is being honored today by the issuance of a commemorative postage stamp and the unveiling of a bust of Aaron Montgomery Ward in Chicago.

Mr. President, I commend this great business that has so efficiently, effectively and well served the American consumer for a century and I ask unanimous consent that an editorial from today's Chicago Daily News describing this event be printed in the RECORD.

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

RECOGNITION FOR A PIONEER

Aaron Montgomery Ward could scarcely have foreseen the impact of his decision when he began his mail-order business in Chicago just a century ago. Today selling by mail is the largest industry headquartered in the city, and Ward's pioneering is being suitably recognized by Wednesday's sale of a commemorative stamp issue—"100th Anniversary of Mail Order"—and the unveiling of a bust of Aaron Montgomery Ward in the Merchandise Mart Hall of Fame.

Ward's pioneering took other directions as well. With his slogan "Satisfaction guaranteed or your money back," he was among the first to sponsor a trend that has lately bloomed into the massive concern called "consumerism." And perhaps most of all he put Chicagoans in his debt for all time by leading a drive to preserve the city's lakefront for the use of the people. His suit against the City of Chicago in 1890 eventually led to the creation of Grant Park and open space where before all had been clutter.

In his time, Ward made enemies by his rigid insistence that the lakefront be preserved. It's fitting that his forward-looking ideas are finally getting deserved recognition.

NEED TO RATIFY GENOCIDE CONVENTION NOW

Mr. PROXMIRE. Mr. President, genocide is, tragically, as old as history. The history of western civilization began with the deliberate mass exterminations of Christians by the imperial government of Rome. But even these massacres did not approach the horrifying dimensions of Hitler's acts of genocide against the Jews. The organized butchery of 6 million Jewish men, women, and children outraged and revolted decent men and women throughout the world. These events so shocked the conscience of civilized men everywhere that after World War II it had come to be accepted that such conduct could no longer be tolerated in civilized society, and that it should be prohibited by the international community.

This was the climate within which the United Nations began to evolve as a permanent international organization. The next step was quite logically the adoption of a resolution condemning genocide as a crime under international law by the General Assembly of the United Nations, at its first session in December 1946. Delegations from Cuba, India, and Panama proposed that the General Assembly consider the problem of the prevention and punishment of the crime of genocide. The matter was considered at length by the Legal Committee of the General Assembly, a committee composed of lawyers representing each of the more than 50 States' members of the United Nations. That committee submitted a resolution which was adopted without a single dissenting vote and without change by the plenary session of the General Assembly on December 11, 1946.

This resolution declared that genocide, the "denial of the right of existence of entire human groups," "shocks the conscience of mankind, results in great losses to humanity in the form of cultural and other contributions represented by these human groups, and is contrary to moral law and to the spirit and aims of the United Nations."

President Truman in a letter transmitting this convention to the Senate of the United States June 16, 1949, emphasized:

That America has long been a symbol of freedom and democratic progress to peoples less favored than we have been and that we must maintain their belief in us by our policies and our acts.

For 24 years this convention has languished in the Senate without ratification. We must not continue to delay acting on this most important document. Mr. President, I urge that the Genocide Treaty be placed upon the agenda and ratified swiftly before the end of this session of Congress.

AWARD TO DR. WILLEM J. KOLFF

Mr. BENNETT. Mr. President, the University of Utah, in Salt Lake City, has one of the finest medical centers in the United States, and Utah is proud of it and its personnel. On October 22, a scientist from that center will be awarded one of the first two Harvey prizes for his outstanding work in the field of artificial organs. Dr. Willem J. Kolff, head of the Division of Artificial Organs and director of the Institute of Biomedical Engineering, has been given the prize for his "far-reaching achievements in the advancement of medicine."

Much of the pioneering effort and accomplishment in the development of kidney machines, heart-lung machines, cardiac assist devices, and artificial hearts must be credited to his work. Therefore, I take great pride in sharing with Senators an article published in the Deseret News of September 9, 1972, which discusses the achievements of Dr. Kolff—a man who deserves our praise and congratulations.

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:

SCIENTIST AWARDED $35,000

(By Hal Knight)

A University of Utah scientist has been awarded a $35,000 international prize for his "pioneering work in the development of artificial organs."

Dr. Willem J. Kolff, 61, head of the Division of Artificial Organs and director of the Institute of Biomedical Engineering, was one of two winners of the first annual Harvey Prize.

The awards were made by the American Society for Technion-Israel Institute of Technology. The Technion is Israel's oldest institution of higher learning.

Presentation of the prizes will be made Oct. 22 at the home of Zalman Shazar, president of Israel.

Kolff was named for the Harvey Prize in recognition of his "far-reaching achievements in the advancement of medicine," mainly his pioneering work with kidney machines, heart-lung machines, cardiac assist devices and an artificial heart.

He joined the U. of U. faculty in 1967 after 17 years with the Cleveland Clinic Foundation. A native of the Netherlands, he had begun to achieve renown with his artificial kidney work before coming to the U.S. in 1950.

Kolff received his medical degree in 1938 and was an internist in a Netherlands hospital in 1941 when he started his landmark work in the development of artificial kidneys.

His first patient was treated in 1943 and after World War II he began sending his kidney machines to some of the major medical centers in the world.

Kolff's twin coil artificial kidney in 1956 was the first disposable device in the field and made kidney dialysis possible all over the world.

A heart-lung machine on which he had started in 1949 in the Netherlands was brought to clinical use in 1956. It was the first clinically-used membrane oxygenator and led to the first consistently successful use of elective cardiac arrest in open heart surgery.

In 1961 Kolff's laboratory developed an intra-aortic balloon pump, the present most popular cardiac assist device.

Work to develop an artificial heart is still in the experimental stage at the U. of U., but the longest surviving animal (260 hours) with an artificial heart established the record in Kolff's lab in 1971.

Artificial hearts are being implanted in sheep and calves at the university and problems of blood clotting and blood breakdown apparently are on the way to be controlled.

Kolff won the Landsteiner Medal in 1942, the Cameron Prize in 1944, the Frances Amory Award of the American Academy of Arts and Sciences in 1948, the Addingham Medal in 1962, the "K" Award of the National Kidney Disease Foundation in 1963 and the Sharpey Prize of the Royal College of Physicians the same year and the Achievement Award of Modern Medicine in 1965.

Recommendations for the Harvey Prize winners were made by an international committee meeting at the Technion in Haifa, Israel and headed by Evelyn de Rothschild of London. Final selections were made by the American Technion Society.

The society was founded in New York in 1940 and is dedicated to the advancement of technological education in all countries, particularly through the Technion in Israel.

The institution will observe its 50th anniversary next year and currently has an enrollment of nearly 9,000 students. It produces most of Israel's engineers, technologists and industrial managers.

HONORING GALE SAYERS

Mr. PERCY. Mr. President, too frequently in our contemporary society, we are vividly reminded of man's failures and the subsequent tragedy and disappointment that ensue. Man's inhumanity, insensitivity, and inconsistency toward his fellow man scores the pages of the newspaper daily.

So it becomes an especially gratifying task when one is called upon to recognize and acclaim the positive accomplishments of his fellow man. And, when

we consider that Gale Sayers is an achiever outside of the world of pads and cleats, first downs and touchdowns, and bowls and superbowls, it even makes the task more rewarding.

That Gale was a "superstar" on the gridiron is unquestionable. Any team or player confronted with the near impossible task of devising a defense to "contain" this brilliant ball carrier would confirm this statement. Statistics only further solidify this assertion. Football fans across America know when they see a great player, and in the performances of Gale Sayers this was excitingly evident—all too evident on many occasions his opponents would contend.

But the measure of Gale Sayer's great greatness transcended the sports pages. No one can ever forget the side of this fine man that manifested itself during the tragedy of Brian Piccolo. The mettle which accomplished men possess and which Gale demonstrated at this time inspired all of us. His willingness to "carry the ball" both on and off the field only further established his reputation as a winner in "key situations." From amidst the violence of pro football had emerged yet another determined, compassionate, and courageous warrior, a credit to all mankind.

So despite the fact that an unfortunate series of injuries has robbed the American sports scene of one of its greatest and most admired participants, we can still take solace in knowing that our loss is only partial. For the end of every career marks the beginning of another and with a man of Gale's ability and conviction, that can only spell further accomplishment in the years that lie ahead for this fine man and his family. I am certain I echo the sentiments of many, including the best athlete and sports fan in our own family, my 17-year-old son Mark, in extending to Gale Sayers our fervent wish that his life away from football be just as productive and personally fulfilling as were his days on the gridiron.

DECLINE OF U.S. TECHNOLOGY LEAD

Mr. ALLEN. Mr. President, the United States has reached its position as world leader in industry, business, agriculture, the arts, and almost every other field of human endeavor as the result, in large part, of individual initiative, effort, and drive, sparked by a willingness to always look ahead.

For years the United States has led the world in research and development projects financed both by government and by private enterprise.

Today, however, the United States faces the disconcerting and dangerous prospect of being a second-place runner in world trade because of a continuing drop in our search for new technology.

While we spend more dollars today for research and development, the fact is that, because of inflationary erosion, these dollars are worth less, consequently, we are getting less in return for our investment.

This is a serious problem which must be faced squarely if we are to maintain our position as frontrunner in the world technology race. For this reason, I call attention to an article, entitled "What Happened to Our Technology Lead?", written by John H. Sheridan, and published in the September 25 issue of Industry Week magazine. I ask unanimous consent that this thought-provoking article be printed in the RECORD so that it may be more easily available for reading by all Senators.

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

WHAT HAPPENED TO OUR TECHNOLOGY LEAD?

(By John H. Sheridan)

Not so long ago, the United States was a clearcut front-runner in the world technology race. For years, technical superiority has been the economic buffer which kept U.S. goods competitive in international markets—offsetting our higher labor costs.

Today, however, that buffer shows signs of eroding. The tortoises of the world are suddenly within snapping distance of the hare's tail. This development has been viewed with alarm by government officials as well as businessmen. As a result, the Nixon Administration has begun to reexamine government's role in fostering the advancement of science and technology.

In some manufacturing areas, the U.S. faces the disconcerting prospect of staring at its world competitors from the wrong side of "the gap."

The anemometer which perhaps best measures the winds of change is the import-export balance sheet for technology-intensive products—chemicals, machinery, transportation equipment, and scientific and professional instruments and controls.

Traditionally, these high-technology goods have yielded balance of trade surpluses which offset U.S. deficits in other commodity groups. But, in 1971, that surplus showed a sharp $1.3 billion decline—from $9.6 billion to $8.3 billion. Oddly enough, the only product group in which the U.S. improved its trade balance last year was agriculture.

Analyzing the trade picture, U.S. Secretary of Commerce Peter G. Peterson recently told the House Subcommittee on Science, Research & Development: "The most disturbing [trend] to me is the softening in the so-called technology-intensive products. . . . By now, U.S. imports of these commodities have reached the level of about two-thirds of U.S. exports [compared with 26% in 1960] . . . and their growth continues to exceed the growth of our exports by more than 100%."

THE FLOW OF FUNDS

Why the turnabout? Many attribute it to a leveling off in the support for research and development in the U.S. As other industrialized countries capitalize on technology developed here—and enhance it with intensive R&D programs of their own—the U.S. must quicken its efforts to develop more sophisticated products. But, observers point out, that hasn't been happening—at least not in sufficient measure.

The facts, gleaned from data supplied by the National Science Foundation (NSF), are these:

Investment in research and development activities in the U.S. grew from $5 billion in 1953 to $26.8 billion last year—and will reach an estimated $28 billion this year. But, handicapped by inflation, the curve of "real" input is heading downward.

Whereas the U.S. spent slightly in excess of 3% of its gross national product (GNP) on R&D programs in 1964, it will spend only 2.5% this year.

The U.S. ranks poorly in growth rate of R&D spending when compared with its leading competitors. In the years 1967–69, Japan increased its support for new technology at an annual rate of 33%, and West Germany showed a 16% boost. The U.S. input climbed only 5%.

For the five-year period, 1967–72, U.S. funding for R&D grew at an average annual rate of 3.4% in "current" dollars—but showed an average *decline* of 1% yearly in "real" dollar terms.

The federal government, which stepped up R&D funding at an average annual rate of 16.3% during the boom years of 1953–61, has been increasing its support by a skimpy 1% average rate for the last five years. Again, that's ignoring inflation. Measured in real dollars, government investment in new technology has been dropping at a 3% rate since 1967.

Although the government still foots the bill for more than half (54%) of the total R&D effort in this country, industry has increasingly been shouldering a larger share of the burden—from 31% in 1964 to an estimated 40% in 1972.

Industry now finances 58% of the research and development work it performs—$11.1 billion of a $19.2 billion total. Yet, eight years ago, the government financed 57% of the industrial R&D programs.

The list of figures could be continued almost indefinitely.

WHAT'S OURS IS THEIRS

Lincoln R. Hayes, director of business planning, E-Systems Inc., Dallas, believes one reason that countries such as Japan and West Germany have made such great strides is that "we publish everything we do." He points out that Massachusetts Institute of Technology published a collection of books (available at $400) representing 40 years' work which "put Russia right up with us in the development of electronics. . . . But this is normal. We learned about printing from Europe."

It is a fact of life, he believes, which should spur the U.S. to maintain its trend-setting pace in technology. The logic is simple: "If we can't sell our fountain pens, we'd better do something about making a better one."

Contributing to the current economic problem is the direction R&D has taken in this country: defense systems and aerospace programs have cornered the major share of available government funds.

Commerce Secretary Peterson points out that the U.S. performance in the "generation of new technology, which in the past frequently yielded whole new industries," has lagged that of other countries. "In the 1960s, our economy's expenditures on R&D relevant for economic development, plus R&D equivalent purchases of advanced foreign technology averaged only 1.1% of GNP—versus a 2.2% average for France, West Germany, the United Kingdom, Italy, and Japan.

And, due to the time lag (estimated at six to ten years) between R&D expenditures and the emergence of commercially useful technology, the U.S. may now be only at the "threshold of its competitive difficulties, Mr. Peterson adds.

NSF estimates that $12.6 billion—or 78%—of the federal outlays for research and development in the U.S. this year will be plowed into defense and space research programs. With cutbacks in the space budget, priorities have shifted somewhat since 1966 when defense and space research accounted for 90% of the total federal investment in R&D.

Still, the imbalance contrasts sharply with the thrust of efforts in Japan where approximately 70% of the government's support is geared to economic growth.

In current federal R&D funding, commerce and transportation has been dropped from fourth to fifth on the priority list with $566 million—$73 million less than it received in 1971. Top priority item is de-

fense ($9.4 billion), followed by space ($3.2 billion) and health ($1.3 billion).

And while the federal budget has more than doubled in the last ten years, the outlays for new technology have grown only 47%.

SLICING THE BUDGET

Daniel Creamer, economist, Conference Board Inc., New York, explains the reluctance of Congress to appropriate greater amounts this way: "Reduction in research expenditures is a politically painless act and therefore . . . among the first to be curtailed and among the last to be expanded." He predicts that the scientific knowledge industry "will not operate with as much vigor during the decade of the seventies as it did during the fifties and sixties."

Industry, which in 1971 employed almost 70% of the 519,000 R&D scientists and engineers in the U.S., has also been somewhat budget-conscious.

"It has been my observation," says Charles A. Anderson, president, Stanford Research Institute (SRI), Menlo Park, Calif., "that severe pressures on earnings have forced broad scale reductions in development programs throughout industry. Programs with high risk—but also high potential payoff—have been cut. When the squeeze is on, the natural thing is to protect today and hope you can play catch-up ball in time to protect tomorrow. But, unfortunately, a great deal is lost in the process."

MORE THAN MONEY

Barriers to more effective technology development in the U.S. extend beyond money problems. Commonly mentioned are:

Government antitrust policies which discourage collaborative efforts by competing companies. As a result, the argument goes, money is wasted by duplication of effort.

Certain patent policies which hinder the commercial application of government-generated technology. ("Past policy has offered royalty-free, nonexclusive rights to all who ask," states James H. Wakelin Jr., assistant secretary of commerce for science and technology. "The results? Just what one would expect—most patents were not asked for.")

A growing negative opinion toward technology, especially among the young who link it with the "war machine" which produces defoliants and napalm, among other things.

Environmental restrictions which delay projects—while impact studies are prepared—or reduce potential profitability by requiring costly control measures.

ENCOURAGING SIGNS

There are signs of an awakening in Washington. The Commerce Dept. is formulating a program which would permit broad, joint research efforts by companies with common goals—generally projects which involve highly sophisticated technology and prohibitive costs. Secretary Peterson suggests: "Research projects carried on under this program should not carry antitrust risk. . . . General government oversight would guard against restrictive practices. Any patents resulting from such efforts would be privately owned but broadly shared."

One approach to joint research which sidesteps antitrust problems has been initiated by two computer firms—National Cash Register Co. (NCR), Dayton, Ohio, and Control Data Corp. (CDC), Minneapolis. They formed a jointly owned, but independent and self-sustaining company, Computer Peripherals Inc., which will conduct certain kinds of R&D and sell computer equipment to its parent firms.

The venture will not mean a reduction in NCR's research efforts, nor will it restrain competition, says Richard Kleinfeldt, manager of R&D finance and administration at NCR. "We will still fiercely compete with CDC . . . and we will essentially be investing as much money—or more—in our own research and development. . . . The whole thing is to enable us to get more for the same dollar, in order to be able to compete—primarily with IBM. It's strictly an effort to broaden our base of technology within limited resources."

Aided by government subsidies, foreign firms have been "catching up faster than we're growing," Mr. Kleinfeldt believes. "The U. S. should encourage joint programs—as long as they don't restrict trade in any way. With rapidly increasing pressure from other nations, I can't see how we can afford to just sit back and rest on our laurels. Our history of free trade forces us to try to stay a step ahead."

INCENTIVES IN STORE?

To encourage commercial applications of government technology, the Administration has proposed a change in patent policy which would make some government patents available to private firms through exclusive licenses.

"Some of America's best commercial companies, which have demonstrated their innovative ability to build industries, patents, and jobs . . . either do not get involved at all in government R&D or, if they do, usually not with their best people," observes Secretary Peterson. "In the risky entrepreneurial world of innovation, many of these companies have apparently concluded that what belongs to everybody, in fact, really belongs to nobody."

As a result, he believes, the level of industrial fallout from government-supported R&D is "simply inadequate in relation to the enormity of the investment." He suggests factoring "commercial possibilities into government technology strategy" and taking "a whole new look at incentives."

Mr. Peterson isn't, however, about to endorse the suggestion of a 25% tax credit for R&D expenditures. "Such a plan would cost the government $2 billion to $3 billion annually and this is judged too expensive at this time," he says, adding that the Commerce Dept. is considering a "broader cost-sharing program for encouraging high-risk R&D—innovative technical research where success could mean whole new industries." The program envisions granting proprietary rights to the contractor in return for his investment and commercialization efforts.

In the White House Office of Science & Technology, a six-man staff has been screening hundreds of nominations for the Presidential Prize for Innovation—a new program to recognize inventor-innovators who play key roles in translating important new technology into commercial success. "The intent is to give sizable cash prizes—perhaps as much as $50,000," notes Dr. Carl Muelhause, who heads the program.

The Commerce Dept. has received final Congressional approval on funding for a $40 million experimental technology and incentives program to be implemented by the National Bureau of Standards and NSF. The program will seek to identify barriers to innovation and find methods to bring new ideas to the marketplace. "The rationale," says a department spokesman, "is to develop products for export and to bolster our sagging industries. There is a pretty good consensus that we are not doing all we could to foster new technology."

WHAT ABOUT PRIORITIES?

There is little argument that the federal government must continue to be the major contributor to the national R&D effort—especially for long-term, basic research. The debate centers on the setting of priorities: should more be allocated for nondefense programs?

One manager for a defense contracting firm sees some justification for "people programs"—transportation, housing, pollution control, and efforts to avert an energy crisis. But, he argues, the current priorities should not be altered in light of the available funds.

"R&D money into aerospace and defense research has commercial spinoff," argues a spokesman for Honeywell. "Several years ago, Honeywell discovered magnetic sensing—which is used to spot intruders at military installations. But the company also found a commercial market for this in burglar alarms."

"You've got to put the whole thing into context and find out where the high technology is," says Mr. Hayes at E-Systems. "You wouldn't have a pocket computer today if it hadn't been for the defense business. The little man building a new spin top for the kids probably pays for every nickel of the R&D cost—because the government isn't too anxious to underwrite that."

Dr. Roger Sebenik, director of process development, Applied Aluminum Research Co., New Orleans, sees a need for increased federal support—at least in the form of loans—to small companies which are "striking out on . . . novel ways to make old products and materials." His firm is working on a process to substitute clay for bauxite in producing aluminum. It would lower costs and reduce reliance on foreign supplies by taking advantage of a raw material which exists in abundance in the U.S., he notes.

And a spokesman for a computer manufacturer suggests that new R&D emphasis is needed in systems analysis. "Problem-solving solutions are needed, not just more hardware," he says. "We may well discover that the equipment is already there, and we've just never asked it to do a certain task before. . . . In pollution control, for example, the technology may be running ahead of the marketplace. Somebody is just going to have to say, 'We will have clean water,' just as they said, 'We will go to the moon' . . . and put up the money for it."

INDUSTRY'S ROLE

Despite a commonly held view that the federal government should be doing more, there is a school of thought which says certain kinds of programs should be declared out-of-bounds.

Dr. Arthur M. Bueche, vice president-research and development, General Electric Co., Schenectady, N.Y., believes that government support and performance of R&D "needs to be limited to what the private sector cannot adequately do for itself."

In seeking answers to future sources of energy, electric power in particular, the research should be funded through the rate-setting process rather than general taxation, he says. "Such rates can and should be set, as accurately as possible, to assure that each customer benefits in proportion to what he pays. . . . The argument that large project size—and large size alone—should automatically require government support does not seem necessarily valid.

"Today's great challenge for government is to devise new and more effective institutional arrangements—to achieve some kind of order out of the jurisdictional hodgepodge that smothers some of our best technical efforts."

Many problems are too massive or too long-range for industry to solve, contends SRI's Mr. Anderson. "But a larger share of our applied efforts—those programs that will produce for the next 20 years what in the last 20 years was our TV industry, the computer industry, the jet aircraft industry—these can, and should, come from industry.

"Incentives, within the government's power to provide, would be desirable to give added energy to what is demonstrably the most efficient and effective industrial R&D system in the world."

Mr. Anderson also suggests that industry reexamine some of its attitudes. He cites the reluctance of many companies to take ad-

vantage of "certain advanced automation concepts developed in the course of [SRI] work for the U.S. government." The reluctance, he notes, stems from the fact that the firms "would not necessarily achieve a secret or proprietary advantage over their competitors . . . [yet] we know that Japanese industry has joined together in rather massive support for a similar type of program in that country."

GE's Dr. Bueche believes an industrial research director must look to outside sources of new technology—including other companies as well as foreign companies. "No company today, regardless of its size or technical reputation, can afford the false pride of avoiding opportunities to obtain access to external technology through licenses and technical exchange agreements with other companies, large or small."

General Electric, he notes, maintains scientific "observation posts" in other parts of the world, with offices in Zurich and Tokyo and a representative in London.

On the other hand, Dr. Bueche sees a tendency on the part of U.S. businessmen to "give too much away too cheaply" in licensing arrangements with strong foreign competitors. "Now that many of them are able to challenge—and put out of business—major American industries," he says, "I think the time has come to be a little more realistic and businesslike about patent licensing."

NATIONAL HUNTING AND FISHING DAY

Mr. BUCKLEY. Mr. President, at a time in our national life when the pressures of technological civilization are increasingly evident, it is good to know that tens of millions of Americans enjoy the outdoor pleasures of fishing and hunting. Those who fish and hunt not only benefit from the closeness to natural surroundings, but also contribute to the growing respect for our environment by their safe and prudent use of natural resources.

The fourth Saturday of September has been declared by the President to be National Hunting and Fishing Day, in line with a joint resolution of Congress of which I was proud to be a cosponsor. This day should remind all of us of our need to live in harmony with our nautral surroundings and our duty to use those surroundings in a way that will enable them to be enjoyed by future generations. American hunters and fishers have made great contributions to such a goal, and it is my hope that national recognition of their public spirit will enable others all across the land to emulate their fine example.

U.S. ASSESSMENT FOR UNITED NATIONS

Mr. McGEE. Mr. President, as a member of the U.S. delegation to the United Nations, I should like to say one of the issues to come before the 27th session of the General Assembly will be the question of the U.S. assessments.

The Denver Post of Thursday, August 31, contains an editorial which discusses the issue of what a fair U.S share of U.N. expenses is.

The Post editorial stated that while the United States should not attempt to reduce its obligation out of pique at U.N. practices or policies, or because of any other unworthy motives—

The more each member nation becomes committed to the organization, the more effective it will be in international affairs, and few ties are more binding than purse strings.

In looking at the issue of U.S. assessments to the U.N., and our desire to have a more equitable distribution of the financial burden of the U.N. fall on the shoulders of the richer nations of the world, we should do so on the basis of that reason—and that reason only—not because we have become disenchanted with the U.N.

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

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

WHAT'S FAIR U.S. SHARE OF U.N. EXPENSES?

What share of the United Nations' budget should the United States be expected to pay?

That's a question the U.N. General Assembly will be debating shortly.

The government has renewed a campaign to have the U.S. assessment reduced to no more than 25 per cent of the U.N.'s regular budget.

America currently is obligated to pay 31.52 per cent of the budget. None of the other 131 member nations pay as much. The U.S. share this year is $64 million, and unless the United Nations grants the request for a percentage reduction, the figure probably will be higher for 1973.

In addition to its share of the general budget, the United States has always contributed generously to U.N. special organizations and projects.

Last year, for example, the total U.S. outlay for U.N. activities came to nearly $500 million dollars.

This newspaper always has supported the United Nations, and on occasion has been critical of official U.S. attitudes toward the international organization.

We have, in particular, expressed the view that the United States should not be niggardly in providing financial backing for the United Nations.

However, in view of a rapidly changing international situation, and expanding domestic needs which are taking bigger and bigger bites out of the federal government's revenues, it is time to reevaluate the U.S. commitment to the United Nations.

Since the U.S. share was last assessed, the relative economic status of a number of other countries has changed, and they may now be in a position to shoulder more of the U.N. financial burden.

This is not to argue that the United States—still the richest nation in the world—should try to reduce its obligation out of pique at U.N. practices or policies, or because of any other unworthy motives.

It is to argue, rather, that U.S. policy, as expressed in a current memorandum to U.N. member nations, should be thoughtfully evaluated by everyone concerned, both at home and abroad.

The memo states that "the position maintained by the United States and a number of other member states in 1946, that it is unhealthy for a worldwide organization to be excessively dependent upon the financial contribution of any one member state," subscribed to strongly by American public opinion.

That probably is an accurate statement, and it ought to be considered both at home and abroad as an attitude that could help strengthen the United Nations.

The more each member nation becomes committed to the organization, the more effective it will be in international affairs, and few ties are more binding than purse-strings.

OUR TROUBLED HEALTH CARE DELIVERY

Mr. FANNIN. Mr. President, during the recent debate on S. 3327, the Health Maintenance Organization and Resources Development Act of 1972, I made the observation that to help our troubled health care delivery system, a new strategy is needed to minimize Federal intervention and regulation and to maximize the opportunity for self-regulation. If we are to serve the basic interests of the health care consumer and our institutions of health, we need a strategy which promotes efficiency and cost control by insuring the opportunity for regulations through economic choice.

Dr. Paul Ellwood has coauthored an excellent article entitled "Health Maintenance Strategy." The article emphasizes the case for a health maintenance industry that is self-regulating. It is an eloqunt statement, which I urge the Senate to review.

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:

HEALTH MAINTENANCE STRATEGY

The Nixon administration must make a major decision on its strategy for dealing with the much proclaimed health crisis in America. It can either—

Rely on continued or increased Federal intervention through regulation, investment, and planning, or

Promote a health maintenance industry that is largely self-regulatory and makes its own investment decisions regarding resources such as facilities and manpower.

Presently, the Federal government is following the first strategy with these results:

The Federal government is the dominant voice in deciding how much money will be invested in medical schools (it pays 60% of the bill), the mix of dollars expended for training different types of health manpower, and how many new hospitals will be built.

The Federal government is fostering a planning structure at regional, state, and local levels through which panels of citizens can decide where facilities will be located and who will do what in medical care.

An inflation-prone health industry is pushing the Federal government toward increasing regulation of hospital costs and physicians' fees (and perhaps beyond that to wage regulation generally).

Faced with rising demand created by Medicare, Medicaid, and the growth of private insurance coverage, the Federal government is trying to decide how many dollars it can and should inevst in expanding the capacity to deliver health care. If the demand for medical care is escalated by inauguration of national health insurance, existing resources for delivery would be severely taxed, leading to additional Federal regulation, and perhaps ultimately to a nationaliaztion of health care delivery, at least to the poor, the aged, and rural residents.

We propose a shift from the present Federal regulatory, investment-planning strategy to a strategy that would promote a health maintenance industry.

The health maintenance strategy envisions a series of government and private actions

designed to promote a highly diversified, pluralistic, and competitive health industry in which:

Many different types of Health Maintenance Organizations would provide comprehensive services needed to keep people healthy, offering consumers—both public and private—a choice between such service and traditional forms of care.

Services would be purchased annually from such organizations through Health Maintenance Contracts (capitation), at rates agreed upon before illness is incurred, with the provider sharing the economic risk of ill health.

A series of steps is contemplated over a period of five to ten years, in which the Federal government would:

1. Adopt the health maintenance strategy and call upon both private enterprise and public agencies to join the health industry in implementing the national objective of health maintenance.

2. Provide incentives for creation of health maintenance organizations.

3. Foster the elimination of any legal barriers which may block creation of such organizations.

4. Begin purchasing services under Medicare, Medicaid, and other Federal reimbursement programs by health maintenance contracts rather than by the present method of paying for individual medical services.

5. Build into these contracts a sufficient return to support necessary investments in manpower, facilities, and health services research by the contracting health maintenance organizations.

6. Review its activities in the health field to determine how they currently contribute to, or frustrate, the health maintenance strategy, and initiate necessary modifications to support it.

WHAT NEEDS CHANGING?

Medical care is presently provided by doctors, hospitals, clinics, visiting nurses, laboratories, and drug stores. The care is generally good, but no matter how hard each provider works, services are not available to everyone who needs them. It is the way health services are organized, paid for, and governed that prevents this, and it is this that needs changing.

Health services are delivered by units that are both too small and too specialized. Frequently, only informal mechanisms exist for referring the patient from one specialist to another, for helping him get preventive care, for guiding his use of the clinic or hospital, and for keeping his medical history. When there were fewer people and fewer services, the family doctor performed this function. Now it is necessary to find other methods to bring together all the services needed to keep a consumer healthy and to assure him that services will be available to him when needed. At present, medical organizations that take responsibility for defined populations on an enrolled or geographic basis are rare.

The way that health care is financed today works against the consumer's interest. Since payment is based upon the number of physician contacts and hospital days used, the greater the number of contacts and days, the greater the reward to the provider. The consumer, unable to judge his own treatment needs, pays for whatever he is told he needs.

Market mechanisms, such as competition and informed consumer demand, which might provide a check on the provision of unnecessary services, inflation, and inequitable distribution, do not exist in the health industry.

Existing mechanisms for consumer protection, such as licensure procedures and planning agencies, are often weakened by conflicts of interest, disinterest, and inadequate powers.

The health system is performing poorly because its structure and incentives do not encourage self-regulation. Regulation of the health industry, in its present form, at the very least will require control of the price of professional services; the quantity of professional services provided; the price of hospital services; the use of hospital services, the distribution and type of hospital facilities, including costly, high-capacity components such as cobalt therapy or heart surgery units; the types, numbers, and locations of professional personnel in at least 10 critical health professions and 20 medical specialties; the quality of services provided by more than 300,000 physicians.

Regulation of such scope and complexity would be difficult even in industries which produce easily identifiable goods. It is virtually impossible to do so in a service industry in which professional judgment is required on the level of individual nurses or doctors dealing with individual patients.

INADEQUACIES OF THE CURRENT STRATEGY: CONTINUED FEDERAL REGULATION, INVESTMENT, AND PLANNING

Current solutions being proposed for Federal health policy tend to deal with only some of the problems in the delivery of health care. While they include workable remedies, they fall short of the fundamental reform which is needed. In the long run, the only feasible solution is one which will make the industry self-regulating, so that constant intervention and tinkering will not be necessary. Whatever the benefits of gradualism and incrementalism, they do not justify the gradual incremental and haphazard expansion of Federal programs. The health maintenance strategy does not preclude the implementation of other proposals, but it advocates a longer-range strategy, as the following comparison of specific features will show.

REGULATING PRICES

There is no doubt that the taxpayer must be protected against excessive charges. Presently, the Administration is seeking to control Medicare and Medicaid expenses and is using these programs to develop incentives that foster economy. New methods of reimbursement must be tested to evaluate their effects on cost and quality. However, the wartime OPA and the more recent Kennedy-Johnson wage-price guidelines clearly demonstrated tnat price controls are very costly and cumbersome to administer, if done on an effective scale, and that if done on a lesser scale, "the good guys are penalized and the bad guys clean up."

The probable long-run results of using direct price controls on Medicare and Medicaid can be summarized as follows: a. controls would add a significant extra-market cost; b. the burden of the demand-pull inflation would shift to the non-Medicare/Medicaid population; c. physicians would be less interested in giving care to the less remunerative and administratively cumbersome Medicare/Medicaid population; d. controls would not provide an incentive for practicing preventive medicine, for reducing costs, or for installing more efficient organizational arrangements. However, the prospect of increased external regulation might have a beneficial effect, given the availability of a preferred alternative, in encouraging physicians to play a more positive role in regulating their own professional activities.

It is the indispensability of the physician's judgment that makes it unlikely that a price-regulation approach can succeed. Only the physician can determine what care is necessary, and, therefore, only he can eliminate unneeded expense. The physician cannot be policed to do so but must be motivated by professional ethics and by organizational arrangements which align his economic incentives with those of the consumer.

INCREASING THE SUPPLY OF HEALTH MANPOWER

Another proposed strategy is to increase the availability of health manpower, primarily physicians. If this strategy could be implemented, it would undoubtedly be beneficial. An increase in health manpower would facilitate delivery of care to those presently in need and would foster improvements in the overall quality of care—objectives which are clearly compatible with the health maintenance strategy.

One of the problems with this approach is the uncertainty of projecting manpower needs independently of the structure of the health industry. For example, projections based on physician-population ratios alone can be very misleading, since many other variables—socioeconomic factors related to demand, technologic advances, and organization arrangements affecting productivity, and so forth—should also be considered. Presently, the United States physician-to-population ratio is one of the highest in the world (153 M.D.'s/100,000 persons), exceeding the ratios in nations where infant mortality and other health indicators are superior to our own.

Another problem is the ultimate cost of more manpower. Since it is the physician, not the patient, who purchases health services for his patient, increasing the supply of physicians without changing the structure and organization of the health industry would further increase demand and escalate costs. This approach encourages the existing emphasis on labor rather than on capital investment, which could reduce costs by increasing productivity with technology.

Training costs involved in increasing the supply of manpower would also be high, and additional doctors would not be available for practice for at least 10 years. Since the United States already spends a greater proportion of its GNP on health services than any other country (6.7 percent in FY 1969), an additional investment of this magnitude is difficult to justify.

Further, it is doubtful that more physicians would solve the problem of availability of medical care anyway, unless unacceptable steps were taken to control the specialties they choose and the locations where they establish practice. For example, 53 counties in the United States have no available physicians, while some urban areas have more doctors than can be efficiently utilized. Optimal utilization of available health personnel is presently restricted by rigid licensing procedures, the constraints of malpractice, and other legal barriers. Thus, maldistribution and suboptimal utilization of health manpower result from conditions which cannot be treated by simply increasing the supply, and, in fact, the problem may be aggravated by this approach.

A preferred approach is to foster effective use of licensed personnel and to permit the use of new types of paramedical personnel. To do so will require structural changes in the health delivery system and appropriate increases in the supply of health manpower—goals advocated by the health maintenance strategy.

PLANNING AND DEVELOPMENT

Through programs like those conducted under Comprehensive Health Planning, the Regional Medical Program, and the National Center for Health Services Research and Development, the Federal government is encouraging experimentation to improve the organization, financing, and governance of health services. The goal is to promote innovation through local ingenuity by encouraging communities to devote appropriate attention to the problems of health delivery in their locales.

These programs have not yet demonstrated that local planners can solve fundamental problems. Most health planning groups are dominated by providers who have been reluctant thus far to subordinate their individual professional interests to those of the larger community. Moreover, community planning groups have neither the insight nor

the authority to assume Federal responsibilities for solving national problems. Thus to rely solely on this strategy could lead to more and more public intervention and community frustration without producing basic improvements. If community planning groups become advocates of the status quo, as many of them appear to be, they might actually impede the introduction of basic reforms in health delivery systems. On the other hand, local planning and development programs could provide valuable assistance in implementing new strategies for health care delivery.

NATIONALIZED HEALTH INSURANCE

Two far-reaching proposals for reform are currently being discussed: nationalized health insurance and public ownership and management of health care organizations. National health insurance is compatible with the health maintenance strategy but, while it would remove financial barriers to receiving care, it would not solve problems of cost, availability, and quality. Experience with Medicare and Medicaid has shown that a major increase in demand does not stimulate reorganization of the industry (although it does raise costs). Moreover, the experience of other nations suggests that national health insurance may even reduce the likelihood that basic improvements can be introduced.

Even if public ownership of the health system were politically or philosophically tenable, there is good reason to believe that public ownership would further complicate existing problems of cost and quality. Although public ownership might facilitate a more equitable distribution of services, the industry would still require basic reorganization, and in all likelihood a publicly-owned system would produce impersonal and immovable bureaucratic control.

THE NEW STRATEGY: A HEALTH MAINTENANCE INDUSTRY

The alternative proposed here—the health maintenance strategy—is based on the promotion of a highly diversified and competitive health maintenance industry. Internal self-regulation would be encouraged by providing economic and professional incentives directed toward maintaining health rather than merely providing services when illness occurs. It is essentially a market-oriented approach in which medical care is delivered by organizations.

The health maintenance policy is expected to substantially lessen the Federal government's role in the planning and management of health programs, and therefore, should not be regarded as "just another Federal health program." Federal health programs are often based on the premise that it is essential to increase the government's responsibility for making decisions that would otherwise be made in the private sector. The health maintenance policy reverses this process of government intervention by encouraging the evolution of organizations that manage themselves in accord with clear and precise Federal policies. If experience should indicate that regulating certain aspects of the industry is desirable, appropriate measures can be initiated. However, undue initial regulation of the health maintenance industry would frustrate its growth without providing definitive proof of its potential advantages.

HEALTH MAINTENANCE CONTRACTS

The operation of health maintenance organizations is contingent upon the health maintenance contract—the key feature which assures that these organizations will deliver health services more efficiently and effectively than conventional providers. By this contract, the health maintenance organization (HMO) agrees to provide comprehensive health maintenance services to its enrollees in exchange for a fixed annual fee. The consequences of this contract to both the consumer and the provider are vital to this strategy. The economic incentives of both the provider and the consumer are aligned by means of their contractual agreement, which assures that the provider will share the financial risk of ill health with the consumer. Since the economic incentives of the contracting parties are identical, both would have an interest in maintaining health. Moreover, the health maintenance organization guarantees that services will be made available to the consumer, unlike conventional insurance plans which merely guarantee reimbursement for services, if the consumer can find them.

Thus, the health maintenance approach is distinguishable from both the traditional means of providing care and the traditional means of financing its purchase. Consumers would have the opportunity to choose between conventional health insurance and the health maintenance contract. Payments would be set at a level which would permit the HMO to make necessary investments in manpower training, capital facilities, and research in health care delivery consistent with the needs of its consumers. Overbuilding and wasteful use of manpower would be discouraged without resorting to excessive public intervention. In short, profitability would be a condition of survival, and efficient health organizations that manage and invest well would thrive.

HEALTH MAINTENANCE ORGANIZATIONS (HMO'S)

Under the health maintenance strategy, the consumer would be able to purchase health maintenance services from a variety of competing organizations. These organizations would bring together in effective working arrangements whatever professional personnel, facilities, and equipment may be necessary to maintain the health of their clients. Federal concern would focus on the performance of the HMO, not on its organizational structure. No health maintenance organization would be granted an exclusive territory.

The benefits of health maintenance organizations have been successfully tested by more than two dozen existing organizations serving more than eight million consumers. Such organizations provide all of the services needed for restoring and maintaining the health of a specified client group. They have demonstrated the benefits of modern management techniques, team practice, advanced information technology, professional surveillance of quality, and effective integration of capital and labor—attributes characteristic of organized health care systems.

Since existing HMOs are marginal forms of care, outcome and performance data must be interpreted with caution. Nevertheless, comparisons of the performance of health maintenance organizations with that of the more traditional modes of health care delivery substantiate the high quality care provided by HMOs, as indicated by fewer premature births and newborn deaths, and by lengthened life spans for matched populations of elderly patients. Rates of hospital utilization and surgery are also conspicuously lower for health maintenance organizations, and HMO subscribers require fewer physicians per capita and fewer hospital beds than is true for the United States as a whole.

The establishment of health maintenance organizations is a movement already underway in the health industry. Organizations are being established by county medical societies, urban tax-supported general hospitals, medical schools, consumer groups, and private enterprise. Especially promising are the new consortiums of industrial, medical, and educational institutions. Corporations have shown more than casual interest in forming such organizations to maintain health. These include insurance companies such as Connecticut General, Metropolitan, Equitable, Prudential, and the Blues. Other major corporations such as Westinghouse, General Electric, Upjohn, DuPont, and Texas Instruments have expressed interest in the idea and some have specific planning efforts underway. Outstanding medical schools, such as those at George Washington, Harvard, Yale, and Johns Hopkins, have already started HMO programs. Medical schools at the University of California, University of Rochester, Georgetown, the University of Minnesota, Washington University (St. Louis), and the University of Indiana are either planning or actively developing HMOs. Community or union-sponsored programs are in the active planning stage in Providence, Pittsburgh, Philadelphia, Nashville, and a number of other cities. The Kaiser Foundation Health Plan has experienced a recent surge in growth, and is actively establishing new programs in Cleveland and Denver. In line with this extension of its activities beyond its formerly exclusive West Coast market area, Kaiser is evaluating the possibility of establishing HMOs in other eastern cities. Finally, health maintenance organizations sponsored by county medical societies are under consideration in virtually every state.

This broad array of organizations only hints at the variety of organizational patterns through which health maintenance services can be delivered under the terms of the health maintenance strategy, since most existing organizations must still make significant concessions to conventional methods and organizational structures to gain professional and consumer acceptance. Theoretically, however, solo practitioners could underwrite hospital and clinic care in order to contract for health maintenance. Physicians might wish to participate in health maintenance organizations for a fraction of their time and pursue other professional activities in addition. The increased involvement of private corporations, experienced in more sophisticated applications of management and the ability to generate and effectively use capital resources, can be expected to add further diversity and competition to the health industry.

The health maintenance policy advocates minimal interference in the internal arrangements of health maintenance organizations, relying instead on performance-reporting for consumer protection and on competition to control costs and to improve distribution.

CONSUMER PROTECTION

The health maintenance strategy would reorient the health industry so that its natural forces are compatible with the public interest. Since health maintenance organizations now comprise a relatively small segment of the industry, accurate forecasts of performance for a greatly expanded and competitive health maintenance industry are not possible.

Many are wary of a market approach to health care delivery. The assumptions behind their skepticism, which are often used to justify the monopolistic approach of the health industry, include the following:

The consumer of health services is often poorly advised about the nature and quality of health care, and is not capable of making an informed choice between competing scources of care. Under these conditions, poor scources of care are just as likely to attract consumers as good ones.

Disparities in the distribution of income gives consumers an unequal command over health care resources that are in short supply.

Inequitable health levels among consumers of health services will discriminate against high-risk populations in the competition for health care services.

Such skepticism appears unwarranted, however, when it is noted that the health maintenance strategy would improve the

health care market, if the following requirements were met:

Health maintenance contracts would be awarded only to responsible organizations whose structure, resources, and performance demonstrate the capacity to provide quality health services.

A performance reporting system of proven reliability would be developed and installed to provide both individual consumers and quantity buyers (e.g., HEW) with accurate information on the comparative performance of alternate sources of health care. (HMOs would be required to make such information available.)

To prevent discrimination against low income consumers, HMOs would be required to provide mandatory Medicare and Medicaid benefits at prices comparable to the traditional sources of health services. HMOs that wish to provide additional benefits could only do so on an optional basis to Medicare and Medicaid subscribers.

To avoid the possibility of creating a separate medical care system for the old and the poor, health maintenance organizations would be required to also accept individuals who are not entitled to Medicare and Medicaid.

To protect against adverse selection, HMOs would be required to accept prospective consumers on a first-come, first-served basis. Surveillance of the characteristics of populations served and services provided by HMOs would be maintained, and if discrimination is evident, appropriate acton would be taken. This could include refusal to negotiate with offending HMOs.

CONCLUSIONS

The health maintenance strategy would apply the economic leverage of the Federal government's purchasing power and its suasive influence to create a competitive health industry in which health services increasingly would be provided by HMOs. The strategy assumes that HMOs are capable of producing services more economically and effectively than conventional providers by integrating and coordinating the many elements of health care, through the incentive of sharing the economic risk of illness with their subscribers.

The emergence of a free-market economy could stimulate a course of change in the health industry that would have some of the classical aspects of the industrial revolution—conversion to larger units of production, technological innovation, division of labor, substitution of capital for labor, vigorous competition, and profitability as the mandatory condition of survival. Under such conditions, HMOs would have a vested interest in regulating output, performance, and costs in the public interest, with minimal intervention by the Federal government.

Most important, the health maintenance strategy offers a common cause for the collaboration of the professional, public, and private enterprise sectors of the health industry in alleviating the medical care crisis in a rational and timely manner, as a feasible alternative to a nationalized health system.

WIND RIVER, WYO., NATIVE CRAFTS CORP.

Mr. McGEE. Mr. President, it was nearly a year ago when a unique business venture was launched on the Wind River Indian Reservation in Wyoming. The venture became the Wind River Native Crafts Corp., a completely Indian-owned cooperative enterprise.

Through the assistance of a Chicago businessman, Mr. Albert Cook, who now makes his home on the reservation in Burris, Wyo., a business corporation was formed that has revolutionized the crafts industry at Wind River. Mr. Cook provided the business expertise in setting up the corporation and worked diligently with the Indian community to line up the support of the Small Business Administration and acquire local contributions as seed money for the venture. He also provided money out of his own pocket in the form of a loan to the corporation. The total amount of seed money provided the project from all sources was $25,000; and yet, from this small beginning, some $500,000 in sales is expected to be reached by the end of the first year of operation.

This project has held special interest for me, since I worked with the SBA in attempting to line up the initial funding for the enterprise.

The Denver Post of Sunday, September 17, contains an article concerning what happened on the Wind River Indian Reservation. I know Wyomingites in general, and the Indian community in particular, take great pride in what has been accomplished with the Wind River Native Crafts Corp.

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

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

THE WIND RIVER INDIANS GO INTO BUSINESS

THEY HAD LITTLE PROSPECTS FOR ESCAPING THEIR POVERTY UNTIL LAST WINTER WHEN A COUPLE FROM CHICAGO POINTED OUT A SOLUTION

(By Zeke Scher)

Auditors in the Small Business Administration offices in Washington, D.C., alertly discovered last February that something unusual was afoot on the Wind River Indian Reservation of west-central Wyoming.

It was so unusual, in fact, that SBA thought its computers were on the blink. So they checked, and came up with the same results—more than 300 SBA loans on the reservation within three months. And each of them for exactly 250.

Indeed, something very unusual was going on. Shoshones and Arapahos, historical enemies who live at separate ends of the 2.2 million-acre reservation, had joined to form a business corporation that was revolutionizing their crafts industry. And the SBA loans were financing it.

A paleface couple from Chicago, who live on an old allotment within the reservation, hatched the idea. A remarkable 40-year-old Arapaho woman is making it work.

The Chicagoan is Albert Charles Cook, a white-haired, 50-year-old furniture merchandiser who ran out of breath two years ago during the business ratrace. It wasn't the competition; it was the lungs. Emphysema was the problem. Wyoming was the answer.

In February 1970 he and his pretty wife, Elizabeth, moved out of their 61st floor Lake Point Tower apartment and headed for their summer home in the foothills of the Wind Rivers near Burris, Wyo. You know where that is—west of Crowheart, between Fort Washakie and Dubois, just off U.S. 26 and 287. The census lists the population of Burris at 10, but that may be high.

Cook got his first look at western Wyoming in 1965 while buying wood parts at a Riverton furniture plant. He visited a dude ranch at nearby Dubois, and by that fall was owner of a quarter section of Wyoming.

Cook gave a local contractor, Phil Spencer, a free hand in building a summer home on the land. In six months he'd finished a handsome log structure on the upper edge of a bowl-like pasture commanded by a resident bull elk.

For the next four summers the Cooks and their four children—Carolyn, now 18, Frederick, 22, Stephen, 23, and Charles, 25—came west to enjoy Wyoming.

The Cooks are sociable people. Soon they were inviting neighbors to dinner. Among them were two Shoshone couples, Herman and Wallace St. Clair and their wives.

Conversation got around to reservation-made crafts—or rather, the lack of them. Cook was surprised he couldn't find any to buy. The St. Clairs mentioned that Bobbie Hathaway, the Wyoming governor's wife, was encouraging the creation of a guild to promote crafts work.

The guild made slow progress. A recent reservation economic report said the guild over a three-year period purchased $6,000 worth of craft goods from members.

After the Cooks became year-round residents in 1970, they got to know more of their neighbors and the neighbors got to know the Cooks. Both Al and Elizabeth had been very active in Illinois civic affairs—PTA, symphony, Scouts, hospitals, politics—and it wasn't natural for them to be sit-at-homes. However, as johnny-come latelies on an Indian reservation, they weren't about to try and take over.

But in May last year, a question from a group of Indians fell on sympathetic ears: "Can you help us?"

The Cooks felt a properly organized and efficiently run cooperative enterprise—with knowledgeable merchandising—could succeed in promoting the crafts that many of the 4,435 Indians on the reservation were capable of producing in volume. It certainly was needed, what with a 47 per cent unemployment figure.

The Cooks spend many hours talking with tribal leaders and anyone else showing an interest—Congressmen, Bureau of Indian Affairs (BIA), Agriculture Department and a myriad of federal economic development agencies. All offered encouragement but little else. The SBA said it couldn't loan money to a cooperative. That last rebuff rang a bell.

Last July the Cooks checked with the Wyoming Secretary of State's office and drew up articles of incorporation for an enterprise to be known as Wind River Native Crafts Inc. Stanford St. Clair, a Shoshone and rancher at Crowheart, and his Arapaho wife, Leona, helped recruit a board of directors—three Shoshones, three Arapahos, a Bannock and two ex-Chicagoans.

A year ago the document was filed in Cheyenne. Purpose of the new corporation: To do everything necessary to promote, manufacture and sell authentic Indian crafts, such as beaded moccasins, elk hoof bags, war bonnets, claw necklaces, beaded buckskin belts, braid wraps, bolo ties, headbands, dolls and various ceremonial apparel.

Stock in the corporation could be purchased only by craft producers and then only one share each.

With corporate papers in hand, Cook returned to the SBA and asked for a loan of $25,000, if you please. The SBA said no, then maybe. Finally, the federal agency agreed to provide $15,000 if others put up $10,000.

The Wyoming Industrial Development Commission kicked in $2,500. Two Riverton men—publisher Roy Peck and banker Harmon Watt—also loaned $2,500 each as a civic gesture. And so did Albert Cook.

On Oct. 27, with the $25,000 banked, the corporation made its first purchase, a Chevrolet van to reach "stockholders" around the big reservation. The corporation also signed a one-year lease on the former M&R Grocery store building at Crowherat for headquarters.

The Cooks and the St. Clairs got into the new van Nov. 1 and made their first recruiting visits. In two-hour visits to Fort Washakie, Arapahoe, and Ethete (pronounced Eth-tee), they got 25 signatures. The word began to spread.

Al Cook was well aware that if the Indi-

ans were to be encouraged to produce quality craftwork in volume, they would have to receive compensation promptly. But between production and retail sale would be a lag. The $25,000 would soon be used up before money began to come in. So where could additional funds come from to pay the Indian workers as soon as they brought in their goods?

Between approval of the initial SBA loan and the first sign-ups, Cook and federal officials figured out an ingenious way to finance the operation.

Each crafts producer who agreed to become a stockholder also filed out an SBA application for a $250 loan, to be co-signed by the corporation.

Without the corporate backing, the loans probably would have been rejected as bad risks because most of the Indians had neither assets nor business experience.

As each loan was approved, the money went into the corporation treasury for purchasing crafts from the Indians, promoting their sale and obtaining raw materials for resale to the tribesmen. The corporation agreed to pay off each loan at a rate of $5 a month.

Success of the sign-up campaign amazed the Cooks, the same way Washington SBA officials were surprised by the deluge of $250 loan applications. By Jan. 1, there were 200; by Feb. 15, 300; on July 1, 500.

No one promised to make the Indian craft producers rich. They were to be paid reasonable wholesale prices, which was a lot better than the bottle of whisky or other barter many had been getting. A sure market and instant cash payment were the major incentives.

But there was the capitalistic profit angle too, perhaps a little obscure for the average reservation Indian to grasp. At the end of the fiscal year—next Sept. 30—the board of directors will study the profit and loss sheet. If there is a profit, this will be distributed among the stockholders as in most corporations. However, the dividend to each stockholder will be based on the amount of crafts he's sold to the corporation during the year.

All this sounded fine, but the entire operation depended on some very practical business considerations:

How would craft prices be fixed for the Indian producers?

How would quality standards be set, maintained or raised so the products would be in demand?

How would the crafts be marketed, if and when an inventory was compiled?

Anyone undertaking to appraise the artistry of Arapaho and Shoshone craftwork faced the prospect of an Indian war. Could one Indian tell another Indian that his work was "wrong"? (Indian crafts must not only show good workmanship; they must be right—the way they're supposed to be.) Could an Indian avoid criticism if he happened to set one price for a fellow tribesman and a lower one for a member of another tribe?

(In addition to Shoshone and Arapaho, there are Sioux, Comanche, Bannock, Ute, Navajo, Mescalero Apache and Taos Pueblo Indians who are stockholder-producers.)

The "impossible" job of appraiser was accepted by Leona St. Clair. A 40-year-old enrolled Arapaho, she is married to a Shoshone and is the mother of six. Her paternal grandmother was a Gros Ventre, her mother Arapaho.

Leona took the title of manager and bookkeeper. She circulated a news letter announcing she would buy on a regular schedule: Mondays and Fridays at the shop set up in the Crowheart headquarters; and on successive Wednesdays at the Great Plains Hall in Arapaho, the Community Hall in Ethete and the Rocky Mountain Hall at Fort Washakie.

She met with older women of the tribes and drew up a tentative price list as a guide. She studied the "right" crafts so she could explain the reasons for her prices—or for rejecting items.

"I knew many needed a lot of encouragement," she says. "Some of their work was very poor. At first it took me all day to handle 30 people and explain what was needed to improve.

"Members of the Joint Tribal Council came to me and asked why I was turning people away. I told them I wanted better work and that I would turn down poor work even from the president of the United States."

The job took its toll, emotionally and physically. While Leona appears business-like, she is highly sensitive to the needs and feelings of the Indians.

"At first I didn't think I could take the pressure," she says. "People would demand a price, I'd explain what I could pay and we would argue. I worried about what would sell, what should I stop buying, what was the right price.

"I had terrible headaches and the doctor gave me some pain killers. I determined that I would not let people upset me and I don't argue any more. Now I set a price and it's take it or leave it."

On a recent buying day at the Ethete Community Hall, the line of waiting producers extended some 50 feet, from the end of a long table where Leona sat, to the front door. They came with their products in paper bags or held under shirts, jackets or shawls to protect them from a gentle rain. They ran the gamut in age and appearance from a few teen-age long hairs to wrinkled and gray senior citizens who usually are the best craftsmen.

As the Indians moved down the table they could select a wide variety of raw materials. These could be deducted from their payments when they reached Leona. She, meanwhile, was pricing, buying, explaining and writing checks. Leona started at 10 a.m. and didn't get up from the table until 5:30 p.m.

The producers also showed great patience. Many waited in line for as much as two hours. Some chatted quietly; most stood silently. Waiting children were less patient, running about the hall or even crawling about Leona's feet beneath the table. At noon, Ethete women provided for $1 a meal of boiled dried elk, chokecherry gravy, fried bread and coffee.

By day's end 96 craft producers had received checks totaling $3,769.65.

Each week, Leona's purchases have surpassed the entire three-year total reported by the old guild. At the present rate, the corporation business will total $250,000 in direct payments to the Indians this year. Hopefully, the merchandise can be resold for $500,000, making the corporation the largest local private enterprise other than a few ranch operations.

"I've seen great improvement in workmanship in a very short time," Leona says. "They take more pride in their work. I know they don't like to be rejected in front of the crowd. That's one of the big reasons they're improving."

During *Empire's* visit, only a few bickered with Mrs. St. Clair. "You gave me $5 last time," a woman objected.

"I will give you $4," Leona repeated, ending the debate. Later, Leona rejected a fan made of dyed turkey feathers.

She calmly explained that a good fan must be symmetrical—feathers from the left wing should be on the left, from the right wing on the right and the tail feathers in the center. Eagle feathers are best. It is illegal to deal in them but when a dead eagle is found, the feathers may be used. Often these show signs of scorching where a bird has struck power lines.

No plastic is permitted. Real bone (from Italy!) is used in various ceremonial pieces. Beads must be glass. Indian tanned buckskin, rawhide, porcupine quills, elk hoofs, woods, stone arrow points, shells, hair, skins—these are the raw materials. While sinew is preferred in bindings, invisible threads are acceptable.

The finished products are of such increasing quality and beauty that Cook has had little trouble in lining up prestigious outlets, including the Denver Art Museum, Field Museum of Natural History in Chicago, Wyoming State Museum in Cheyenne, Whitney Gallery of Art in Cody, the Indian Arts Museum at Grand Teton National Park, and gift stores in Laramie, Casper, Jackson, Estes Park and Dodge City.

An old friend in Chicago, Bruce Beck, provided Cook and the corporation with a colorful insignia—a red rose next to a blue morning star—which with a fact tag is attached to each item. Photographer Allen Snook has taken a series of vivid transparencies for an upcoming brochure.

For all his efforts and expertise—the United Nations had Cook advise Taiwan on marketing their wood products—he receives no pay. In fact, he can't even get a discount at the Crowheart shop—although Mrs. Cook is one of their best customers. (Stockholders are given 10 per cent off retail when they buy another artist's work, but the Cooks can't become stockholders unless they learn to make items good enough to pass Leona.)

The economic transfusion has had noticeable effects on the reservation. School teachers have commented on the newer and cleaner clothing worn by the children. Families that doubled up in crowded quarters are moving into separate homes. Car payments and other bills are being paid. Among individual Indians the interest rate on savings accounts has become a matter for discussion.

When George Quiver, Old Man of the Arapaho Tribe, told Leona, "What you are doing is good," that meant something. And so did graying Winnie Shot Gun's comment: "You're feeding me."

"If a dividend is paid after September," says Leona, "we will really boom. Most of the Indians don't understand the future dividend prospects."

Good-neighbor Cook feels many of the federal programs flop because they try to build from the top down.

"If Indians are going to run a company they have to know how it's done," he says. "You have to start by building up and establishing a dependable source of goods. They have to understand how society operates.

"We've proposed to the Bureau of Indian Affairs that they survey all the reservations and see what is being produced, find the key people and start the building process—from the bottom up. I can envision corporations like ours in Montana, Utah, Idaho, South Dakota—and we could centralize merchandising for them right here in Crowheart."

Al Cook is breathing easier these days. He's scaling new heights—including those Wind Rivers—and the old emphysema doesn't seem to bother anymore. Good work is heap good medicine.

FULL EMPLOYMENT AND JOB DEVELOPMENT ACT OF 1972

Mr. JAVITS. Mr. President, on August 17, 1972, joined by 14 cosponsors, I introduced S. 3927, the Full Employment and Job Development Act of 1972. The cosponsors are: Senators MONDALE, BROOKE, CASE, HARRIS, HART, HARTKE, HUGHES, HUMPHREY, MATHIAS, MOSS, MUSKIE, PELL, RANDOLPH, and WILLIAMS.

The bill would establish a Federal Full Employment Board as an independent agency in the executive branch of the Federal Government, and would create a

Full Employment Assistance Fund to be used at the discretion of the Board by the Secretary of Labor for the provision of financial assistance for job development and related training in public service fields—$1 billion is authorized for the fund for fiscal year 1973.

It is designed to provide for the first time the mechanism to put teeth into the concept of full employment.

The Manpower Information Service, a biweekly review of the manpower developments by the Bureau of National Affairs, Inc., with wide circulation among manpower experts, has undertaken an extensive analysis of the bill in its September 13, 1972, issue, noting both its strengths and possible weaknesses.

It concludes that the proposal is a "thought provoking addition to the manpower legislation hopper" and "deserves the most serious consideration."

It is my hope that there will be an opportunity to conduct hearings on the bill in the Subcommittee on Employment, Manpower, and Poverty during this Congress so that we may have the benefit of the views of experts in preparation for reintroduction and consideration in the next Congress.

So that Senators may become aware of some of the considerations involved in the proposal, I ask unanimous consent that there be printed in the RECORD the Manpower Information Service article, which I mentioned, and a section-by-section analysis of the bill.

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

JAVITS' FULL EMPLOYMENT PROPOSAL REDESIGNS, EXPANDS MANPOWER EFFORT

The Full Employment and Job Development Act of 1972, introduced on August 17 by Senator Jacob Javits (R.-N.Y.) and cosponsored by 14 other senators, represents the second major part of the New York senator's deliberately conceived design for comprehensive manpower legislation. This bill is a companion piece to Javits' earlier entry in the manpower field, the Community Manpower and Employment Act, which he characterized as a substitute for the Administration's Manpower Revenue Sharing proposal. A third Javits manpower bill dealing with the specific problems of providing training and employment for individuals who have been caught up in our correctional system, i.e. prison inmates, parolees, and adjudicated youth—will probably follow later in the year.

While the Javits Community Manpower and Employment Act deals only with those facets of manpower reform which are normally considered under the rubric of comprehensive manpower legislation, namely the problems of decentralization of control, and consolidation and decategorization of programs, the new Full Employment bill is in many respects much more comprehensive. If enacted, it could have far reaching consequences for the development and implementation of national manpower policy and programs.

Taking as its premise the obligation to achieve full employment—the unfilled promise implicit in the 1946 Full Employment Act—the Javits bill moves toward a guarantee of work. The bill states that "it is necessary to assure an opportunity for a gainful, productive job to every American who seeks work and to furnish employment opportunity, training, and related assistance needed by any person to qualify for employment consistent with his or her highest potential and capability." The bill proposes to meet this obligation in two ways: first, by the establishment of a new independent government agency, the Federal Full Employment Board; and second, through the establishment of a substantial fund of money, the Full Employment Assistance Fund, which would be used as needed for job development in the private or public sector—and so put meat on the bones of the Full Employment Board's recommendations. By separating the administrative problems of the delivery of manpower programs from the policy concerns of full employment, Senator Javits has made an important distinction which should help to sharpen the continuing debate on manpower reform.

THE FULL EMPLOYMENT BOARD

As proposed under the Javits bill, the Federal Full Employment Board is intended to be the federal government's advocate for full employment. It is to consist of five members, appointed by the President by and with the advice and consent of the Senate. Its composition would include one member each from management and the general public as well as a "distinguished economist" and a "distinguished manpower expert." There would be a chairman appointed by the President, but not more than three of the five members could be from the same political party. The members would serve full time for staggered terms of three years. The board would have a staff headed by an executive director, who would also be appointed by the President and subject to Senate confirmation.

The primary responsibility of the board would be to recommend to the Congress and to the President a program to achieve full employment, in terms of monetary, fiscal, income, manpower, training, and other relevant policies. As explained by Senator Javits, "We have no way to coordinate or to get an overview of the (existing) uncoordinated initiatives and to insure the maximum utilization of resources and to chart a course toward full employment. Today the government has a whole range of powerful tools available to it to help control the economy and to ensure that employment goals are reached. It is about time we started pulling all those levers in a planned way so as to achieve and maintain full employment as well as price stability."

The recommendations of the board would be contained in an annual report to the Congress and to the President. To assure that the work of the board and the problems of employment received the considered attention of the public and the press, as well as of lawmakers and federal executives, the bill also provides that the report should be the subject of annual hearings held by the Senate and House committees concerned with manpower and employment. This is similiar to the procedures now in effect under which the Congressional Joint Economic Committee conducts hearings on the Council of Economic Advisers' economic report to the President.

As part of its overview responsibilities, the Full Employment Board would also undertake manpower planning, as well as short and long range surveys to estimate employment and manpower needs. These surveys of supply and demand need not be cast only in terms of broad national trends, but could be given a more limited scope focusing on particular geographic areas, industries, or occupations, or sectors of the labor force. Such an approach would go far toward overcoming one of the most persistent roadblocks to intelligent and effective development of national manpower policy; that is, the difficulty in designing national programs which will also serve specific local situations.

To accomplish its objectives the board would be given authority to evaluate existing programs, to call on other agencies for assistance, to review decisions affecting employment made by employers both in the private and public sectors, to hold regional and national conferences, and to employ expert assistance as necessary. The bill also provides for standardized reporting on the progress and effectiveness of existing manpower programs, including data on the characteristics of those involved in federally assisted manpower programs, follow-up information for a year after completion or participation in manpower programs, as well as pertinent information on wages, salaries, and occupations.

It should be noted, however, that the bill does not contemplate the replacement of the present Manpower Administration within the Department of Labor by the Full Employment Board. On the contrary, the limited funding provided in the bill for the board's operations—$3 billion per year—clearly indicates that the administration of manpower programs will remain with the Labor Department. As Senator Javits stated, the board is to be the government's advocate for full employment—a role that he feels is not now being filled by any other agency, including the Council of Economic Advisers. As an advocate, however, the board would be in a position to get at one of the most difficult problems that has faced federal manpower planners in recent years. "Manpower" has evolved in just a few years from a program to train or retrain individuals who could not compete in the labor market to a multifaceted social program concerned with all aspects of employment and unemployment. But there has been no systematic way for the administrators of narrowly defined manpower programs to link their plans with the efforts of other policy planners who come at the problems of employment from a different focus; defense procurement, for example, or foreign trade policy, or particularly, the broader aspects of economic policy, e.g. price stability or inflation control.

POTENTIAL CONFLICTS

Establishment of the proposed Full Employment Board would go far toward filling this void, however, there are still some problems posed by the creation of a new independent agency. The most obvious, of course, is the potential conflict with the Department of Labor. Despite the fact that the bill limits the board to an advocacy role, it is always possible that an aggressive board, or more likely an aggressive chairman, could easily find himself in conflict with a Secretary of Labor over the proper policy and program mix at any particular time. This might be especially difficult since the board is given responsibility for setting forth the general standards and guidelines for the utilization of the proposed Federal Assistance Fund—a billion dollar money bag which the board could use to implement its recommendations.

Another potential trouble spot is the provision in the bill that the members serve for three-year terms. As with so many of our federal boards and commissions, such a system means that there would be at least one year, and possibly two, when the board would be dominated by members of the opposite political party than that of a first term President. A situation of this sort, when applied to such an important area of national policy as employment, might well frustrate the whole domestic program of the incoming President.

It is also quite possible that a new Full Employment Board could find itself in conflict with the Council of Economic Advisers, which, as part of its responsibility to provide the President and the Congress with an overview of the economic health of the nation, must certainly consider and report on national problems of employment and unemployment. Senator Walter Mondale (D.-Minn.), one of the bill's cosponsors, has replied to this criticism, arguing that the Council of Economic Advisers has not given

and cannot give enough attention to the problems of employment.

FULL EMPLOYMENT ASSISTANCE FUND

Perhaps the greatest potential for the Full Employment Board to make an impact on national manpower policy is found in the provisions of the Javits bill which provide for a so-called Full Employment Assistance Fund. This fund, authorized for the first year at $1 billion, would be under the direct control of the board and would be used to create public service jobs. It is intended to serve as a substitute for the present Emergency Employment Act, which is due to expire at the end of this fiscal year on June 30, 1973. Although the Secretary of Labor is given responsibility for the administration of the fund, he must follow the "specific directions" of the board.

As proposed under the bill, the Full Employment Assistance Fund follows the general pattern of the present Public Employment Program, but there are some important differences. First, the bill provides that funds may be given by the Secretary directly to private nonprofit agencies, as well as to public agencies. This would appear to eliminate the present concept of administering the program through a limited number of designated program agents, presently restricted to states and cities or counties of at least 75,000. It also opens the door to sponsorship of public employment programs to community action agencies and to community development corporations.

Second, like the Emergency Employment Act, the bill tackles the problem of assuring that the program is a transitional one for its participants and not a permanent kind of make-work program. The bill includes many of the same provisions as EEA regarding upward mobility, requiring that participants be given every opportunity including training and supportive services so that they may move on to other jobs in either the public or private sector. *However, unlike EEA, it would appear that the Javits bill envisages a greater use of the fund for training than in the present PEP program.* The bill also includes a provision requiring the agencies and institutions to whom financial assistance is given to make an effort to eliminate artificial barriers to employment.

The public job program proposed under the Javits bill is clearly meant to be a permanent part of the manpower framework. It is not meant to be a one-shot emergency program, nor is it meant to be a permanent subsidy to help hard-pressed state and local governments meet public service needs. Under the Javits bill, public service employment is seen as essentially a *manpower* program—tailored to meet specific localized or general unemployment problems. In explaining the program Javits has said, "This is not the old doctrine of the federal government as the employer of last resort. . . . Public service employment is a tool, but not the only one, and I consider it wise to let the Board determine first the best ways to develop more jobs in the private sector through other means and then decide where and to what extent to apply money for public service employment."

Almost all of the proposals for comprehensive manpower legislation that have been made in the past three or four years have recognized the utility of public service employment as one of many manpower tools. The chief argument has been over whether public employment should be a permanent or an emergency program; whether it should be given special attention—and therefore guaranteed a degree of permanence—as a separate title in a comprehensive bill, or whether it should merely be one of a long laundry list of the kinds of manpower activities permitted to a local prime sponsor.

In separating public service employment entirely from other manpower tools, the Javits bill goes farther than any of the previous proposals. By taking this tool out of the laundry list, and even giving control over its use to a separate independent agency, the Javits bill upgrades the significance and increases the potential impact of public service employment. But it also creates some difficult problems. At the federal government level, divided control over manpower policy might well inhibit effective utilization of the new tool. But perhaps more important, at the local level, where CAMPS has just begun to develop and manage coordinated manpower programs, cities and states might find that divided control of public service job funds could prove to be a roadblock to rational planning and coordinated local efforts.

In any case, the Javits proposal is a welcome and thought provoking addition to the manpower legislative hopper. It deserves the most serious consideration. Despite the recently reported disenchantment with manpower programs of some of the Administration's top economic officials, it seems quite likely not only that the manpower debate will continue, but also that new manpower legislation will be enacted within the next fiscal year.

SECTION-BY-SECTION ANALYSIS OF FULL EMPLOYMENT AND JOB DEVELOPMENT ACT OF 1972

Sec. 2. *Congressional Statement of Policy and Findings.* This section states that in order to attain the national objective of full employment it is necessary to assure an opportunity for a job to each American, that the United States has the capacity to do so and that the Federal Government lacks any comprehensive means to reach that objective.

The purposes of the Act is to provide for the implementation of a full employment policy through the establishment of a "Federal Full Employment Board" and the provision of assistance for job development in the public and non-profit private sectors and related training and assistance.

Sec. 3. *Federal Full Employment Board.* This section establishes as an independent agency in the executive branch a "Federal Full Employment Board", to consist of five members appointed by the President by and with the advice and consent of the Senate as follows: one representative of labor, one of management, one distinguished economist, one distinguished manpower expert; and one member of the general public. Not more than three members may be of the same political party. Members shall serve full time.

Sec. 4. *Functions of the Board.* This Section authorizes and directs the Board to (i) recommend to the President and to the Congress a program to achieve full employment; (ii) undertake manpower planning and long-range and short-term surveys in terms of demand, supply and by sector; (iii) review decisions made by public and private employers affecting full employment; (iv) develop guidelines and standards for use of public funds in job development programs; (v) review the implementation of manpower training and employment programs in terms of the extent to which they contribute to full employment; (vi) direct the Secretary of Labor to obligate funds made available under the Full Employment Assistance Fund established under Section 7, (vii) hold nationwide and regional conferences; (viii) analyze the extent to which the Federal budget may assist in reaching full employment; (ix) evaluate programs and (x) carry out such other functions as the President may direct.

In carrying out these functions, the Board shall use the services and facilities of the other agencies (to the extent directed by the President), supply technical assistance, establish regional offices, make grants and enter into contracts, accept gifts, consult with the Council of Economic Advisors and with the Commission on Productivity and with representatives of industry, labor and other groups.

Sec. 5. *Authorization of Appropriations.* This section authorizes $3 million for fiscal year 1973 and for each fiscal year thereafter, for the activities of the Board (other than under Section 7).

Sec. 6. *Reports.* This section provides for an annual "Full Employment Report" setting forth the Board's recommendations with respect to implementation of a full employment policy for each fiscal year and for succeeding fiscal years. The report is to be referred to appropriate committees in each House.

Sec. 7. *Full Employment Assistance Fund.* This section establishes a fund and authorizes therefor $1 billion for fiscal 1973 (the start-up year), and such funds as necessary for each year thereafter. The Secretary of Labor is to provide assistance from the fund pursuant to specific directions of the Board, to public agencies and non-profit private organizations (including prime sponsors of manpower training and employment programs) for public service job development programs and related training and assistance.

Sec. 8. *Applications.* This section provides that assistance is to be provided under Section 7 only by application submitted to the Secretary and approved by him. Each application must set forth a program to provide employment and related training and assistance for unemployed persons, to enable them to obtain employment not supported under the Act and meet other special requirements.

Sec. 9. *Related Training.* This section authorizes the Secretary of Labor to use such sums as may be necessary from those appropriated under Section 7 of the Act, for training and other services related to employment.

Sec. 10. *Special Responsibilities of the Secretary.* This section contains conditions designed to ensure that jobs are transitional, that is, will lead to public or private employment opportunities not supported under the Act.

Sec. 11. *Full Employment Intergovernmental Advisory Council.* This section establishes a Council consisting of state and local prime sponsors responsible for conducting manpower training and employment programs, to advise the Board on intergovernmental aspects of attaining full employment.

Sec. 12. *Special Provisions.* This section contains important requirements as to reporting, discrimination, political activities, and wages, and other benefits. It provides that all persons employed under programs shall be paid wages which shall be equal to whichever is the highest of the federal minimum wage, the state or local minimum wage, or the prevailing rates of pay.

Sec. 13. *Definitions.* This section defines Board, Secretary, State public service job development program, and Unemployed person.

Sec. 14. *Effective Date.* This section provides that the Act shall take effect upon enactment.

SUPPORT BY NORTH VIETNAM FOR MURDERS OF ISRAELI OLYMPIC TEAM

Mr. DOMINICK. Mr. President, the strong support by the Government of North Vietnam for the despicable murders of the Israel Olympic team members is discussed in some detail in an Evans and Novak column published in the Washington Post on September 21. The columnists observe that this action gives us a specific example of the inflexible position of the Hanoi regime in its approach to solving ideological differences.

This account by respected journalists of the endorsement of the murderous

tactics of the Arab terrorists by the leaders in Hanoi is long overdue. I would point out to the Senate that these leaders in Hanoi are the same inhuman, desperate group to whom Senator McGovern has indicated he would be willing to crawl on his knees in order to bring an end to the war in Indochina. This article clearly illustrates the character of the Hanoi government and the total intransigence of the leaders there to end the war on any terms but their own.

I ask unanimous consent that the article entitled "North Vietnam's Arab Line" be printed in the RECORD.

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

NORTH VIETNAM'S ARAB LINE

(By Rowland Evans and Robert Novak)

Even Hanoi-watchers accustomed to rigid militancy by the North Vietnamese Politburo were stunned last week by its fervent support of Arab terrorism in Munich—ominously revealing the mentality of the men in charge at Hanoi.

One week after Munich, North Vietnam fired a propaganda barrage endorsing the guerrillas' attack on the Olympic Village not equalled outside the Arab world—certainly not in Moscow and Peking. Referring to the Arab assassins as "Palestinian patriots," Hanoi accused Israel and the United States of plotting the Munich massacre to justify retaliation against Arab guerrilla camps.

What makes this so surprising is the possible threat it poses to Hanoi's campaign to influence liberal opinion in the United States and Western Europe against present U.S. policy on Vietnam. Those same liberals incensed by the terrorist invasion of Olympic Village, could be alienated by North Vietnam's embrace of the Arabs.

In fact, this embrace until now has received no attention in the West. But Hanoi could scarcely have counted on that. Some Hanoi-watchers doubt the North Vietnamese Politburo even contemplated an adverse Western reaction to its pro-Arab propaganda.

Rather, careful students of Hanoi believe its revolutionary ideology is so inflexible that it felt impelled to applaud Arab terrorism no matter what the cost. Such dogmatism supports those pessimists in official Washington who doubt Hanoi will ever settle the war on anything less than its own terms.

The North Vietnamese reaction to the Sept. 5 Munich massacre came Sept. 12 when Israel and West Germany were accused of choosing the "path of hatred and betrayal" by Nhan Dan, the Hanoi party daily. "The recent bloody incident in Munich is eloquent proof of the cruelty and perfidy of the U.S. and Israeli aggressors and the dark design of the Nixon administration and company to wreck peace under the extremely hypocritical label of humanity and peace," the newspaper continued.

Charging that the U.S. and Israel "deliberately allowed" the murder of Israeli Olympians as a pretext for reprisals, Nhan Dan added: "They planned to whip up a chauvinistic hysteria in Israel and create a false protest movement within the so-called 'civilized world' to vilify the just struggle of the Palestinian people and to threaten and split the Arab countries."

The line was echoed Sept. 13 by the North Vietnamese army newspaper: "Those schemes and act of the aggressors can stamp out the Palestinian resistance movement or break the Arab peoples' will to fight for their fundamental rights."

This unequivocal support for Arab terrorism contrasts sharply with the public disavowal by Moscow and Peking of the Olympic Village raid. "We have never been in favor of such adventurous acts of terrorism," Chinese Ambassador Huang Hua told the United Nations.

But to be in the vanguard of world revolution, the Hanoi Politburo is rigidly allied with the Palestinian guerrillas—an alliance that began in early 1970 when Palestinian guerrilla leader Al Fatah was lionized on a visit to Hanoi.

Since then, Hanoi has been insistently anti-Israeli, denouncing Mideast peacemaking efforts and cease-fire proposals. Adamantly against any internationally supervised Vietnam ceasefire, North Vietnam wants no such precedent in the Middle East.

The long love affair between North Vietnamese and Arab revolutionaries has been ignored by Hanoi's apologists in the West many of whom support Israel. But Hanoi's embrace of the Munich terrorists make this position increasingly less tenable.

Thus, addressing Jewish rabbis Sept. 6 in Los Angeles, Sen. George McGovern compared Arab terrorists in Munich to U.S. bombing of North Vietnam. Visibly aroused, one indignant rabbi asked McGovern how he could possibly compare American air officers with Arab fanatics. McGovern immediately temporized, but the conflict was obvious. Hanoi's newest embrace of Arab terrorism does not make it easier.

ONE HUNDREDTH ANNIVERSARY OF ANCIENT ARABIC ORDER OF NOBLES OF THE MYSTIC SHRINE

Mr. SAXBE. Mr. President, this year marks the 100th Anniversary of the Ancient Arabic Order of the Nobles of the Mystic Shrine and the 50th Anniversary of the founding of the first Shriners Crippled Children Hospital. There are 19 Orthopedic Hospitals and three Burns Institutes. Countless children have been treated in these hospitals without cost due to the fine work and dedication of the thousands of Shriners across the country. The Shriners were in New York on September 25 and 26 to attend seminars in observance of their joint jubilee anniversaries, One thousand and five hundred officers of the Shrine from all of North America were in attendance. These men are not only officers of the Shrine, but are also men of substance and leaders in their communities. I would like to pay tribute to the fine men of the Ancient Arabic Order of the Nobles of the Mystic Shrine for their outstanding endeavors and good work.

DAVID KENNEDY, U.S. AMBASSADOR TO NATO

Mr. PERCY. Mr. President, some of the most crucial decisions ever facing the NATO alliance will be coming up in the months ahead. The whole issue of East-West detente and mutual force reductions face NATO with its greatest challenges since its formation. These new challenges come at the same time that many old problems continue such as the need to find ways to realine the costs of NATO so that the unacceptable balance-of-payments burden the United States bears for NATO can be relieved.

With all this happening, I am most pleased that the U.S. Ambassador to NATO is David Kennedy. I can think of no better man to have in this delicate position than David Kennedy. He has held top posts in the Government after a successful business career and has established himself as a skillful and successful negotiator of international problems.

I am sure that successes in the future on the many challenges facing NATO will be in large part due to the role played by Ambassador Kennedy.

Mr. President, I ask unanimous consent that an article published in the Christian Science Monitor of August 29, concerning David Kennedy and NATO, be printed in the RECORD.

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

[From the Christian Science Monitor, Aug. 29, 1972]

HOW DAVID KENNEDY SEES NEW NATO TALKS

(By Takashi Oka)

BRUSSELS.—East-West detente and the coming European security conference face the North Atlantic Treaty Organization with some of its most important decisions since coming into being 23 years ago. American Ambassador David M. Kennedy believes.

Wherever he has traveled in the 15-nation alliance since taking up his post in April, the white-haired, former Treasury Secretary said he found two apparently conflicting emotions: Official concern about the Soviet Union's military strength and a kind of public euphoria that cold war had given way to detente.

The official concern is intensified by the knowledge that the United States, which for so long bore the major share of the task of protecting the Western world against communism's military threat, wants what Mr. Kennedy calls a "realignment of costs."

"Europe and Japan must look to their size," the Ambassador said bluntly, referring to the spectacular economic growth these areas had achieved and to the responsibilities this growth entailed. He was interviewed recently in his office in NATO's stark white headquarters, sprawling like a miniature Pentagon on pleasant lawns overlooking the highway to Brussels' airport.

NO QUICK ANSWER

But most of NATO's European members are democracies, dependent on public support for their annual budgets. Euphoria about detente and a host of competing domestic requirements limit the proportion of national budgets available for defense. There was "no quick or easy answer," Mr. Kennedy said, wither on realignment of costs or on how to offset the foreign exchange burden the United States bears through keeping a powerful military presence in Europe.

"We're after total strength," Mr. Kennedy said, meaning that the alliance's relative strength vis-a-vis the Soviet Union would stay the same so long as any reductions in the American contribution were made up by greater European inputs. The difficulty was, however, that "each nation has a budget problem."

Mr. Kennedy thought it was remarkable that, in spite of these problems, the European alliance members had pledged to increase their defense budgets this year by over a billion dollars.

Mr. Kennedy wears three hats. He keeps his seat in President Nixon's Cabinet and the roving ambassadorships to which he was named after resigning as Treasury Secretary early in 1971.

He makes a point of attending the weekly Tuesday NATO Council meetings in Brussels. But on other days of the week he is as likely to be negotiating a trade agreement in Madrid as reporting back to the White House in Washington.

INNOCENT AIR DECEPTIVE

Mr. Kennedy looks like a small town banker who knows all his clients by their first names. Here in Europe he affects the air of an innocent American abroad—an air, those who have dealt with him say, is thoroughly deceptive.

Today, one of Mr. Kennedy's chief concerns is the European Security Conference, or to give it its full title, the Conference on Security and Cooperation in Europe. The full conference, including the United States and Canada, is scheduled to be held some time next year, with a preparatory meeting at ambassador level to be convened in Helsinki probably this November.

While the West is prepared to concede this, the allies feel they must obtain in exchange some alleviation of the massive Soviet military threat and greater freedom of movement for people and for ideas across what used to be called the Iron Curtain.

What the Soviets want from the conference is clear—a final recognition of Soviet territorial gains made in World War II and of the existence of two separate Germanys.

So, by agreement between Moscow and Washington, parallel to the security conference will be talks about mutual and balanced force reductions between NATO and Warsaw Pact forces—first of all in central Europe.

COORDINATION DELICATE

Coordinating what goes on in the two separate forums will be a delicate and sensitive business. Mr. Kennedy said he was encouraged to find during his travels that, while various NATO capitals disagreed over many details, there were "no differences in basic philosophy."

EROSION OF JUSTICE BY PRESENT ADMINISTRATION

Mr. BAYH. Mr. President, as a member of the Judiciary Committee, as a lawyer, and as a citizen convinced that an impartial system of justice is essential to the success of our democratic form of government, I have been repeatedly distressed by the manner in which the present administration has subverted justice in favor of political gain and special interests:

The nomination of clearly unqualified persons to serve on the Supreme Court;

The questionable settlement on antitrust actions involving major Republican financial supporters;

The selection of an Attorney General who testified under oath that he could not recognize a bribe;

The wheeling and dealing in milk price supports and grain deals; and

These and other examples of a short-sighted vision of justice have shaken the confidence of the American people in their Government and caused a major setback in the standards of fairness and responsibility which we have a right to expect from the Justice Department.

I regard the erosion of justice as a crucial issue in this election year; few issues go so deeply to the heart of the nature of our Government. Whether or not justice is to prevail in the United States, Mr. President, may well be the acid test of whether our 200-year-old experiment in democracy is to succeed.

For this reason, I was pleased to learn that Sargent Shriver, my party's candidate for Vice President, has singled this subject out as a major compaign theme and that he is addressing the quality of justice in a major address today in Des Moines, Iowa.

I have had an opportunity to see Mr. Shriver's prepared remarks and must say that he has detailed very effectively the disturbing record of the present administration in the area of justice. Mr. Shriver rightly observes:

A democratic nation's duty must be to secure justice for all its citizens. And when an Administration fails in this obligation, it does not deserve to govern.

Then Mr. Shriver goes on to conclude, with a substantial record and unquestioned facts to substantiate his position, that "the quality of justice in this Nation under Richard Nixon is lower than at any time in modern history." This sad conclusion is not some political charge. It is the only possible conclusion one can draw from the conduct of this administration, in its mishandling of the Justice Department, in its open door policy for special interests, in its willingness to do away with justice for political ends.

Mr. Shriver has a much clearer vision of what justice can be. He observes:

A cardinal axiom of any system of justice is that it must be even handed . . . In a just society the rights secured by justice are not subject to the calculus of political bargaining.

In his remarks, Mr. Shriver rejects the perpetuation of injustice and instead proposes that the Department of Justice become the constructive vehicle for expanding justice by enhancing and protecting the rights of all our citizens.

In his vision Mr. Shriver sees justice as "an exciting idea and a fruitful reality." He believes "a whole new spirit of justice can infuse the work of our Government."

I concur with Mr. Shriver's assessment of the situation and share his hope that justice can be restored to its proper place at the pinnacle of our Government. Unfortunately, I despair of that happening while the incumbents are in the White House and Justice Department.

THE HONORABLE ALF M. LANDON ADDRESSES THE MERCURY CLUB

Mr. DOLE. Mr. President, Kansas' senior statesman and former Republican presidential nominee, Alf M. Landon, is in great demand as a speaker for community and civic groups around the country. His years of experience in public affairs and careful observation of national and world events have given him a unique insight into current trends and happenings which he generously shares with people from all walks of life.

Governor Landon takes special pleasure in analyzing politics, for he has been involved in it for most of his life. Recently, at a meeting of the Mercury Club of Kansas City, Mo., he reviewed the 1972 campaign and two issues, the economy and world peace, which he feels are predominant in the minds of the voters. As usual Governor Landon's views were stimulating and thought-provoking, and I am sure other Senators would find them of interest. Therefore, I ask unanimous consent that the text of his remarks be printed in the RECORD.

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

NATIONAL ISSUES—1972

If this discussion before a cross-section of business and labor leadership is worthwhile, it has to be factual—not just talk.

Obviously, in this crucial changing era, the record of Richard Nixon as President of all the great American people, and the unusual performance of Senator McGovern in his few short weeks as the head of his party, are both subject to valid questioning and discussion, as to both their commissions and their omissions. Their statements will be carefully scrutinized—for what a major party presidential nominee says counts far more than what his party's platform says.

The two major issues are: the national economy and, vastly more important, war or peace in the world.

Senator George McGovern's convention presentation of "reform" policies relating to our national economic and social problems were aimed generally at the Nixon administration. Ironically, though, the Senator's chief target should have been the long-term Democrat record in Congress. Starting with the congressional session in 1931, the Democrats have had complete control of the legislative side of our government for 41 years, except for the sessions of 1947–1949 and 1953–1955. Notwithstanding Congress' lack of cooperation with President Nixon's firm and flexible policies, inflation is being slowed and our economy is responding with steady improvement.

As far as who is to blame for America's present disastrous inflationary whirlpool, it is not business and it is not labor. It is our national government—not only in its own operations, but in the example it has set for the states, the cities and the people. It began with President Franklin D. Roosevelt in 1933. He assured the American people that it did not make any difference how much the national government was in debt, for "We owe it to ourselves." The present Congress has far exceeded the appropriations requested by President Nixon and thus—if Senator McGovern is right—the Democrat Congress has failed to exercise its responsibilities under our tripartite system of government for a sound fiscal policy and a stable economy.

Because of Senator McGovern's confused and contradictory statements, it is difficult to pin down just what his solution of this pressing problem is. The key to the Senator's economic policies is to stop the arms race by a drastic slashing of funds for our armed services to the point where America would be a weakling among nations.

In sharp contrast, President Nixon, Chairman Brezhnev and Premier Chou En-lai are working together—determined to curb the arms race, despite ideological and jingoistic opposition at home and abroad—whether it comes from dogmatic communists or advocates of America First.

When Senator McGovern finally gets around to discussing his positive alternatives to President Nixon's successful economic policies, I doubt if we will hear any renewal of his pledge for a thousand dollars a year subsidy for every man, woman and child in America—or his 32 billion dollar cut in Pentagon appropriations over the next three years originally proposed.

Our national security is of transcendent importance. The Senator is making our military spending a major issue. I quote from the Kansas City Star editorial of Tuesday a week ago:

"Defense now accounts for a smaller part of the nation's manpower—including military personnel, civilian defense employes and industrial workers—than at any time since 1952.

"Defense absorbs 20% of all government spending—federal, state and local—and

about 30% of the federal total. Critics who say that the federal figure is 60% have plucked a sum out of the air, which apparently takes in such costs as the veterans' programs, pay for the retired military personnel and interest on the national debt—that item being largely related to past wars. But these categories of spending do not contribute to the continuing needs of defense. In fiscal 1973, defense expenditures will represent about 6% of the gross national product—the *lowest share in more than 20 years.*"

Another major issue thus far overlooked has been the great bipartisan failure to come to grips with the task of working out equitable labor-management legislation that promotes genuine collective bargaining. That is of high interest to every person in this great country of ours, regardless of his position in life. Nothing has more impact on our economic and social problems than the continued strikes and threats of strikes except war and threats of war.

With that in mind, I renew in a brief summary my suggestions of some years for consideration:

First, a federal statute providing that, six months or so before the expiration of an industry-wide union contract, where no agreement on extension has been reached, a voluntary arbitration board of three be named, with the National Director of the Federal Mediation and Conciliation Service as chairman.

The mechanics of decision-making would be:

Certification of a dispute to the National Director, who then forms a trident board consisting of himself or his top-level delegate and representatives from management and labor.

When the board reaches its decision, it is not a "decision in finality." It can be appealed by either labor or management directly to a three-judge special district court and then, if necessary, to the Supreme Court of the United States.

In order to eliminate costly delay, the case would be placed immediately at the top of the court's calendar.

Any moneys or fringe benefits due the employes or their heirs under the board's decision would be put in escrow and be payable with 6 percent interest added.

Finally, I come to a very critical question. If there is no acceptance or no appeal of the board's findings within 30 days, the trident board would have authority to enforce its decisions by the same provision now existing in our civil rights statutes.

If either party does not choose to accept this method of settlement, it would not be forced to do so. If a party fails to accept this procedure, it would be deprived of the use, benefit and services of existing labor laws and the right to receive contracts from the government. Moreover, they inevitably will face the growing public pressure for compulsory arbitration with "decisions in finality."

I first suggested starting six months ahead of the expiration of an unrenewed contract with the thought that this would be helpful before feelings and emotions were aroused; that it would give all parties—including the public—the opportunity to become familiar with the problems of that particular industry, and that either labor or management could participate in this proposed voluntary arbitration board's hearings with the right to withdraw at the end of 30 days.

I submit that nothing is more needed than workable voluntary arbitration legislation by the United States Congress. The recent labor-management crises of England show what can happen here if we do not establish fair and reasonable approaches to economic stabilization.

So far, the basic issue of President Nixon's record has received only passing attention from the opposition spokesmen—which is evidence of the difficulty they find in presenting an alternative to our president's design for an era of peace in his momentous successful foreign policies, with their corollary boost to our domestic economy.

The Democrat attacks on the President's foreign policy have been confined to getting out of the Vietnam War on a fixed date—while pledging once again to jump from the frying pan into the fire by interfering in Greece's internal political policies, a potential parallel to what plunged us into the Indo-China War. Moreover, it is literally amazing for the presidential nominee of a major political party to endorse the re-election of the head of the German government. Chancellor Willie Brandt responded by disagreeing with Senator McGovern on his announced policy of withdrawing America's troops from Germany.

I agree with the Senator on that—but disagree with his meddling in foreign people's affairs the way he is. The last and most astounding in his sending Pierre Salinger to Paris as his personal representative with a message to the North Vietnam junta conveying his Vietnam policies, if elected, then denying it in the morning—and admitting it that afternoon—after a telephone conversation with Salinger. Most serious of everything else that the American voter should ponder is that this reveals the same impulsive unsettled characteristics evidenced in his handling of the Senator Eagleton affair.

We are living in a completely different world today, because of our American president's long-range and carefully planned foreign policies, than we were four years ago at this stage during the 1968 national elections.

Wars—and the threats of war—with wholesale destruction of lives—destruction of civil rights—with military logistics absorbing however legitimately great quantities of a nation's resources—are major causes of inflation and lasting disruption of the world economy. A bomber—or nuclear defensive or offensive weapons—contribute nothing to reproduction, like a highway.

Bush wars and armed conflicts—in a volatile atmosphere—can detonate a catastrophic third world war, but—in a stable atmosphere—they can be contained. Such minor conflicts, though of great significance to the people directly involved, are less of a menace if isolated from the affairs of the vast majority of the earth's people.

Now I come to a detailed record of our President's accomplishments in the three and one-half years of world leadership.

I am impressed with Senator McGovern's—and other Democrat spokesmen's failure to refer to one of the cost crucial periods of relations among nations that has ever existed, thanks to President Nixon's strategy for enduring world peace. So far, the Senator's only specific reference to foreign policy is his pledge to take America completely out of Vietnam by April 1973. Foreign policy—war or peace—rightfully means more to youth, and to all other Americans, than any other issue. Yet Senator McGovern views Vietnam as an isolated question.

President Nixon, however, is treating the Vietnam settlement as part of the overall, intricate pattern of international relations that it is.

According to the Stockholm International Peace Research Institute Yearbook of World Armaments and Disarmament, between 1945 and 1968, there were more than one hundred wars and other international and national conflicts going on in the world.

Today, the only major conflict on the globe is the Indo-China War that is drawing to a close. All over the world, a tremendous change is taking place in international relations. While suspicion and distrust between nations still exists to some degree, the cold war atmosphere has practically evaporated.

The Russian-Chinese border—the Near East—Asia—and, of course, this western hemisphere—are relatively quiet, as far as war is concerned. The United Nations has been given a shot in the arm by President Nixon's withdrawing opposition to the admission of the Peoples Republic of China, with its one-fourth of the world's population.

The corollary of the President's amazingly successful foreign policy is a shot in the arm to the overall American economy, with actual sales of grant, tractors, trucks, etc., amounting already to about a billion dollars a year to Russia, with more to come. Likewise, China will be in our market for the food and industrial products it needs.

Americans have not had a generation of peace since the conclusion of the Spanish-American War in 1898. The way wars have been settled since then has only left them as seedbeds for the next war for the next generation.

President Nixon's carefully planned "Design for World Peace" is based on a pragmatic view of world affairs and on realistically building internatioal relationships founded on mutual interests. This settled approach has been accepted thus far by China and Russia. It has initiated new trade relations with these two great powers, stimulated similar moves between West Germany and Poland, and led a step in the direction of breaking down the monstrous cinderblock wall between the two Germanys. For the first time since the end of World War II, an American president has recognized Japan as a great power, instead of as a protectorate. Moreover, Japan is now seeking to normalize its relations with China and with Russia. So are all other governments.

President Nixon foresaw clearly and early—even before his election—that the time was right to adjust our foreign policies. This master of statecraft has been abandoning our impractical and foolish foreign policy of trying to reform the entire world in our image. Consequently, he has substituted containment of Communism by economic competition for the policy of containment by force, thus lifting mankind's well-founded fear of a third, catastrophic global war.

The imprint of President Nixon's realistic steady foreign policy is showing among all governments. They are opening the world's markets to the vital growth of trade and to exchange of technological knowledge, thereby generating a better understanding of each other's problems and potentials. The cold war climate existing when Mr. Nixon became president is passing. A more temperate atmosphere is yeasting. Here, in truth, is the new mainstream of life unfolding for all the world's peoples.

President Nixon's bold and creative design for a peace that will last more than one generation is working. It is successful because it is based on the mutual recognition among governments of the legitimate needs and interests of other nations—a principle that historically, and tragically, has seldom been recognized.

This means that the most significant issue facing the American voter next November is the overarching value of the acquaintanceships and understandings existing between Mr. Nixon and the heads of other governments. They have reached momentous decisions involving genuine peace and a better life for all people. They know whom they are dealing with and for what purposes.

As far as I am concerned, there is only one issue in this campaign. That is peace, so that my grandchildren and great grandchildren will not have to go to war. As far as the economy is concerned, they will learn to solve their own problems.

Peace is the most wonderful inheritance any child can have, including the youngest babe born this minute.

NOMINATION OF SIDNEY P. MARLAND, JR., TO BE ASSISTANT SECRETARY OF HEALTH, EDUCATION, AND WELFARE—TESTIMONY OF HON. JOHN BRADEMAS

Mr. PELL. Mr. President, today the Committee on Labor and Public Welfare of the U.S. Senate held a hearing on the nomination of Sidney P. Marland, Jr., to the post of Assistant Secretary of Health, Education, and Welfare for Education.

This nomination, while not controversial in and of itself, has led to an indepth discussion of the post of the Assistant Secretary for Education, and most importantly, of the ongoing relationships between Congress and executive agencies.

Today's witness, the Honorable JOHN BRADEMAS, Congressman from the Third District of Indiana, very succinctly brought many of these points to the attention of the committee. His discussion of the refusal of the executive agencies to recognize congressional intent is most cogent, and I ask unanimous consent that his testimony be printed in the RECORD.

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

TESTIMONY OF CONGRESSMAN JOHN BRADEMAS OF INDIANA AT CONFIRMATION HEARINGS OF ASSISTANT SECRETARY FOR EDUCATION, SEPTEMBER 27, 1972

Mr. Chairman, members of the Committee, let me begin by expressing my appreciation for this opportunity to appear before you on the matter of the position of Assistant Secretary for Education.

Although I realize that it is somewhat unusual for a Member of the House to testify before this Committee on a Presidential nomination, I requested this opportunity because I believe it is important that Congress reaffirm at this time the prerogatives and the authority residing in the position of Assistant Secretary of Education as head of the Education Division that was created by S. 659, the Education Amendments of 1972.

I come before you today, Mr. Chairman, not as a Democrat or a Republican but rather as a Member of Congress.

As you know, Mr. Chairman, I applauded President Nixon's initiative in proposing the National Institute of Education, was principal House sponsor of the legislation authorizing it, conducted lengthy hearings on it in the education subcommittee I have the honor to chair, and defended the proposal through conference and through final passage in the House.

Moreover, together with my distinguished colleagues, Chairman Perkins of Kentucky, Congressman Thompson of New Jersey and Congressman Quie of Minnesota, the ranking Republican on the House Committee on Education and Labor, I worked for a number of the provisions in the legislation in the higher education title of the new law that were supported strongly by the Administration, particularly the institutional aid feature.

So I reiterate that I appear before you not as a partisan but as a legislator concerned with education, and still more to the point, as a Member of Congress concerned with the role of Congress in making public policy in our constitutional system.

What is at issue, therefore—the matter of the confirmation of the new Association Sectary of Education—goes beyond Federal policy for education.

The issue is rather one of the basic constitutional process in our country, a process which allocates authority to Congress to pass legislation and to the Executive Branch the authority to administer legislation, in compliance with the intent of Congress.

So I am not here to oppose the confirmation of Commissioner Marland, who is a friend of mine and a man for whom I have high regard, but rather to speak to an issue which must be of grave concern to members of this great Committee and of my own Committee and, indeed, to all of us elected to either body of Congress.

For unless there is adequate attention in Congress and unless adequate precautions are taken, I fear the Senate may confirm as Assistant Secretary of Health, Education, and Welfare for Education a nominee who shows little evidence of understanding the clear intent of Congress with respect to the position which he is seeking and who, if he does understand the intent of Congress, plans to ignore it.

Let me then review the matter of the intent of Congress with respect to the new position of Assistant Secretary for Education.

In doing so, I shall make a few initial observations.

First, the position of the Assistant Secretary for Education and the Education Division of the Department of Health, Education, and Welfare were created by an agreement in the conference on S. 659. The Administration made no proposal whatsoever with respect to an Assistant Secretary of Education nor did the Administration express any opinion whatsoever on the functions of the new position. The Assistant Secretary's position and its authority were the creation of the conference—a compromise between substantially different House and Senate provisions with respect to the hierachy of the Department of Health, Education, and Welfare in education.

Second, the conference intended that as head of the Education Division, the Assistant Secretary be a spokesman-advocate for education within the Executive Branch but did not intend that the Assistant Secretary have authority to formulate policy for education.

My third observation must be that the nominee for the position of Assistant Secretary does not agree with the conference agreement on S. 659, now Public Law 92-318. From written documents available to both our committees and from conversations I have myself had with the present Commissioner, I now realize that he does not intend to carry out the provision of the Public Law but intends rather to implement language specifically rejected by the conferees and therefore by Congress.

Fourth, Mr. Chairman, I must observe that this particular nominee is no stranger to us. We have had an opportunity to observe his stewardship as Commissioner of Education. The record of the Office of Education during this time surely ought to be most carefully considered.

Now, Mr. Chairman, let me address myself more specifically to the points I have enumerated.

First, with respect to the intent of the conferees on the Division of Education and the position of Assistant Secretary for Education, I think it is essential that we recall the differences in the House and Senate provisions creating the Division and the position as well as the actual agreement, which, of course, is what is now law.

The conference records as well as the language of the Conference Report itself show that the Senate version of S. 659 provided for an Education Division within the Department of Health, Education, and Welfare to be headed by a Commissioner of Education, whose functions would be expanded beyond those held by the present Commissioner. In the Senate version, both the present Office of Education and the new National Institute of Education would have been contained within the Education Division.

The House version of S. 659, on the other hand, provided only for a new, independent National Institute of Education but not for a new Division of Education headed by a Commissioner with expanded functions.

In resolving these differences on organization, the House adamantly refused to recede to the Senate version, for two primary reasons:

First, the proposed new and expanded Office of the Commissioner would have controlled the National Institute of Education and thereby would have impaired the independence of the Institute; and

Second, the House conferees were opposed to the creation of a new layer of government bureaucracy in education.

The Senate conferees, however, made clear that, even in their version of the bill, they, too, had no intent to allow their new and expanded Commissioner to have policy control over the National Institute of Education. The Senate conferees pointed out that their version of the National Institute of Education provided rather for a National Council on Educational Research which would have policy-making authority for the Institute and that in this fashion its independence from control by the proposed new Commissioner would be assured.

The Senate conferees made clear that in vesting policy authority in the National Council, they intended to insure that no other officer of the Department of Health, Education, and Welfare should have policy control of the Institute.

Mr. Chairman, these differences between the Senate and House conferees were resolved by the following compromise, which is now the law of the land.

First, they agreed that there would be created an Education Division headed not by a Commissioner with expanded powers but rather by an Assistant Secretary for Education, who would act only as a spokesman-advocate for education but *not* as a policy-maker for the Office of Education and the National Institute of Education.

This agreement, I must stress, was chiefly taken as a result of the conferees' insistence that (a) there not be a new layer of bureaucracy within the Federal effort in education; (b) that the independence of the Institute not be diluted; and (c) that the policy-making authority of the Office of Education not be diminished.

In this last respect, the conference agreed that although the new Assistant Secretary was the chief spokesman for education at the Federal level, the present policy-making authority of the Commissioner under existing law would remain unchanged. In this connection, I must point out that *the Senate bill contained a provision transferring policy-making authority from the Office of Education to the new Division. The conference explicitly rejected this provision.*

I believe, Mr. Chairman, that in understanding the intent of the conferees with respect to the role of the Assistant Secretary, it is particularly significant that this transfer provision in the Senate bill was rejected.

Mr. Chairman, in a letter to you of September 19, 1972, the distinguished Chairman of the House Committee on Education and Labor, Mr. Perkins, declared:

"I have reviewed very carefully all of the legislative history relating to the establishment of the Office of the Assistant Secretary, including the detailed minutes of our conference proceedings. Based on this review, in my judgment it is clear that in creating the Office of the Assistant Secretary, the conferees did not intend nor did they anticipate the establishment of another layer of bureaucracy in the Federal education structure. It is clear as well that we intended that the National Institute of Education have a high degree of independence and that policy formulation for the Institute be vested in a non-political council.

"It is also clear that we did not intend

to decrease the status or powers of the Office of Education."

More specifically still, I must refer to Section 405(d)(1) of the General Education Provisions Act, which states:

"The Director shall be responsible to the Assistant Secretary and shall report to the Secretary through the Assistant Secretary and not to or through any other officer of the Department of Health, Education, and Welfare."

Said Chairman Perkins:

"In approving this provision, however, at no time did the conferees instead to place the Institute under the control of the Assistant Secretary. *The provision simply describes the administrative line of authority to be followed within the Department and does not relate to policy formulation. To interpret the provision more broadly would thus be in direct conflict with the clear intent of the conferees that general policy for the Institute be determined by the Council.*"

Mr. Chairman, the history of the conference compromise which I have outlined is not something which we in the House have made up out of whole cloth, for the Senate conferees clearly agreed with the interpretation which I have given to you. I must here quote the distinguished Senator from Rhode Island, Senator Pell, Chairman of the Senate Education Subcommittee and Floor Manager of S. 659, whose patience and leadership enabled the conferees to settle their differences with dispatch and without acrimony. Senator Pell made the following explanatory statement on the floor during Senate consideration of the Conference Report on S. 659:

"Within the Education Division there are two agencies: the Office of Education headed by the Commissioner of Education, and the National Institute of Education headed by the Director of the Institute. The National Institute of Education is also under the governance of the National Council on Education Research, which is charged with the responsibility for setting general policy for the Institute. That National Council also has an advisory function for the Department of Health, Education, and Welfare with respect to education.

"It is not intended that the newly established Assistant Secretary have any administrative responsibilities except for those related to the emergency school assistance program. The primary responsibility for education programs continues to be vested in the Commissioner of Education. Nor is there any intention on the part of the conferees to elevate any responsibilities now carried on in the Office of Education to the Assistant Secretary."

Clearly Senator Pell and Mr. Perkins, who chaired the Senate and House conferees, respectively, and who managed the legislation on the Floor in their respective bodies, are in agreement on this matter.

Mr. Chairman, let me now turn to my next observation—the contrast between the intent of the conferees with respect to the position of Assistant Secretary and the intent of the nominee for this position. In stating his views before this Committee last week, the nominee said:

"The Assistant Secretary will now be the chief officer responsible for the overall direction of both the Office of Education and the National Institute of Education."

And he continued:

"The Assistant Secretary is responsible for developing and providing overall policy direction for both education agencies."

I think it is clear, Mr. Chairman, that the views of the nominee, the present Commissioner of Education, on the authority Congress vested in the position of Assistant Secretary of Education are at odds with the views of the conferees and the intent of Congress.

I would be derelict, Mr. Chairman, if I did not also point out that the nominee has already announced plans to staff the Office of the Assistant Secretary with 100 assistants, a plan in clear violation of the conferees' opposition to adding another bureaucratic layer to the Federal effort in education.

Given the limited functions delineated for the Assistant Secretary in S. 659—facilitating communications between the Secretary and the Office of Education and the Institute and administering the Emergency School Aid program—one may be forgiven for wondering why the new office requires so many employees.

The answer, of course, is that the nominee has no intention of restricting his functions to those authorized in the enacting legislation.

Surely, we in Congress must ask this crucial question: who is to formulate Federal policy for education? The agency vested with that responsibility by the Congress of the United States? Or an office given no statutory authority, with one exception—The Emergency School Aid Program—to make policy by the authorizing legislation?

It must be obvious then that the nominee for Assistant Secretary of Education disagrees with the law and the intent of Congress on the authority of his position.

In this situation, I say to the distinguished members of this Committee, the law controls, and the intent of Congress is quite clear to those of us who wrote the conference agreement.

Mr. Chairman, I said earlier that the record of the nominee for the position of Assistant Secretary should be taken into consideration in these confirmation hearings.

I wish to reiterate that my concern here is in no way motivated by any personal prejudice against the nominee or any political bias.

My concern is rather with the place of Congress in the writing of the nation's laws. For it is Congress that is charged with the responsibility of considering and acting on legislation and the Executive Branch of government that is charged with the responsibility of administering the laws in conformity with Congressional intent, even when, as is sometimes the case, especially with a separation of powers Constitution like ours, the Executive Branch may not agree with the laws Congress passed.

One way to understand the attitude of the nominee toward carrying out the laws in accordance with the intent of Congress is to look to his stewardship as Commissioner of Education.

I could cite a litany of complaints but let me give you only a few examples.

In 1970 Congress passed the Environmental Education Act with overwhelming bipartisan support in both bodies. Although the law mandated the establishment of an Office of Environmental Education within the Office of Education and the appointment of an Advisory Council with significant powers, one year after the President had signed the bill into law the Commissioner had failed to comply with this statutory mandate. The will of Congress was simply ignored.

Even now after two oversight hearings of the House subcommittee, the Office of Education is failing to comply with Congressional intent in assuring that the Advisory Committee is carrying out functions required of it by law.

Second, as you recall, when Mr. Marland appeared before this Committee as the nominee for Commissioner of Education, he promised that he would follow the letter of the law and maintain the Teacher Corps as a program reporting directly to the Commissioner.

Almost immediately the Commissioner broke his own promise by dropping the Teacher Corps three layers down in the bureaucracy. Congress was compelled to correct this situation with an amendment in S. 659 prohibiting the Commissioner from continuing that organizational pattern.

Members of this Committee will also remember something called the renewal strategy which the Commissioner attempted to implement without adequate authorizing legislation and, indeed, in the face of vigorous opposition to his attempt in both the House and the Senate.

Let me cite the most recent instance of this apparently continuing pattern of the Commissioner's hostility to the intent of the elected members of the Senate and House of the United States Congress.

As the Committee will recall, in writing S. 659, we intended that students with adjusted family incomes below $15,000 continue to enjoy a presumption of eligibility for participation in the program, while students with adjusted family incomes in excess of that amount would have first to show "need" in order to be considered for a loan.

In order to underline this distinction, we even wrote two separate eligibility sections in the law, one for students with adjusted family incomes below $15,000, and another for students with adjusted family incomes above $15,000.

The Office of Education, however, announced that it was unable to perceive any difference between the requirements applicable to these two classes of students, and proceeded to issue regulations making all applicants for Federal interest benefits subject to the same eligibility standards, regardless of adjusted family income.

This development, of course, caused great concern among the Members of both this Committee and the Committee on Education and Labor of the House, and several of us subsequently sent the Commissioner a joint letter explaining our intent in considerable detail.

Yet lawyers for the Office of Education remained either unable or unwilling to apprehend the obvious meaning of the statute, and finally, Congress had to suspend the effective date of the new provisions, in order to avert a nationwide collapse of the Subsidized Loan Program.

So it seems to me clear, Mr. Chairman, if I may state the matter bluntly, that it appears to me that unless the Commissioner is told explicitly what he can and cannot do, he will do whatever he pleases without regard to or respect for the intent of the Congress of the United States.

For unless told explicitly what he is authorized to do, he has made clear that he intends to go his own way as though he, and not we here in the Congress of the United States, were authorized to pass the laws of the land.

Mr. Chairman, we cannot continue to accept this cavalier disregard for the intent of Congress, for following Congressional mandates is not a question of doing Congress a favor; it is a matter of obeying the law.

And let me stress once again to the members of this great Committee that my complaint does not arise from personal pique or wounded pride, but from a deep concern with the fundamental processes of government in this country and with the proper place of Congress in our constitutional system, whether a Democrat or a Republican is in the White House.

Our Constitution vested Congress with the authority to make the laws and the Executive Branch with the authority to carry them out.

We in Congress must not ignore our responsibility, for to do so makes a mockery of our constitutional processes, and only further erodes our own authority to meet our responsibility.

Mr. Chairman, the outlook and the actions of the first Assistant Secretary for Education will give important shape to the future

of that position in our government. Let us make sure that the die is cast in accord with Congressional intent.

Let me say once more that I do not speak here in opposition to the confirmation of Mr. Marland.

I have no quarrel with his confirmation to the position of Assistant Secretary—as Congress intended and designed that position. I would, however, be disappointed if he were to be confirmed with a blank check to turn the position into whatever he—and not Congress—decides it should be.

It is for this reason that I hope this great Committee, if it decides to recommend confirmation of the nominee, will make clear the duties and the authority of the Assistant Secretary as well as the limits on those duties and authority.

DETERIORATING INTERNATIONAL TRADE POSITION

Mr. INOUYE. Mr. President, as chairman of the Subcommittee on Foreign Commerce and Tourism, I have been acutely conscious of our deteriorating international trade position. Although the latest August trade figures show that our merchandise balance has improved somewhat, the United States is still running a massive trade deficit at an annual rate in excess of $5.5 billion. The most recent figures offer a glimmer of encouragement, but absolutely no cause for rejoicing.

Our loss of competitiveness in international commerce has been a matter of serious concern to every segment of American society, particularly organized labor. This concern has focused on Japan, which this year will compile a surplus of between $3.5 to $3.8 billion in its trade with the United States.

It has often been alleged by those calling for restrictions on our foreign commerce that the reasons for our poor trade position lie in unfair and anticompetitive practices engaged in by other nations. While there is some truth to these charges, they tend to obscure the complex set of causes for our declining competitiveness. We have for all too long also suffered from an overvalued dollar, minimal productivity gains, inflation, unaggressive international marketing, and inadequate capital investment in plants and research and development.

If we continue to blame others for troubles to which we have contributed, we shall never be able to comprehend or resolve these difficulties. Even more dangerous, however, would be the natural human tendency to strike out at easy, stereotyped targets while neglecting to tackle the harder problems presented by foreign competition.

The Wall Street Journal recently published an interesting editorial in its September 20 issue which discusses this issue dispassionately and objectively. 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:

REVIVING THE "YELLOW PERIL"

For a long time in America's past, Orientals were widely depicted as subhuman. And Americans of Chinese and Japanese extraction were frequently subjected to personal abuse and political indignities. Almost immediately after the attack on Pearl Harbor, those attitudes culminated in the uprooting of more than 100,000 Japanese-Americans from their West Coast homes, and incarcerating them in scattered relocation camps.

Today, American attitudes are much more enlightened. Throughout the Korean and Vietnam wars, and despite America's long-time post-war differences with Communist China, there were gratifyingly few attempts to revive the familiar anti-Oriental shibboleths. Indeed, Americans of Oriental extraction recently have been largely accepted and admired by the wider society, and this has been a hopeful portent for the even more difficult problem of prejudice against blacks.

But what the Korean and Vietnamese wars were unable to revive, an economic threat very well may. As a recent Journal article on Japanese-Americans noted, because of Japan's trade success there have been isolated but increasing examples of anti-Japanese slogans, advertisements, and even a song ("The Import Blues") whose lyrics are crudely anti-Japanese. Like opportunistic prewar politicians who ran on openly "Yellow peril" platforms, today some politicians from districts that are losing out to competition from Japan are hammering thinly-disguised anti-Japanese planks and sentiments into their platforms.

More recently, the word "Jap"—a racial slur every bit as deplorable as the much more familiar slurs known to every Archie Bunker viewer—increasingly crops up in newspaper headlines. And recent ads of the International Ladies Garment Workers Union are seemingly designed to arouse fears of American jobs exported to Japan. Indeed, it is hard to disagree with the charges of spokesmen for Asian-Americans for Action that the ads encourage "the frustrations and anger of workers toward an ethnic minority," and are not the way to deal with such problems.

The word racism has been bandied about far too carelessly of late, frequently as a convenient tag to pin on those holding different political and ideological beliefs. And because racism thrives on ignorance, superstitution and fear, its ugly virus is never completely isolated.

That's why the sudden sprouting of anti-Japan messages and slogans, unfortunate in themselves but worse because they threaten to revive sentiments that have been dormant for decades, is of much greater concern than the dollars and cents argument over trade and jobs.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

SOCIAL SECURITY AMENDMENTS OF 1972

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to consider H.R. 1, which will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 1) to amend the Social Security Act, to make improvements in the Medicare and Medicaid programs, to replace the existing Federal-State Public Assistance programs, and for other purposes.

Mr. LONG. Mr. President, H.R. 1, as reported by the Committee on Finance, represents the most massive revision of the social security laws that the Congress has ever undertaken. The bill as reported would increase Federal expenditures by more than $14 billion. This is in addition to the $8 billion across-the-board social security benefit increase enacted into law July 1 of this year. The size of the bill, some 1,000 pages and the size of the report, about 1,300 pages, give an indication of the amount of work that has gone into this bill. I believe that the committee's efforts on this bill are the equal of the legislative efforts of any committee at any time in U.S. history. During this Congress, the committee has held 20 days of public hearings on all aspects of social security and welfare, hearings which fill 3,700 pages of seven volumes. The committee has met in executive session almost continually since February of this year, with 69 executive sessions devoted to H.R. 1.

At this point, Mr. President, I might note that a copy of the committee report and a copy of the bill have not yet been placed on each Senator's desk. A copy of each will be placed on the desk of each Senator as soon as they are available from the printer. The delay has been caused by the large volume of work involved.

The bill is monumental in terms of legislative effort, and it is monumental in terms of cost. In addition to the $8 billion of social security benefits enacted earlier this year, H.R. 1 as reported by the Committee on Finance would raise social security cash benefits another $3½ billion. It is estimated that at least 10 million social security beneficiaries will be affected by these provisions of the committee bill, and another 900,000 persons will become entitiled to benefits thanks to the bill.

Medicare benefits would rise $3 billion by 1974, due principally to extension of medicare coverage to the disabled and to the inclusion of payment for lifesaving drugs among the benefits provided under the program, 22 million medicare beneficiaries, including 2 million disabled persons, would benefit by the improved protection.

It is estimated that more than 5 million aged, blind, and disabled persons would receive supplementary security income under the bill, which would set a Federal minimum guaranteed income at an added cost of $3 billion in 1974.

But perhaps the most significant features of the bill are those seeking to reform the program of aid to families with dependent children. The committee bill offers a bold new approach to the problem of increasing dependency under this program. Under the committee bill, if the family is headed by a father or if it is headed by a mother whose youngest child has reached school age, the family would not be eligible to receive its basic income from welfare but instead would be given an opportunity to become independent through employment, including a guaranteed job and substantial economic incentives to move into regular jobs. The cost of this new guaranteed job program would be borne entirely by the Federal Government, and its cost together with the substantial increase in Federal funds for the remaining AFDC program would amount to an estimated increase of more than $4 billion, in Federal expenditures in 1974, with more than half of this amount—over $2 billion—representing

increased income to low-income working families.

AIMS OF COMMITTEE BILL

When a bill is as complicated as H.R. 1 and deals with so many complicated issues affecting as many programs as H.R. 1 does, it is difficult to characterize its aims in just a few categories. But most of the committee's actions on the bill do fit within these few broad purposes:

First. To reward work effort for those who can be expected to work;

Second. To improve the lives of children;

Third. To assist those who cannot work because of age, blindness, or disability;

Fourth. To assure program integrity through administrative control where this has been shown to be needed; and

Fifth. To provide fiscal relief to the States and to give them more latitude to run their own programs.

REWARDING WORK EFFORT FOR THOSE WHO CAN WORK

When people look at the rapid growth in welfare in recent years, their concern is primarily with the program of aid to families with dependent children. The number of recipients under this program has more than doubled since January 1968, and the need to pay for AFDC has forced States to shift funds into welfare that would otherwise go for education, health, and housing and other pressing social needs.

The rising AFDC rolls show that there are many children who are needy in this country. But more importantly from the standpoint of social policy, the rising rolls show an alarming increase in dependency on the taxpayer. The proportion of children in this country who are receiving AFDC has risen sharply, from 3 percent in the midfifties to 9 percent today. This means that an increasing number of families are becoming dependent on welfare and staying dependent on welfare.

A major cause of the growth of AFDC is increasing family breakup and increasing failure to form families in the first place. Births out of wedlock, particularly to teenage mothers, have increased sharply in the past decade.

Several generations ago, before there was any AFDC program, poor families improved their economic conditions by taking advantage of this country's opportunities through a commitment to work, and through the strengthening and maintenance of family ties. The social compassion that gave rise to the AFDC program—particularly in those States in which benefit levels are highest—appears to have had the effect of undermining these routes to economic betterment, with dismal consequences, particularly for the poor on welfare themselves. The House bill, with the major expansion of welfare it contemplates, would move a giant step further along a road that has proven so unsuccessful up to now.

But another approach is possible to improving the lives of low-income families. As President Nixon has stated:

In the final analysis, we cannot talk our way out of poverty; we cannot legislate our way out of poverty; but this Nation can work its way out of poverty. What America needs now is not more welfare, but more "workfare" a new work-rewarding program.

The committee agrees with the President that work should be rewarded and its value to the worker increased. Under the committee bill, over $2 billion in additional income would be paid to low-income working persons in 1974. A number of other provisions are included in the committee bill which reflect the committee's aim of increasing the benefits of working.

TEN PERCENT WORK BONUS

Low-income workers in regular employment who head families would be eligible for a work bonus equal to 10 percent of their wages taxed under the social security—or railroad retirement—program if the annual income of the husband and wife is $4,000 or less. For families where the husband's and wife's annual income exceeds $4,000, the work bonus would be equal to $400 minus one-fourth of the amount by which their income exceeds $4,000. The work bonus, administered by the Internal Revenue Service, would cost about $1 billion in 1974, and would provide work bonus payments to about 5 million families.

WAGE SUPPLEMENT

Persons in jobs not covered by the Federal minimum wage law, in which the employer paid less than $2 per hour but at least $1.50 per hour, would be eligible for a wage supplement. Any employee who is the head of a household with children and who is working in one of these jobs would be eligible for a wage supplement equal to three-quarters of the difference between what the employer pays him and $2 per hour—for up to 40 hours a week. Thus if an employer pays a wage of $1.50 an hour, the Federal subsidy would amount to 38 cents an hour, three-quarters of the 50-cent difference between $1.50 and $2. In addition, the 15-cent work bonus the employee receives would bring the value of working 1 hour from the $1.50 presently paid by the employer up to $2.03. No supplement would be paid if the employer reduced the pay for the job; no jobs presently paying the minimum wage would be downgraded under the committee bill, and the minimum wage law itself would not be affected.

GUARANTEED JOB OPPORTUNITY

Since welfare programs are based on need as measured by income, decreased work effort results in a higher welfare benefit. This is not the case under the work bonus or the wage supplement under the committee bill, which are directly related to work effort. Similarly, the third basic feature of the committee's employment program rewards work efforts directly. This third element is the provision of a guaranteed job opportunity for persons not able to find employment in a regular job. Persons considered to be employable—able-bodied male heads of families, as well as mothers with school-age children only—would no longer be eligible to receive their basic income under the welfare system that has failed both them and society, but instead would be guaranteed an opportunity to earn $2,400 a year. An individual could work up to 32 hours a week at $1.50 per hour and would be paid on the basis of hours worked. A woman with school-age children would not be required to be away from home during hours that the children are not in school, unless child care is provided. She may be asked, however, in order to earn her wage, to provide afterschool care to children other than her own during the hours she is at home.

Unlike the present welfare program and the House-passed bill, the committee bill would not penalize participants for outside employment. An individual who is able to find part-time employment in addition to hours worked in the guaranteed job will be able to keep 100 percent of his or her earnings with no reduction in the wages earned in the guaranteed job.

STATE SUPPLEMENTATION

To assure that the work incentives proposed under the committee bill are not undermined by State welfare programs, the committee bill would require States with welfare benefits of more than $200 monthly to supplement wages earned by families headed by women participating in the employment program. Furthermore, in determining the amount of the supplementary payment, the State would not be permitted to reduce the payment on account of any earnings between $200 a month and $375 a month—the amount an employee would earn, including the work bonus, working 40 hours a week at $2 an hour—to insure that the incentive system of the committee bill is preserved.

FOOD STAMPS

Individuals participating in the employment program would not be eligible to participate in the food stamp program. However, States would be reimbursed the full cost of adjusting any supplementary benefits they might decide to give to participants so as to make up for the loss of food stamp eligibility. In order to avoid having States provide assistance to an entirely new category of recipient not now eligible for federally shared aid to families with dependent children, the committee provided that the Work Administration, which administers the guaranteed job program, would pay families headed by an able-bodied father the amount equal to the value of food stamps, but only to the extent that the State provides cash instead of food stamps for families which are now in the aid to families with dependent children category.

CHILD CARE

Lack of availability of adequate child care represents perhaps the greatest single obstacle in the efforts of poor families, especially those headed by a mother, to work their way out of poverty. It also represents a hindrance to other mothers in families above the poverty line who wish to seek employment for their own self-fulfillment or for the improvement of their family's economic status. The committee bill incorporates a new approach to the problem of expanding the supply of child care services and improving the quality of these services through the establishment of a Bureau of Child Care within the Work Administration. In addition to arranging to make child care available, the committee bill would authorize appropriations to subsidize the

cost of child care for low-income working mothers.

OTHER SUPPORTIVE SERVICES

Services needed to continue in employment, including family planning services, would be provided participants in the employment program by the Work Administration.

MEDICAL CARE

Under the committee bill, families participating in the employment program who would be eligible for medicaid except for their earnings from employment would remain eligible for medicaid for 1 year. At that time they could choose to continue their medicaid coverage by paying a premium equal to 20 percent of their income—excluding work bonus payments—in excess of $2,400 annually. Families participating in the employment program who would be ineligible in any case for medicaid could also voluntarily elect to receive medicaid benefits by paying a premium equal to 20 percent of their income—including work bonus payments—above $2,400. The committee bill includes an estimated $200 million in additional Federal payments representing the difference between the value of health care received by these working persons and the cost of the premiums they would actually pay.

TRANSPORTATION ASSISTANCE

The committee recognizes that a major reason for jobs going unfilled in metropolitan areas is the difficulty individuals face in getting to the job. The committee bill would authorize the Work Administration to arrange for transportation assistance where this is necessary to place its employees in regular jobs.

DEVELOPING JOBS

In order to develop job opportunities in the private sector, the committee bill would extend—in a modified form—the present tax credit, for employers who hire participants in the work incentive program, to employers who hire persons in guaranteed employment. In order to create additional employment opportunities, the committee bill would extend the credit to private persons hiring participants.

SPECIAL MINIMUM BENEFIT FOR LONG-TERM WORKERS UNDER SOCIAL SECURITY

For longtime low-income workers, the committee bill contains a provision guaranteeing a minimum social security benefit equal to $10 per year for each year in covered employment in excess of 10 years. Thus, a worker with 30 years of covered employment would be assured of a social security benefit of at least $200 a month; the minimum payment to a couple would be $300 a month. A worker retiring in 1972 who has worked all his life at the Federal minimum wage applicable during his employment would be eligible for a monthly benefit of about $160 today. Under the committee bill, his benefit would be increased 25 percent to $200, well above the poverty level. Thus, the committee bill would achieve the original aim of the Social Security Act of 1935, to provide regular long-term workers with an income that would free them from dependency on welfare. Under this provision of the committee bill, an estimated 700,000 persons would get increased benefits beginning next January, and $152 million in additional benefits would be paid in the first full year.

INCREASE IN THE EARNINGS LIMIT

Under the committee bill, the amount that a social security beneficiary under age 72 may earn in a year and still be paid full social security benefits for the year would be increased from the present $1,680 to $2,400. For each $2 of earnings above $2,400, benefits would be reduced by $1. An estimated 1.2 million beneficiaries would receive higher benefit payments under this provision, and 550,000 persons would become entitled to benefits for the first time. About $1.1 billion in additional benefits would be paid in 1974.

INCREASED BENEFITS FOR DELAYED RETIREMENT

The House bill provides for an increase in social security benefits of 1 percent for each year after age 65 that an individual fails to receive social security benefits because he continues to work instead of retiring. The House bill would apply only to persons beginning to receive social security after the enactment of H.R. 1. The committee felt that the principle of increasing benefits for delayed retirement should apply as well to persons already receiving social security. Under the committee bill, 5 million persons would get increased benefits totaling about $200 million in the first year.

INCOME DISREGARD FOR LOW-INCOME AGED, BLIND, AND DISABLED PERSONS

Under present law, each dollar of social security benefits received generally reduces welfare payments by $1. The committee felt that persons receiving social security should receive an economic benefit for the taxes that they paid when they worked to earn entitlement to social security benefits. Accordingly, under the new supplemental security income program in the committee bill, aged, blind, and disabled persons who receive social security would be assured a minimum monthly income of at least $180 for an individual and $245 for a couple as compared with $130 and $195 for individuals and couples with no income other than supplemental security income. In addition to providing a monthly disregard of $50 of social security or other income, the committee approved an additional disregard for aged, blind, or disabled persons of $85 of earned income plus one-half of any earnings above $85. This will enable those persons who are able to do some work to do so without suffering a totally offsetting reduction in their supplemental security income.

IMPROVING THE LIVES OF CHILDREN

The program of aid to families with dependent children began and remains a program to help needy children; the basis of eligibility for AFDC payments was and remains the presence of a child. The committee bill seeks to improve the lives of children in a number of areas: by providing a higher income for low-income working families with children; by providing for improved health care; by arranging for better child care; by increasing support for child welfare services designed to strengthen family life and to keep the family together; by supporting foster care for children when the child's home is not suitable; by arranging for protective payments to insure that funds are used in the best interests of the child; by providing a mechanism to insure the child's right to have the paternity of his father established and to obtain support payments; and by making special provision for emergency assistance to children in families of migrant workers.

HIGHER INCOME FOR WORKING FAMILIES

The provisions of the committee bill outlined in the preceding section show how the committee bill would provide more than $2 billion, in additional income to low-income working families. In addition, ending the cycle of dependency that now links generation to generation is a major goal of the committee bill, and one which should have a profound effect on the lives of children.

HEALTH CARE FOR CHILDREN

Under the committee bill several million low-income working persons now eligible for Government health benefits would be eligible to buy subsidized health care protection for their families. Their premium, equal to 20 percent of their income—excluding work bonus payments—in excess of $2,400 annually, would pay part of the cost of this protection, with the Federal Government paying the remaining $200 million in estimated cost. Some million children not now covered under the medicaid program could receive health protection under this provision if their parents elect coverage.

Another provision of the committee bill extends for 2 years the program of special project grants for maternal and child health. The project grant program has been utilized primarily to bring comprehensive health care to children of low-income families in urban areas.

In 1967 the Congress required that States begin screening all children under age 21 for handicapping conditions. States have failed to meet this requirement, and HEW regulations require States to provide health care screening only to children under age 6. The committee added a provision to the bill reiterating that screening services must be provided to all eligible children between ages of 7 and 21 by July 1, 1973. To insure that children receive the screening the Congress intends, the committee provision would reduce Federal grants for AFDC by 2 percent beginning July 1, 1974, if a State fails to inform parents receiving AFDC or participating in the employment program of the availability of child health screening services; to actually provide or arrange for such services; or to arrange for or refer for appropriate corrective treatment, the children disclosed by such screening as suffering illness or impairment.

MEDICAID COVERAGE OF MENTALLY ILL CHILDREN

Under present law, Federal matching for the treatment of mentally ill persons under the medicaid program is limited to persons 65 years of age or older. The committee bill would for the first time extend Federal financial participation to inpatient care in mental institutions for children eligible for medicaid. Federal matching would only apply if the care consisted of a program of active treat-

ment, was provided in an accredited medical institution, and provided that the State maintains the level of expenditures it is now making for mentally ill children.

CHILD CARE

The committee bill will significantly improve the care that thousands of children receive while their parents work. Care provided under the committee bill will have to meet Federal standards designed to assure that adequate space, staffing, and health requirements are made. In addition, facilities used will have to meet the life safety code of the National Fire Protection Association.

PROTECTION OF CHILDREN

The committee bill would require, rather than merely permit, States to assure that welfare payments are being used in the best interests of the children for whom they are intended. When a welfare agency has reason to believe that the aid to families with dependent children payments are not being used in the best interests of the child, it must provide counseling and guidance services so that the mother will use the payments in the best interests of the child. This failing, the agency must make protective payments to a third party who will use the funds for the best interests of the child.

Failure to pay rent leads to eviction and disruption of a child's life. The committee therefore provided that if the parent of a child receiving AFDC has failed to make rent payments for 2 consecutive months, the welfare agency may, depending on the circumstances of the case, make a rent payment directly to the landlord if he agrees to accept the amount actually allowed for shelter by the State as total payment for the rent.

Under the employment program, mothers in families with no children under age 6 would generally be ineligible to receive their basic income from the aid to families with dependent children program. It is possible that a few mothers will ignore the welfare of their children and refuse to take advantage of the employment opportunity. To prevent the children from suffering because of such neglect, the Work Administration would be authorized to make payment to the family for up to 1 month if the mother is provided counseling and other services aimed at persuading her to participate in the employment program. Following this, the mother would either have to be found to be incapacitated under the Federal definition—that is, unable to engage in substantial gainful employment—with mandatory referral to vocational rehabilitation agency; or, if she is not found to be incapacitated, the State would arrange for protective payments to a third party to insure that the needs of the children are provided for.

CHILD WELFARE SERVICES

The committee bill would increase the annual authorization for Federal grants to the States for child welfare services to $200 million in fiscal year 1973, rising to $270 million in 1977 and thereafter. These figures compare with a $46-million appropriation in 1972. While it is expected that a substantial part of any increased appropriation under this higher authorization will go toward meeting the cost of providing foster care, the committee carefully avoided earmarking amounts specifically for foster care so that wherever possible States and counties can use the additional funds to expand preventive child welfare services with the aim of helping families stay together, thus avoiding the need for foster care. The additional funds can also be used for adoption services, including action to increase adoption of hard-to-place children.

The committee bill also provides for establishing a national adoption information exchange system designed to assist in the placement of children awaiting adoption and to make it easier for parents wishing to adopt children to do so.

CHILD SUPPORT

Family breakup and failure to form families in the first place are major factors in the very rapid growth in the AFDC rolls in recent years. New provisions were written into the law in 1967 which unfortunately have proven ineffective in stemming the trend. The committee believes that an effective mechanism for assuring that fathers meet their obligation to support their children, in addition to the immediate effect of reducing welfare costs, will provide a strong deterrent to fathers who might otherwise desert—a deterrent that will keep families intact and will thus have a significant impact on improving the lives of children in the families.

Under this mechanism a mother, as a condition of eligibility for welfare, would assign her right-of-support payments to the Government. Under the leadership of the Attorney General, States would establish programs of obtaining child support—including the determination of paternity where this is necessary. State expenses for the collection unit established under the committee bill would be provided 75 percent Federal matching instead of 50 percent as under present law. Any information held by the Internal Revenue Service, the Social Security Administration, or other Federal agency would be available to help locate the absent father. This location service could be used by any mother seeking support from a deserting father, even if the family does not receive welfare.

The State collection unit would generally find it desirable to encourage the father to reach a voluntary agreement for making regular support payments. Where the voluntary approach is not successful, the committee bill provides for stronger legal remedies including the collection mechanisms available to the Federal Government such as the use of the Internal Revenue Service to garnishee the wages of the absent parent. The welfare payments to the family would serve as the basis of a continuing monetary obligation of the deserting parent to the United States.

If the civil action to obtain support payments is unsuccessful, the committee bill provides for Federal criminal penalties for an absent parent who has not fulfilled his obligation to support his family when the family receives welfare payments in which the Federal Government participates.

CHILD'S RIGHT TO HAVE PATERNITY ESTABLISHED

The committee believes that a child born out of wedlock has a right to have his paternity ascertained in a fair and efficient manner ,and that society should act on the child's behalf to establish paternity even where this conflicts with the mother's short-term interests. As part of its comprehensive approach to obtain child support, the committee bill includes several provisions designed to lead to a more effective system of establishing paternity.

First, a father not married to the mother of his child would be required to sign an affidavit of paternity if he agreed to make support payments voluntarily in order to avoid court action. Most States do not permit initiation of paternity actions more than 2 or 3 years after the child's birth; the affidavit would serve as legal evidence of paternity in the event that court action for support should later become necessary.

Second, there is evidence that blood-typing techniques have developed to such an extent that they may be used to establish evidence of paternity at a level of probability acceptable for legal determinations. Moreover, if blood grouping is conducted expertly, the possibility of error can all but be eliminated. Therefore, the committee adopted a provision to authorize and direct the Department of Health, Education, and Welfare to establish or arrange for regional laboratories that can do blood typing for purposes of establishing paternity, so that the State agencies and the courts would have this expert evidence available to them in paternity suits. No requirement would be made in Federal law that blood tests be made mandatory. The services of the laboratories would be available with respect to any paternity proceeding, not just a proceeding brought by, or for, a welfare recipient.

EMERGENCY ASSISTANCE TO MIGRANT FAMILIES WITH CHILDREN

Under existing law, emergency assistance may, at the option of the States, be provided to needy families in crisis situations, and it may be provided either statewide or in part of the State. Emergency assistance programs have been adopted in about half of the States, and they receive 50 percent Federal matching. Under the law, assistance may be furnished for a period not in excess of 30 days in any 12-month period in cases in which a child is without available resources and the payments, care, or services involved are necessary to avoid destitution of the child or to provide living arrangements for the child. The committee bill requires that all States have a program of emergency assistance to migrant families with children; requires that the program be statewide in application; and provides 75 percent Federal matching for emergency assistance to migrant families.

SOCIAL SECURITY PROVISIONS RELATED TO BENEFITS FOR CHILDREN

The committee bill contains several provisions related specifically to children's benefits, which would extend social security coverage to certain grandchildren not adopted by their grandparents; provide childhood disability bene-

fits if the disability began before age 22 rather than before age 18 as under present law; and liberalize the eligibility requirements for children adopted by social security beneficiaries.

AIDING AGED, BLIND, AND DISABLED PERSONS

The committee continues to place primary reliance on the social security system to provide income to aged, blind, and disabled persons, and as in the past considers it appropriate for workers to contribute during their productive working years as they build up entitlement to retirement, disability, and survivor benefits. The social security program has succeeded remarkably well in its original intention of replacing old-age assistance. The proportion of aged persons receiving social security has mounted steadily since 1940 until the program is now nearly universal, while at the same time the proportion of the aged population receiving welfare has declined from 23 percent of the elderly 30 years ago to 10 percent today. Building on the 20-percent benefit increase already enacted into law, the committee bill would create a new supplemental security income program, administered by the Social Security Administration, which would set a Federal guaranteed minimum income level for aged, blind, and disabled persons, with higher incomes guaranteed for those entitled to social security benefits.

BENEFITS FOR WIDOWS

The committee bill would provide benefits for a widow equal to the benefit her deceased husband would have received if he were still living. Under the bill, a widow who begins receiving benefits at age 65 or after would receive 100 percent rather than 82½ percent of the amount her deceased husband was receiving at his death, or the amount he would have received if he had begun getting benefits at age 65. Under this provision, $1 billion in additional benefits would be paid to 3,800,000 persons in 1974.

EXTENSION OF MEDICARE TO THE DISABLED

The major provision in the committee bill affecting blind and disabled social security beneficiaries would extend medicare coverage to 1,700,000 disabled social security beneficiaries at a cost of $1 billion in the first full year for hospital insurance and $350 million for supplementary medical insurance.

REDUCTION IN WAITING PERIOD FOR DISABILITY BENEFITS

Under present law, an individual must be disabled throughout a full 6-month period before he may be paid disability insurance benefits. Under the committee bill, the waiting period would be reduced 2 months to a 4-month period. An estimated 950,000 beneficiaries would become entitled to $274 million in additional benefits under this provision in 1974.

DISABILITY BENEFITS FOR THE BLIND

The committee bill substantially liberalizes the provisions of present law relating to blind persons. In particular, the committee bill would make blind persons with at least six quarters of coverage eligible for disability benefits, and permit blind persons to qualify for benefits regardless of their capacity to work and whether they are working.

COVERAGE OF DRUGS UNDER MEDICARE

The cost of outpatient prescription drugs represents a major item of medical expense for many older people, especially those suffering from chronic conditions. The cost of such drugs are not presently covered under the medicare program. The committee bill would cover under the medicare program the cost of certain specified drugs purchased on an outpatient basis which are necessary in the treatment of the most common crippling or life-threatening chronic disease conditions of the aged. Beneficiaries would pay $1 toward the cost of each prescribed drug included in the reasonable cost range for the drug involved.

LIMITING THE PREMIUM FOR SUPPLEMENTARY MEDICAL INSURANCE

During the first 5 years of the supplementary medical insurance program it has been necessary to increase the monthly premium almost 100 percent—from $3 per person in July 1966, to a $5.80 rate in July 1972. The Government pays an equal amount from general revenues. This increase and projected future increases represent an increasingly significant financial burden to the aged living on incomes which are not increasing at a similar rate.

The committee bill would limit the premium increase to not more than the percentage by which the social security cash benefits had been generally increased since the last premium adjustment. Costs above those met by such premium payments would be paid out of general revenues in addition to the regular general revenue matching.

MEDICARE COVERAGE FOR SPOUSES AND SECURITY BENEFICIARIES UNDER AGE 65

Under present law, medicare coverage is restricted to person age 65 and over, but persons age 60 through 64—including retired workers, their spouses, widows, or parents—find it difficult to obtain adequate private health insurance at a rate which they can afford. The committee bill would make medicare protection available at cost to spouses age 60 to 64 of medicare beneficiaries and to other persons age 60 to 64 entitled to benefits under the Social Security Act.

EXTENDED CARE FACILITIES AND SKILLED NURSING FACILITIES

Serious problems have arisen with respect to defining and providing the skilled nursing home benefit under medicaid and the extended care benefit under medicare. To remedy these problems, the committee bill would establish a single definition and set of standards for extended care facilities under medicare and skilled nursing homes under medicaid. The bill also redefines the medicare extended care benefit to make it more equitable and suitable to the posthospital needs of older citizens, as well as to avoid the problem of retroactive denials of coverage. Additionally, by July 1, 1974, States would be required to have proper cost for finding systems whereby skilled nursing and intermediate care facilities would be reimbursed under medicaid on a reasonable cost-related basis. To assure compliance with statutory requirements as to conditions of safety and quality of care, the Secretary of Health, Education, and Welfare would have final authority to certify facilities for participation in both medicare and medicaid.

WAIVER OF BENEFICIARY LIABILITY FOR CERTAIN DISALLOWED MEDICARE CLAIMS

Under present law, whenever a medicare claim is disallowed, the ultimate liability for services rendered falls upon the beneficiary. Under the committee bill, a beneficiary could be "held harmless" in certain situations where claims were disallowed, but where the beneficiary was without fault. In such situations, the liability would shift either to the Government or to the provider of services, dependent upon whether, for example, the provider exercised due care in applying medicare policy.

PAYMENTS TO HEALTH MAINTENANCE ORGANIZATIONS

Certain large medical care organizations seem to make the delivery of medical care more efficient and economical at times than the medical care community at large.

Medicare does not currently pay these comprehensive programs on an incentive capitation basis, and consequently any financial incentives to economical operation in such programs have not been incorporated in medicare.

The committee bill provides the potential for greater usage of these organizations, with qualified organizations being eligible for incentive reimbursement. The committee bill includes provisions designed to assure that only health maintenance organizations with a capacity to provide care of proper quality would be eligible to participate under the incentive reimbursement approach. These provisions are designed primarily to protect medicare beneficiaries and to avoid indiscriminate expenditure of public trust funds.

PROTECTING AGED, BLIND, AND DISABLED WELFARE RECIPIENTS FROM LOSS OF MEDICAID ELIGIBILITY

The committee bill includes a provision to assure that aged, blind, and disabled welfare recipients who are currently eligible for medicaid will not lose their eligibility for medicaid benefits solely because of the recent 20-percent social security benefit increase. The amendment will protect about 180,000 aged, blind, and disabled welfare recipients against loss of this valuable protection.

SUPPLEMENTARY SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Under present law, aged, blind, and disabled persons are eligible for welfare benefits under the various State assistance programs, with the State setting the payment levels. The committee bill would substitute instead a new federally administered program of supplemental security income for aged, blind, and disabled persons. Under this program, aged, blind, and disabled individuals would be assured a monthly income of at least $130 for an individual or $195 for a couple. In addition the committee bill would provide that the first $50 of social security or other income would not cause any reduction in amount

of the supplementary security income payment.

As a result, aged, blind, and disabled persons who also have monthly income from social security or other sources—which are not need related—of at least $50 would, under the committee bill, be assured total monthly income of at least $180 for an individual or $245 for a couple.

USE OF TRUST FUNDS FOR REHABILITATION

Under present law, up to 1 percent of the amount of social security trust funds paid to disabled beneficiaries in the prior year may be used to pay for the costs of rehabilitating disabled beneficiaries. In order to provide additional funds for rehabilitating these disabled persons, the committee bill would increase by 50 percent the percentage of the trust funds which could be used for rehabilitation.

REHABILITATION OF ALCOHOLICS AND ADDICTS

The committee is particularly concerned that persons who are disabled because of alcoholism or drug addiction be provided rehabilitative services under a program of active treatment rather than simply being provided income with which to support their addiction or alcoholism. Accordingly, alcoholics and drug addicts under the committee bill would be able to receive maintenance payments only as part of a program of active treatment.

IMPROVING PROGRAM INTEGRITY AND ENHANCING QUALITY OF CARE

The committee bill includes a number of provisions designed to improve administrative control and quality of care assurance in the medicare and medicaid programs and to restore the integrity of the welfare programs.

ESTABLISHMENT OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

The committee has found substantial indications that a significant amount of health services paid for under the medicare and medicaid programs would not be found medically necessary under appropriate professional standards. In some instances, the services provided are of unsatisfactory professional quality.

The committee bill would establish professional standards review organizations, sponsored by organizations representing substantial numbers of practicing physicians in local areas, to assume responsibility for comprehensive and ongoing review of services covered under the medicare and medicaid programs. The purpose of the amendment would be to assure proper utilization of care and services provided in medicare and medicaid utilizing a formal professional mechanism representing the broadest possible cross section of practicing physicians in an area. Appropriate safeguards are included so as to adequately provide for protection of the public interest and to prevent pro forma assumption in carrying out of the important review activities in the two highly expensive programs. The amendment provides discretion for recognition of and use by the PSRO of effective utilization review committees in hospitals and medical organizations.

Mr. President, at this point I particularly wish to pay tribute to the statesmanship, the diligence, and the patience of the Senator from Utah (Mr. BENNETT), and for the many constructive suggestions he made in every phase of the bill, including its work-fare aspects, which bear his mark as much as that of any member of the committee, as does almost everything in the bill.

This particular provision on peer review, however, is one which he had the courage to sponsor and to educate the public on, as well as the doctors and officials, to the point that today this proposal has general acceptance, whereas in the beginning there was strong opposition to it, and great fears, which in my judgment have been largely resolved. It is my judgment that any fears remaining on the part of doctors or others will prove to be groundless, as most of those in the past have been.

INSPECTOR GENERAL FOR MEDICARE AND MEDICAID

There is at present no independent reviewing mechanism charged with specific responsibility for ongoing and continuing review of medicare and medicaid in terms of the efficiency and effectiveness of program operations and compliance with congressional intent. While HEW's Audit Agency and the General Accounting Office have done helpful work, there is a need for day-to-day monitoring conducted at a level which can promptly call the attention of the Secretary and the Congress to important problems and which has authority to remedy some of these problems in timely, effective, and responsible fashion.

The committee bill would create the Office of Inspector General for Health Administration in the Department of Health, Education, and Welfare. The Inspector General would be appointed by the President, would report to the Secretary, and would be responsible for reviewing and auditing the social security health programs on a continuing and comprehensive basis to determine their efficiency, economy, and consonance with the statute and congressional intent.

LIMITATIONS ON COVERAGE OF COSTS UNDER MEDICARE

The committee bill authorizes the Secretary to establish limits on overall direct or indirect costs which will be recognized as reasonable for comparable services in comparable facilities in an area. He may also establish maximum acceptable costs in such facilities with respect to items or groups of services—for example, food costs, or standby costs.

The beneficiary is liable for any amounts determined as excessive, except that he may not be charged for excessive amounts in a facility in which his admitting physician has a direct or indirect ownership interest. The Secretary is required to give public notice as to those facilities where beneficiaries may be liable for payment of costs determined as not necessary to efficient patient care.

LIMITATION ON PREVAILING CHARGE LEVELS

Under the present reasonable charge policy, medicare pays in full any physician's charge that falls within the 75th percentile of customary charges in an area. However, there is no limit on how much physicians, in general, can increase their customary charges from year to year and thereby increase medicare payments and costs.

The committee bill recognizes as reasonable, for medicare reimbursement purpose only, those charges which fall within the 75th percentile. Starting in 1973, increases in physician's fees allowable for medicare purposes would be limited by a factor which takes into account increased costs of practice and the increase in earnings levels in an area.

With respect to reasonable charges for medical supplies and equipment, the amendment would provide for recognizing only the lower charges at which supplies of similar quality are widely available.

PUBLIC DISCLOSURE OF INFORMATION REGARDING DEFICIENCIES

Physicians and the public are currently unaware as to which hospitals, extended care faciilties, skilled nursing homes, and intermediate care facilities have deficiencies and which facilities fully meet the statutory and regulatory requirements. This operates to discourage the direction of physician, patient, and public concern toward deficient facilities, which might encourage them to upgrade the quality of care they provide to proper levels.

Under the bill the Secretary of Health, Education, and Welfare would be required to make reports of an institution's significant deficiencies or the absence thereof—such as deficiencies in the areas of staffing, fire safety, and sanitation—a matter of public record readily and generally available at social security district offices. Following the completion of a survey of a health care facility or organization, those portions of the survey relating to statutory requirements as well as those additional significant survey aspects required by regulations relating to the capacity of the facility to provide proper care in a safe setting would be matters of public record.

LIMITATION ON FEDERAL PAYMENTS UNDER MEDICARE AND MEDICAID FOR DISAPPROVED CAPITAL EXPENDITURES

A hospital or nursing home can, under present law, make large capital expenditures which may have been disapproved by the State or local health care facilities planning council and still be reimbursed by medicare and medicaid for capital costs—depreciation, insert on debt, return on net equity—associated with that expenditure.

The committee bill would prohibit reimbursement to providers under the medicare and medicaid programs for captial costs associated with expenditures of $100,000 or more which are specifically determined to be inconsistent with State or local health facility plans.

DETERMINING ELIGIBILITY FOR WELFARE

Generally speaking, the usual method of determining eligibility for public assistance has involved the verification of information provided by the applicant for assistance through a visit to the applicant's home and from other sources. For persons found eligible for assistance,

redetermination of eligibility is required at least annually, and similar procedures are followed.

The Department of Health, Education, and Welfare has required States to use a simplified or declaration method for aid to aged, blind, and disabled, and has strongly urged that this method be used in the program of aid to families with dependent children. The simplified or declaration method provides for eligibility determinations to be based to the maximum extent possible on the information furnished by the applicant and without routine interviewing of the applicant and without routine verification and investigation by the caseworker. The committee bill precludes the use of the declaration method by law. It also explicitly authorizes the States in the statute to examine the application or current circumstances and promptly make any verification from independent or collateral sources necessary to insure that eligibility exists. The Secretary could not, by regulation, limit the State's authority to verify income or other eligibility factors.

RECOUPING OVERPAYMENTS

In 1970, the Supreme Court ruled that welfare payments could not be terminated before a recipient is afforded an evidentiary hearing. The Health, Education, and Welfare regulations based on the Court's decision permit the recipient to delay the hearing in order to continue to receive welfare payments long after he has become ineligible. Other regulations virtually preclude recovering overpayments.

The committee bill deals with this situation by requiring State welfare agencies to reach a final decision on the appeal of an AFDC recipient within thirty days following the day the recipient was notified of the agency's intention to reduce or terminate assistance. The bill would also require the repayment to the agency of amounts which a recipient received during the period of the appeal if it was determined that the recipient was not entitled to the money which he had already received.

Any other result, Mr. President, would seem to the committee to encourage fraud and improper applications for welfare benefits.

QUALITY OF WORK PERFORMED BY WELFARE PERSONNEL

In an effort to try to upgrade the quality of work performed by welfare personnel, the committee bill directs the Secretary of the Department of Health, Education, and Welfare to study and report to the Congress by January 1, 1974, on ways of enhancing the quality of welfare work, whether by fixing standards of performance or otherwise. In making this study, the Secretary could draw on the knowledge and expertise of persons talented in the field of welfare administration, including those having direct contact with recipients. He should also benefit from suggestions made by recipients themselves as to how the level of performance in the administration of the welfare system might be improved, with a view toward ending the wide variations in employee conduct which characterize today's system, and moderating the extremes to which some social workers go in performing their duties.

OFFENSES BY WELFARE EMPLOYEES

Under a present Federal law there is no provision particularly directed to the question of employee conduct in the administration of the welfare program. Under the committee bill, rules similar to those applicable to Internal Revenue Service employees would apply under the welfare laws. The committee is hopeful that this provision could lead to an upgrading of the quality of performance by welfare workers in general.

FISCAL RELIEF FOR STATES AND ADDITIONAL ADMINISTRATIVE LATITUDE

The committee is well aware that the growth of the welfare rolls since 1967 has been one of the significant factors in bringing about the fiscal crisis currently facing State and local governments. Much of this growth has been due to increased Federal intervention in the control of the AFDC program by the States. The committee feels that having the Federal Government take over the control of this program is not the step that should be taken. It believes that the correct approach is in the opposite direction. Accordingly, the committee carefully designed many parts of this bill so that the State's control of the AFDC program would be strengthened rather than weakened. The committee recognizes, however, that this represents a long-range solution and that many States feel an acute need for immediate relief from the pressures of swollen welfare budgets. Under the committee bill, therefore, the fiscal burden on the States will be substantially decreased through creation of the new Federal supplemental security insurance program in lieu of the present program of aid to the aged, blind, and disabled, through increases in the Federal funding of assistance payments to families, and through indirect fiscal relief resulting from improvements which the committee bill makes in the general structure of the AFDC program. These amounts are in addition to funds under the revenue-sharing bill.

SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

The committee bill establishes a new program of supplemental security income for the aged, blind, and disabled, with Federal administration and, with the Federal Government paying the full cost of the program as replacement of the present Federal-State programs of aid to the aged, blind, and disabled, this new program will save States about $800 million annually.

AID TO FAMILIES WITH DEPENDENT CHILDREN

In the aid to families, with dependent children program, the committee bill changes the funding mechanism from the present formula matching to a block grant approach. The new method of providing Federal funds for AFDC results in substantial immediate fiscal relief and is also consistent with the committee's desire to return to the States a greater measure of control over their welfare programs. For the last six months of calendar year 1972 and for 1973, the block grant would be based on the funding for calendar year 1972 under current law. Starting in 1974, the grant would be adjusted to take into account the effects of the work program. State savings are estimated at $400 million in 1972, $800 million in 1973, and $1.4 billion in 1974.

CHILD WELFARE SERVICES

Federal appropriations for child welfare services have remained at $46,000,000 for the past 7 years, representing about one-seventh of total State and local expenditures for child welfare services programs. The committee bill would increase the authorizations for child welfare services to $200,000,000 in fiscal year 1973, rising to $270,000,000 in fiscal year 1977 and thereafter.

STATE MEDICAID SAVINGS

The provisions of the committee bill extending medicare coverage to disabled social security beneficiaries, including prescription drugs under the medicare program and providing Federal medicaid matching for the first time for mentally ill children will save State substantial amounts under their medicaid programs.

LIMITING REGULATORY AUTHORITY OF THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

The Social Security Act permits the Secretary of Health, Education, and Welfare to "make and publish such rules and regulations, not inconsistent with this act, as may be necessary to the efficient administration of the functions" with which he is charged under the act. Similar authority is provided under each of the welfare programs. Particularly since January 1969, regulations have been issued under this general authority with little basis in law and which sometimes have run directly counter to legislative history. Many States have attributed at least a part of the growth of the welfare caseload in recent years to these regulations of the Department of Health, Education, and Welfare.

A number of committee decisions deal with problems raised by specific HEW regulations. In addition, the committee agreed to modify the statutory language quoted above by limiting the Secretary's regulatory authority under the welfare programs so that he may issue regulations only with respect to specific provisions of the act and even in these cases the regulations may not be inconsistent with the provisions of the act.

PERMITTING STATES MORE LATITUDE UNDER MEDICAID

The medicaid program has been a significant burden on State finances. Two requirements of present law would be deleted by the committee bill. These requirements prevent a State from ever reducing medicaid expenditures and require that a State medicaid program ever expand until the program is comprehensive.

CONCLUSION

Mr. President, this concludes my prepared statement on the committee bill. It is a comprehensive bill, and I think it is the best piece of legislation the Finance Committee has recommended to the Senate during the 24 years I have been a Member of this body. I urge that it be approved.

Mr. President, I ask unanimous con-

sent that the committee amendments 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. Is there objection? The Chair hears none, and it is so ordered.

Mr. BENNETT. Mr. President, as the ranking minority member on the Senate's committee, I should like to join the chairman in presenting opening statements with respect to this monumental and historic piece of legislation. Just within the last few minutes, a copy of the bill has been laid on the desk of each Senator. It disappoints me. It is only 989 pages long. I thought it might actually have reached and crossed the mark of 1,000 pages. By all odds, it is the longest bill that has ever been considered by either House of Congress. Its length is a factor of the extent to which it attempts to attack and solve the many, many problems that have grown up in the social security and welfare fields over the years.

It has been a number of years since these programs were instituted, and as time has passed and conditions have changed, we have either left the problems there to grow or we have attempted to solve them on a patchwork basis. This time the committee, working since last January, has undertaken a comprehensive review of both these areas. This bill represents the committee's recommendations to the Senate.

Mr. President, the chairman has just completed his comprehensive statement, in which he has reviewed and outlined the major provisions in H.R. 1 and has indicated to the Senate how these provisions relate in a manner touching, in one way or another, on almost every critical problem in the areas of social security, medicare, medicaid, and welfare.

Senator LONG has done a superb job of summarizing the bill. I should like, therefore, at this point to reemphasize the importance of a few of the key committee decisions in which I have been most closely involved on a personal basis.

The chairman has mentioned two of these, in the matter of the review of the quality and necessity for health care and an attempt to work out a provision which would encourage work, rather than welfare, for the family heads in families with dependent children. I am going to talk a little more in detail about these two features.

The bill deals extensively with medicare, medicaid, and welfare. In each of these areas, there have been key problems which need to be solved. In the welfare area, the principal problem involves the question of whether we should merely guarantee a welfare family, headed by a person who is capable of employment, a minimal income, or whether we should, instead, guarantee employable adults a job opportunity. I will discuss these welfare issues later in my statement.

In medicare and medicaid, the critical problem the committee has had to solve relates to the urgent need for effective utilization of medical facilities and the need for a peer review of the way these facilities are used.

The committee, after extensive hearings and deliberations, going all the way back to 1970, has again approved the professional standards review organization amendment, which I offered and which would establish a responsible and publicly accountable professional structure for carrying out peer review at local levels throughout the country.

Senators will recall that the PSRO amendment was strongly endorsed by the Senate in a rollcall vote during the debate on the Social Security amendments of 1970.

Let me take a few moments to again set the whole issue of utilization and peer review in context for the Senate. Until recently in our history, the Federal Government was not involved to any substantial extent as a third-party payer of medical and hospital bills.

With the advent of medicare and medicaid in 1965, the Federal Government almost overnight became the largest health insurer or third-party payer in the United States. The Government was now paying hospital and medical bills for millions of aged and poor citizens.

Medicare and medicaid have been good programs, which have enabled millions of citizens to meet their health needs. However, as most Senators are aware, the cost of the medicare and medicaid programs have skyrocketed far beyond the early estimates. In this fiscal year, alone, medicare and medicaid will cost the Federal and State Governments some $19 billion. Projected costs of the medicare hospital insurance program will exceed estimates made in 1967 by some $240 billion over a 25-year period. The total monthly premium cost for part B of medicare—doctors' bills—rose from $6 monthly per person in July of 1966 to $11.60 per person in July of 1972. Medicaid costs are also rising at precipitous rates.

Obviously, the costs of these programs represented a problem which must be dealt with. In addition, hearings revealed that a significant proportion of the health services provided under medicare and medicaid were not medically necessary and that some of the necessary services provided would not meet proper quality standards.

These were the problems—cost and quality—which the Finance Committee had to face in discussing medicare and medicaid. Part of the answer was relatively easy. The Ways and Means Committee and the Finance Committee both developed a number of provisions to control allowable unit charges for physicians' services and hospital per diem costs. These controls will not halt cost increases, but should moderate them substantially.

However, controlling the unit cost of services under medicare and medicaid solved only part of the problem. The committee still had to deal with the very difficult questions of whether the services were actually necessary and met proper quality standards. This is where utilization and peer review enters the picture. As I said, it is relatively easy to control the unit price of services, but without effective professional controls on utilization the costs of the programs will continue to soar.

An effective comprehensive professional review mechanism can materially ease problems of utilization and quality control. This is the area where a bridge was needed between medicine and Government. It was all too clear to those of us on the Finance Committee that an army of Government and insurance company employees checking on each medical service was not the answer. Past experience and commonsense indicated clearly that clerical personnel could not and should not make decisions as to the quality and necessity of medical services.

The bridge we needed between Government and medicine was a structure through which practicing physicians could, in an organized and publicly accountable fashion, professionally evaluate the quality and necessity of medical services in an area.

In 1970 I introduced an amendment to establish professional service review organizations throughout the United States. Under this provision, professional standards review organizations—PSRO's—would be established throughout the United States and would have the responsibility of reviewing—on a comprehensive and ongoing basis—whether the services provided under medicare and medicaid were necessary and met accepted professional standards. The Secretary of Health, Education, and Welfare would, after consultation with national and local health professions and agencies, designate appropriate areas through the Nation for which professional standards review organizations would be established. Areas may cover an entire State or parts of a State, but generally a minimum of 300 practicing doctors would be included within one area. As a practical matter, the average PSRO would average 700 or 800 physicians. This size should be sufficient to assure objective review and yet be essentially local in nature and timely in response.

Organizations representing substantial numbers of physicians in area, such as medical foundations and societies, would be invited to sponsor review organizations. It should be clearly understood—and this has been one of the debates over the past 2 years, one that has been most difficult to explain—that a medical society, per se, could not qualify as a PSRO because of the requirement that membership in the PSRO be open to all licensed doctors of medicine and osteopathy in an area without any society membership or dues requirement whatsoever. Where the Secretary finds that such organizations are not willing or cannot reasonably be expected to develop capabilities to carry out professional standards review organization functions in an effective, economical, timely and objective manner, he would enter into agreements with such other agencies or organizations with professional medical competence as he finds are willing and capable of carrying out such functions.

In other words, the job would be done one way or the other but it is the intention of the amendment to give a first

priority, a first opportunity to qualified organizations already existing who would be capable of sponsoring a PSRO to include all the practicing physicians in the given area.

The initial agreement would be made on a conditional basis, not to exceed 2 years, with the PSRO operating concurrently with the present review system. During the transitional period, medicare carriers and intermediaries are expected to abide by the decision of the professional standards review organization where the professional standards review organization has acted. This reliance will permit a more complete appraisal of the effectiveness of the conditionally approved professional standards review organization. Where performance of an organization is unsatisfactory, and the Secretary's efforts to bring about prompt necessary improvement fail, he could terminate its participation.

Provider, physician, and patient profiles and other relevant data would be collected and reviewed on an ongoing basis to identify persons and institutions which provide services requiring more extensive review. Regional norms of care and treatment would be used in the review process as routine checkpoints in evaluating when excessive services may have been provided. The norms would be particularly useful in determining the point at which physician certification of need for continued institutional care would be made and reviewed. Initial priority in assembling and using data and profiles would be assigned to those areas most productive in pinpointing problems—such as hospitalization—so as to conserve physician time and maximize the productivity of physician review. The PSRO would progressively assume more and more review responsibility as its capacity expanded.

The professional standards review organization would be permitted to employ the services of qualified personnel, such as registered nurses, who could, under the direction and control of physicians, aid in assuring effective and timely review. A PSRO, in performing its tasks, would also be required to accept the review findings of review committees in hospitals and medical organizations to the extent these in-house review activities are effective.

Where advance approval by the review organizations for institutional admission is required, such approval would provide the basis for a presumption of medical necessity for purposes of medicare and medicaid benefit payments. Failure of a physician, institution, or other health care supplier to seek advance approval, where required, could be considered cause for disallowance of affected claims.

In addition to acting on their own initiative, the review organizations would report on matters referred to them by the Secretary. They would also recommend appropriate action against persons responsible for gross or continued overuse of services, use of services in an unnecessarily costly manner, or for inadequate quality of services and would act to the extent of their authority or influence to correct improper activities.

I cannot emphasize too strongly, however, that the thrust of PSRO activities is educational and not punitive.

Mr. President, we have had some experience in this field. There are some PSRO organizations now operating. We have had ample demonstration of the educational value of the activity.

A National Professional Standards Review Council would be established by the Secretary to assist in developing, improving, and evaluating norms of care as well as to review the operations of the local area review organizations, advise the Secretary on their effectiveness, and make recommendations for their improvement. The Council would be composed of physicians, a majority of whom would be selected from nominees of national organizations representing practicing physicians. Other physicians on the Council would be recommended by consumers and other health care interests.

As I have noted, the amendment was approved by the Committee on Finance and the full Senate in 1970 and was again approved by the Finance Committee in its consideration of H.R. 1. The amendment has been carefully studied by and has the endorsement of the Department of Health, Education, and Welfare, subject to an understanding that there may be technical problems involved on which the Department of HEW might suggest different approaches. However, the basic principle has been completely and thoroughly endorsed by the Department. Most of these areas of disagreement on the limited technical features have been resolved, and I am sure that we can resolve all of them before we get through. In addition, the amendment is supported by many concerned organizations, including a substantial number of State and county medical societies.

I believe today, as I said when I introduced the PSRO amendment in this Congress early this year that:

> The relationship between the patient, the physician and the Government is at a crossroads in America today. The pressures for increased governmental involvement in the day-to-day practice of medicine are increasing continually as we move toward expanded Government financing of health care. Economics, commonsense and morally each demand that the Government take an increasingly active role in dealing with the cost and quality of medical care.
>
> The PSRO amendment represents the best, and perhaps the last, opportunity to fully safeguard the public concern with respect to the cost and quality of medical care while, at the same time, leaving the actual control of medical practice in the hands of those best qualified—America's physicians.

Without an appropriate peer review mechanism to serve as a bridge between Government and medicine, I am afraid that the consequence will be increasing isolation between Government and medicine, working to the disadvantage of both, and, more importantly, to the disadvantage of the patient.

Mr. President, I would like to address my remarks to the second major area covered by this bill—the welfare area.

Mr. President, as the chairman has so adequately and splendidly demonstrated in his statement, one of the major concerns of the Nation today is the rapid increase in the aid to families with dependent children rolls in recent years. In 1955, there were 2 million recipients in the AFDC program. By the end of 1967, this had increased to 5.3 million recipients. Faced with this increase, the Congress in 1967 created the work incentive program. It was the hope of the Committee on Finance that this program would help employable welfare recipients to prepare for employment and get jobs.

The WIN program represented an attempt to cope with the problem of the rapidly growing dependency on welfare, by dealing with the major barriers which prevented many of the women who head AFDC families from becoming financially independent through their own work effort.

However, during its first 3 years of operation, the WIN program earned a reputation of being a horrendous failure.

The requirement for on-the-job training, highly desirable because of its virtual guarantee of employment upon successful completion of training, was largely ignored under the WIN program as it was administered. Public service employment, also aimed at providing actual employment for welfare recipients, was not provided; only one State had implemented this WIN provision in a substantial way by 1969, although all States were required to establish such programs. Insufficient day care created an inhibiting effect on welfare mothers participating in the program. Lack of coordination between welfare agencies and employment agencies also created problems.

Even though the WIN program in its first 3 years was ineffective, it did show that many more welfare recipients volunteered to participate in the program than could be accommodated. The welfare recipients wanted jobs, but were not being helped by the program.

In 1971, amendments initiated by Senator TALMADGE—also a member of the Finance Committee—were enacted, amendments designed to strengthen the WIN provisions to make the program work. But based on hearings the Finance Committee held in June of 1972, it appears that the Labor Department may not be trying as hard as we would like it to try to make the program effective.

Thus, the problem of the soaring AFDC rolls continued as a major problem that cried out for a workable solution. The President has recognized the magnitude of this problem, and has urged the Congress to move in the direction of "workfare," rather than welfare.

President Nixon has stated:

> In the final analysis, we cannot talk our way out of poverty; we cannot legislate our way out of poverty; but this Nation can work its way out of poverty. What America needs now is not more welfare, but more "workfare" . . . This would be the effect of the transformation of welfare into "workfare," a new work-rewarding program.

The committee agrees that the only way to meet the economic needs of poor persons while at the same time decreasing rather than increasing their dependency is to reward work directly by increasing its value. The committee bill

seeks to put the President's words into practice by:

First. Guaranteeing employable family heads a job opportunity rather than a welfare income; and by

Second. Increasing the value of work by relating Federal benefits directly to work effort.

All of us are aware today that many important tasks in our society remain undone, such as jobs necessary to improve our environment, improve the quality of life in our cities, improve the quality of education in our schools, improve the delivery of health services, and increase public safety in urban areas. The heads of welfare families are qualified to perform many of these tasks. Yet welfare pays persons not to work and penalizes them if they do work. Does it make sense to pay millions of persons not to work at a time when so many vital jobs go undone? Can this Nation treat mothers of school-age children on welfare as though they were unemployable and pay them to remain at home when more than half of mothers with school-age children in the general population are already working?

This is information I think the American people generally may not be aware of. More than one-half of the women with school-age children are now working.

It is the committee's conclusion that paying an employable person a benefit based on need, the essence of the welfare approach, has not worked. It has not decreased dependency—it has increased it. It has not encouraged work—it has discouraged it. It has not added to the dignity of the lives of recipients, but it has aroused the indignation of the taxpayers who must pay for it.

The committee bill will substantially increase Federal expenditures to low-income working persons, but the increased funds that go to them—about $2 billion—will be paid in the form of wages and wage supplements, not in the form of welfare, since the payments will be related to work effort rather than to need. Under the present welfare system and under the House-passed bill, an employed person who cuts his or her working hours in half receives a much higher welfare payment; under the committee bill, a person reducing his or her work effort by half would find the Federal benefits also reduced by half.

DESCRIPTION OF GUARANTEED EMPLOYMENT PROGRAM

Under the guaranteed employment program recommended in the committee bill, persons considered employable would not be eligible to receive their basic income from aid to families with dependent children, but would be eligible on a voluntary basis to participate in a wholly federally financed employment program. Thus, employable family heads would not be eligible for a guaranteed welfare income, but would be guaranteed an opportunity to work.

The description I will give on the guaranteed employment plan is based on the assumption of a minimum wage of $2 an hour since that is the same assumption used in the committee amendments to H.R. 1.

Employable family heads are families headed by an able-bodied father or an able-bodied mother with no children under 6.

The committee bill provides three basic types of benefits to heads of families:

First. A work bonus equal to 10 percent of wages covered under social security up to a maximum bonus of $400 annually with reductions in the bonus as the husband's and wife's wages rise above $4,000.

Second. A wage supplement for persons employed at less than $2 per hour—but at least at $1.50 per hour—equal to three-quarters of the difference between the actual wage paid and $2 per hour.

Third. A guaranteed job opportunity with a newly established work administration paying $1.50 per hour for 32 hours and with maximum weekly earnings of $48.

WORK INCENTIVES UNDER THE PROGRAM

The program would guarantee each family head an opportunity to earn $2,400 a year, the same amount as the basic guarantee under the House bill for a family of four. It also strengthens work incentives rather than undermining them.

These major points about the committee plan are—

Since the participant is paid for working, his wages do not vary with family size. Thus a family with one child would have no economic incentive to have another child. This feature also preserves the principle of equal pay for equal work.

As the employee's rate of pay increases, his total income increases.

The less the employee works, the less he gets. No matter what the type of employment, the employee who works half-time gets half of what he would get if he works full-time; he gets no Federal benefit if he fails to work at all.

The value of working is increased rather than decreased. Working 32 hours for the Government is worth $1.50 per hour; when a private employer pays $1.50, the value of working to the employee is $2.02 per hour; and working at $2 per hour is worth $2.20 per hour to the employee.

Earnings from other employment do not decrease the wages received for hours worked. Thus, an individual able to work in private employment part of the time increases his income and saves the Government money. Virtually no policing mechanism is necessary to check up on his income from work.

WORK DISINCENTIVES UNDER PRESENT LAW AND ADMINISTRATION PROPOSAL

By way of contrast, under present law, a mother who is eligible for welfare is guaranteed a certain monthly income—at a level set by the State—if she has no other source of income; if she begins to work, her welfare payment is reduced. Specifically, though an allowance is made for work expenses, her welfare payment is reduced $2 for each $3 earned in excess of $30 a month. Generally, then, for each dollar earned and reported to the welfare agency, the family's income is increased by only 33 cents.

The House bill uses the same basic approach as present law, but substitutes a flat $60 exemption plus one-third of additional earnings for the present $30 plus work expenses plus one-third of additional earnings. The disincentive effects of this are as follows:

The less the individual works, the more the Government pays.

An individual cutting back on his work effort decreases his income by a relatively smaller amount, or, said another way, the value of work is substantially lower under the House bill than under the committee bill.

The value of working is decreased rather than increased.

Earnings from any employment—as well as child support payments—if reported reduce the benefits received by the family.

ADMINISTRATION OF THE EMPLOYMENT PROGRAM

A new Work Administration would be created with the responsibility of administering the employment program and paying the wage supplement. The Work Administration's goals would be, first, to improve the quality of life of the children of participating families; second, to place participants in regular employment; and, third, until this is possible, to serve as transitional employer of participants with the objective of preparing participants for and placing them in regular employment at the earliest possible time.

On the national level, the Work Administration would be headed by a three-member board appointed by the President with the advice and consent of the Senate. A 15-member national advisory committee—with representatives from industry, organized labor, State and local governments, nonprofit employers, social service organizations, minority groups, and so forth—would make policy recommendations to the board.

The actual operations of the Work Administration would be locally based, with the bulk of the local employees being persons who are currently participating or who were former participants in the guaranteed employment program. On the local level, the Work Administration would be organized along the same lines as the national office. Coordination with other local service agencies, local government, and local employers, labor organizations, and so forth, and their cooperation would be critical to the success of local operations.

The local Work Administration office would hire individuals applying to participate, would develop employability plans for participants, engage in job development and job preparation activities, arrange for supportive services needed for persons to participate—utilizing the Work Administration's Bureau of Child Care to arrange for child care services—and operate programs utilizing participants in the employment program.

The Work Administration would place the program participants in three kinds of employment:

First. Regular employment in the private sector or in jobs in public or nonprofit private agencies. Participants who are ready for employment with little or no preparation would fall into this cate-

gory. These jobs would pay $2 an hour or more.

Second. Private or public employment with the employee's wage supplemented. These jobs would be jobs not covered by the Federal minimum wage law in which the employer paid less than $2 per hour, but at least $1.50 per hour. No wage supplement would be paid if the employer reduced pay for the job because of the supplement. Thus, no jobs presently paying the minimum wage would be downgraded under the committee bill, and the minimum wage itself would not be affected.

Third. Newly developed jobs with the Federal Government paying the full cost of the salary, including jobs developed for services to local communities in areas that the chairman has mentioned.

For persons who could not be placed in either regular, public or private employment—with or without a wage supplement—the Work Administration would provide employment which would pay at the rate of $1.50 per hour. An individual could work up to 32 hours a week—an annual rate of about $2,400—and would be paid on the basis of hours worked just as in any other job. There would be no pay for hours not worked.

However, a woman with school-age children would not be required to be away from home during hours that the children are not in school—unless child care is provided—although she may be asked, in order to earn her wage, to provide after-school care to children other than her own during these hours.

I am sure it is obvious that employees of the Work Administration could be used to provide child care services to make it possible for other employees to go out and accept jobs.

For these individuals who cannot be placed immediately in regular employment at a rate of pay at least equal to the minimum wage, or in employment with a wage supplement, the major emphasis would be on having them perform useful work which can contribute to the betterment of the community. A large number of such activities are currently going undone, because of the lack of individuals or funds to do them. With a large body of participants for whom useful work will have to be arranged, many of these community improvement activities could now be done. At the same time, safeguards are provided so that the program meets the goal of opening up new job opportunities and does not simply replace existing employees, whether in the public or private sector. To this end, the committee bill requires that the Work Administration observe the following criteria in making arrangements with State and local governments and with nonprofit agencies for work projects to be performed by participants in the guaranteed employment program: such work is performed on projects which serve a useful public purpose and do not result either in displacement of regular workers or in the performance of work that would otherwise be performed by employees of public or private agencies, institutions, or organizations.

For mothers with younger children particularly, the Work Administration would provide training and other activities designed to improve the quality of life for the children of participants through improvement of home, neighborhood, and other environmental conditions in which the children live. For example, mothers can be trained in skills to improve their homemaking and upgrade the physical conditions in which the children live. This would include cleaning up and beautifying their apartments or homes, perhaps in groups with other participant mothers, as well as training in consumer skills and providing a pleasing home atmosphere with child-centered activities in the home in which the child can join and have fun. Many of these activities could occur in the home and in the neighborhood with other participant mothers to provide a social life for participants as well. A major goal of this type of activity would be to impress upon participants that they have the ability to improve the living conditions of their children and to increase and reward their desire to do so. Participants engaged in this type of activity as part of their employment during the week would be required to report for work to a participant or regular Work Administration employee serving as a supervisor. Since expansion of child care will be an immediate need, a number of mothers will be trained initially in providing good child care.

Temporary employment could be arranged with private employers. During such temporary employment participants would continue to be transitional employees of the Work Administration; that is, they would continue to be paid by the Work Administration. The employee would be paid the prevailing wage for the job, however, and the Work Administration would bill the private employer for the employee's wages and other costs associated with making those services available. Unlike other forms of transitional employment by the Work Administration, such temporary employment with private employers would be covered under social security if the employment would be covered by social security when performed directly for the employer.

The Work Administration would attempt to the greatest possible extent to place participants in the transitional Government employment program into regular employment as rapidly as possible, which would include full-time employment as staff for the Work Administration.

It seems to me that if we are going to have local Work Administration offices operating to carry out these functions, they should look first to the participants as a source of their own employees, and, if necessary, upgrade the skills of these employees.

Employment in any of these categories would pay more than the $48 paid transitional employees for working a 32-hour week. In fact, it is my feeling that they should be paid at the same rate a person would be paid if he were brought in from the outside.

Though a number of the Work Administration's employees would have to be recruited from other sources, it is contemplated that a substantial majority would be drawn from participants in the guaranteed employment program itself.

TRANSPORTATION ASSISTANCE

In recognition of the fact that a major reason for low-skilled jobs going unfilled in metropolitan areas is the difficulty an individual faces getting to the potential job, the Work Administration would be authorized to arrange for transportation assistance where this is necessary to place its employees in regular jobs.

INSTITUTIONAL TRAINING

Participants in the guaranteed employment program would be eligible to volunteer for training to improve their skills under the training program administered by the Work Administration. The individual would be accepted for enrollment to the extent funds are available and only if the Work Administration is satisfied that the individual is:

First. Capable of completing training; and

Second. Able to become independent through employment at the end of the training and as a result of the training.

SUPPORTIVE SERVICES

Since the purpose of the proposal is to improve the quality of life for children and their families, any member of a family whose head participates in the guaranteed employment program would be provided services to strengthen family life or reduce dependency, to the extent funds are available to pay for the services. The agency administering the employment program would refer family members to other agencies in arranging for the provision of social and other services which they do not provide directly. Other services needed to continue in employment, including minor medical needs, could be provided by the Work Administration.

STATE SUPPLEMENTATION

In order to prevent the State welfare program from undermining the objectives of the employment program, the State would have to assume for the purposes of their AFDC program that families which include an employable parent—including a mother with no child under age 6—are actually participating full time in the employment program and thus receiving $200 per month.

Furthermore, the State would be required to disregard any earnings between $200 a month and $375 a month—the amount an employee would earn working 40 hours a week at $2 per hour—to insure that the incentive system of the employment program is preserved. The effect of this requirement would be to give a participant in the work program a strong incentive to work full time—since earnings of $200 will be attributed to him in any case—and it would not interfere with the strong incentives he would have to seek regular employment rather than working for the Government at $1.50 per hour.

JOB PLACEMENT STANDARDS

The committee bill is designed to stimulate job opportunities in the private sector; it also contains penalties for refusing to accept these jobs. The Work Ad-

ministration would prepare an employability plan for each transitional employee. Based on the transitional employee's skills, qualifications, experience, and desires, the Work Administration would attempt to direct the employability plan toward employment in an area of interest to the transitional employee, and employment which offers the greatest possibility of self-support. However, participants in the employment program would not be allowed to continue in guaranteed employment if an opportunity for regular employment is available. The penalty for failure to take available regular employment would be suspension of the right to participate in the guaranteed employment program, for 1 day for the first time, 1 week for the second—including a second rejection of the same opportunity—and 1 month for the third and succeeding times.

CHILDREN OF MOTHERS REFUSING TO PARTICIPATE IN THE EMPLOYMENT PROGRAM

Under the employment program, mothers in families with no children under age 6 would generally be ineligible to receive their basic income from the aid to families with dependent children program.

It is, of course, possible that in some few instances the mother will ignore the welfare of her children and refuse to take advantage of the employment opportunity. To prevent the children from suffering, because of such neglect on the part of their mother, the Work Administration would make payment to the family for up to 1 month during which time the mother would be provided counseling and other services aimed at persuading her to participate in the employment program.

Following this, the mother would either have to be found to be incapacitated under the Federal definition—that is, unable to engage in substantial gainful employment—with mandatory referral to a vocational rehabilitation agency; or, if she is not found to be incapacitated, the State would arrange for protective payments to a third party to insure that the needs of the children are provided for.

TAX CREDIT TO DEVELOP JOBS IN THE PRIVATE SECTOR

The provision of the present tax law under which an employer hiring a participant in the work incentive program is eligible for a tax credit equal to 20 percent of the employee's wages during the first 12 months of employment, with a recapture of the credit if the employer does not retain the employee for at least 1 additional year—unless the employee voluntarily leaves or is terminated for good cause—will be continued under the new guaranteed employment program.

Because the guaranteed job opportunity program, unlike the work incentive program, would be open to the head of any family with children, several limitations would be added to the provisions of the tax credit to insure that the credit meets the primary aim of expanding employment opportunities for participants in the committee's work program.

In order to create additional employment opportunities for participants in the guaranteed job program, the committee bill would extend the credit to private employers hiring participants in nonbusiness employment. Such a private employer taking the credit would not be eligible at the same time for the income tax child care or household expense deduction.

STARTING DATES FOR PROGRAMS

The effective date for the basic job opportunity program is January 1974. As of that date, families which include an employable adult—including a mother with no child under age 6—will no longer be eligible for welfare as their basic income. If unable to find a regular job, however, the family head will be assured of Government employment paying $1.50 an hour for 32 hours weekly, producing $2,400 of income annually, the same amount which would have been payable to a family of four under the House-passed family assistance plan.

The 10-percent work bonus and the wage supplement payment would become payable even before the full guaranteed employment program is operative. Specifically, the work bonus which will be paid quarterly to low-income workers will become effective starting in January 1973. The wage supplement for family heads in regular jobs not covered under the minimum wage law and paying less than $2 per hour will be effective July 1973, utilizing the services of the local employment service offices to make the payments until the Work Administration mechanism is functioning.

Mr. President, I have not dwelt at length on either of these highly significant programs which we bring before you. The professional standards review organization and the guaranteed job opportunity program are both highly innovative proposals designed to solve some of the most vexing problems we face in health and welfare. These provisions represent months of intensive work by the Committee on Finance and are worthy of the Senate's most understanding consideration.

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

Mr. BENNETT. I am happy to yield to the chairman of the committee.

Mr. LONG. Mr. President, I wish to congratulate the distinguished Senator from Utah for the magnificent statement he has made in opening this debate, and also to pay tribute to him for the tremendous contribution that he has made to this bill. On some occasions the committee workfare amendment has been referred to as the Long amendment because the Senator from Louisiana is chairman of the Committee on Finance, but the Senator from Utah (Mr. BENNETT) has contributed more detailed suggestions for this bill, and also more basic provisions, I should think, than anyone else on the committee, and at a minimum I would say that the committee amendment ought to be known as the Long-Bennett amendment.

I thank the distinguished Senator for his long hours of hard work on this bill and for his major contributions, as well as his statesmanship, although in some instances the measure might not have been popular with some people, and although in some instances what he was suggesting might have been a little ahead of public understanding of what he sought to achieve. As I mentioned earlier, he is especially deserving of credit for the amendment relating to professional standards review organizations.

I do not think the workfare provisions of the measure could have been put together without the many suggestions and the many answers that the Senator from Utah has provided. All of us on the committee are grateful to him for his contribution, and I believe the country will be grateful when it sees how well some of these provisions work out, because the Senator, time and again, has come up with the answers to specific problems that have arisen in connection with first one provision of the bill and then another.

Mr. BENNETT. Mr. President, I am very grateful and humbly appreciative of what the chairman has said. I am very honored to have it known as the Long-Bennett bill when it is being attacked, but when it is being praised I am perfectly willing to have it known as the Long bill, because the chairman cannot escape from the responsibility and the credit for the leadership that he has given to the members of the committee.

Those of us who work under him have come greatly to appreciate that quality of leadership, of understanding, and of support that he has given all of us, and I am delighted to work with him, to work at his side, and to work behind him as his supporter. I am happy if I have been able to make some contribution in ideas. Of course, none of us can claim that this particular section or that is our part of the bill, because we have the kind of committee that works as a unit, works cooperatively, and works hard on problems, and every member of the committee has made a contribution to the composite pattern which has emerged as H.R. 1.

I hope that the Senate will stand with us and approve it, thus justifying the many months of work we have put into it. I think it would be tragic if all of these efforts should now go down the drain, and I can assure the chairman that I am here to do everything I can to bring about its speedy passage.

Mr. LONG. Mr. President, if the Senator will yield for one further statement, I am satisfied that the Senate will agree with 90 percent of the language that the committee has proposed, and that the Senate will agree that, of the $14 billion of expenditures in this bill, everything we are trying to do for people is something worth doing.

The only question that will be in the minds of some people is whether we should, at some point, insist that able-bodied people who need help get that assistance through their own work efforts, and thus provide some benefit to society for the support they are drawing from society. In doing so, they will better themselves and will set a fine example for their children. That will make better human beings, better citizens, and will provide a better example for their children.

I have no doubt that in due course the

Nation will adopt the recommendation we have here for rewarding work effort.

The people of this Nation are not yet really aware of how liberal the committee provisions are with regard to the aged. Those provisions go far beyond anything that the House suggested, both in cost and the overall good it would do for people.

We feel that the aged have earned the right to retire and that right is fully guaranteed and protected, and to retire with an income that will permit them from living in poverty, when they decide they want to leave the labor force; but we do think that they should earn some right to retire through their work efforts prior to the time they reach age 65. I have no doubt that the majority of the people in the country agree with that philosophy and that when they have a chance to vote on it, they are going to make clear that this is what the majority of the people think.

There are many jobs that are asking for takers unsuccessfully today. We are not requiring someone to take one of those jobs. In addition, the committee bill provides for the creation of jobs so that every family head will be guaranteed a job. It may not be a high-paying job, but it will be one they are capable of doing and it will not be one that is too demanding upon them.

I have no doubt that the people of this Nation will approve the work ethic that is implicit in this bill.

I particularly appreciate the great contribution of the Senator, because he has been both a religious leader, as well as a business leader, and a leader in the public affairs in his State and in this Nation, and the work ethic has always been a part of him. He could not reflect any other philosophy if he tried, because it has been so much a part of his background and the philosophy of those who partake of his religion, as well as those who participate with him in his civic life in his own State. So the contribution he has made is in keeping with what his philosophy is and the philosophy of the people who have built this great Nation.

I applaud the Senator for the fine speech he has made today, and more so for the enormous contribution he has made in the last several years to the thinking that has gone into the making of this program.

Mr. BENNETT. I am still overcome and overwhelmed by the kind of things my chairman has had to say about me. Certainly, I believe with all my heart in the therapy and value of work. I believe that self-respect is probably as important, or more important, than self-maintenance. This is one of the things that comes to people who are able to support themselves.

As I made my speech, I stopped to emphasize—and I will just reemphasize again—that if, in our program, we were singling out heads of families with children of school age and expecting them to do what no other women in the United States were doing, I would be very much concerned. But when we realize again that one-half of the mothers whose children are of school age are today working, we are not asking these people who are now on welfare to do anything strange or unusual or asking them to suffer an unusual penalty. We are just asking them to do what 1 out of 2 of their sisters in the same situation have done voluntarily.

I will take a minute to remind the chairman and our friends in the Senate of an experience I have discussed in the committee.

A number of years ago, in my home city of Salt Lake, a woman who had been on welfare for a number of years, a mother with children in school, was offered a government job. She took it. Afterward, when talking to her, I got a new insight into the problem.

She said, "That was the most difficult decision I ever made in my life. On welfare, I had security. It's true I couldn't decide when my children would have milk, because the social worker decided that. She decided how much milk I could buy. She decided how my money was to be spent. I decided and made the choice and took the job. Now I am in control of my family, and I can make my own decisions."

Then she said that one day, as she was sitting in her home, working on some reports, in the summertime, by an open window, she heard her children and the neighbors' children arguing in the yard outside the window. One of the neighbors' children said:

I don't like to come over to your house anymore. Your mother is too strict.

She suddenly realized that since she had been employed and responsible, her concern for the well-being of her children has greatly increased and that she had been more strict. Prior to that time, she had sat around home and had let them go their own way, but now she was responsible and she was tightening up in the upbringing of her children.

She said she looked around her home and realized that it was better kept and that this experience of moving from the apathy of welfare to the responsibility of work had changed her whole attitude on life and had changed the atmosphere in which she was bringing up her children.

I think that would be the experience of practically all the women who might be worked into this new program. I think that the sense of satisfaction, the sense of accomplishment, the sense of achievement, as well as the sense of responsibility that come when people undertake to provide for themselves and their families, gradually erode and disappear under the constant dependence that exists when people live too long on someone else's bounty.

Mr. GOLDWATER. Madam President, a parliamentary inquiry.

The PRESIDING OFFICER (Mrs. EDWARDS). The Senator will state it.

Mr. GOLDWATER. Is this bill now open to amendment?

The PRESIDING OFFICER. The bill is open to amendment.

Mr. GOLDWATER. Madam President, I send an amendment to the desk and ask that it be read and made the pending order of business.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment, as follows:

Amend section 105(a) relating to liberalization and automatic adjustment of the earnings test, by adding the following new paragraph at the end thereof:

(4) Paragraphs (c)(1), (d)(1) and (f)(1)(B), and (h)(i)(A), and subsection (j), of section 203 of the Social Security Act are each amended by striking out "seventy-two" and "72" and inserting in lieu thereof "sixty-five".

Amend the section heading of section 106, relating to exclusion of certain earnings, by striking out "72" and inserting in lieu thereof "65".

Amend section 106 by striking out "72" and inserting in lieu thereof "65".

Mr. GOLDWATER. Madam President, I have been asked by the distinguished Senator from Wyoming (Mr. McGEE) to yield briefly to him, which I am happy to do at this time.

Mr. McGEE. Madam President, I want to thank my colleague from Arizona for yielding to me.

EXECUTIVE SESSION

Mr. McGEE. Madam President, I ask unanimous consent that the Senate go into executive session to consider two nominations which were reported earlier today.

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

The PRESIDING OFFICER (Mrs. EDWARDS). The nominations will be stated.

U.S. POSTAL SERVICE

The legislative clerk proceeded to read the nomination of Frederick Russell Kappel, of New York, to be a Governor of the U.S. Postal Service for the remainder of the term expiring December 8, 1974.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Robert Earl Holding, of Wyoming, to be a Governor of the U.S. Postal Service for the remainder of the term expiring December 8, 1973.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

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

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

LEGISLATIVE SESSION

Mr. McGEE. Madam 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.

SOCIAL SECURITY AMENDMENTS OF 1972

The Senate continued with the consideration of the bill (H.R. 1) to amend

the Social Security Act, to make improvements in the medicare and medicaid programs, to replace the existing Federal-State public assistance programs, and for other purposes.

Mr. GOLDWATER. Madam President, before making a few remarks on my amendment I want to compliment both the chairman and the senior Republican member for what I think is a great improvement in the legislation they originally had before them. I like very much what I heard in their comments. I am not certain whether I will support the bill as it is finally ready to be acted on but I believe it is a fine improvement over what we had been expecting.

Now, Madam President, in keeping with the notice I gave during testimony before the Senate Finance Committee on January 31, I send to the desk an amendment to completely repeal the earnings limitation for all social security beneficiaries who are 65 and over, and their dependents. As the law now stands, this limitation takes away from each social security receipient $1 in benefits for every $2 he earns in excess of $1,680 per year. If his earnings go above $2,880, his benefits are cut off completely. The only exception is for persons 72 and older.

Madam President, this is wrong. It is wrong logically, and I particularly feel that it is wrong morally. It is an outrage against millions of citizens who have made years of contributions out of their hard-earned salaries. It is an affront to the working man who has lived faithfully by the best rules of the American system. These citizens have not been a burden on the welfare rolls. They have not been tearing up the flag, blocking traffic, or shouting obscenities in the streets. If there are any individuals in our society who deserve our top priority attention, it is these law-abiding, working persons.

Madam President, the earnings test is wrong morally because social security should not be a contract to quit work. It is wrong logically because the person who is penalized is most often the one with the greatest need for more income than his benefits can provide. Income from investments is not counted in determining whether benefits shall be reduced. It is only the individual who continues to work who is penalized. This means we have the utterly illogical situation where a really wealthy person might draw tens of thousands of dollars a year from his investments and still receive his full social security check. At the same time, the man who has worked for a salary all of his life and who might need to continue working as a matter of economic survival cannot do so without a penalty.

Madam President, I think, more and more, as we travel to our homes and listen to people who are in their sixties or seventies, we realize that the social security benefits most Americans receive are not really sufficient to meet their cost of living. More and more of these people feel that they have to turn to some other employment, or continue employment in order to live.

To show how these things can happen, I remember when I went to work back in 1929, I saw a beautiful ad on the back of a magazine, long since defunct, that pictured a couple sitting under palm trees, or orange trees, in Florida—of course, today that would be in Arizona, but then it was in Florida—selling an insurance policy that would allow you to do all those things on $100 a month. I bought one and I do not believe that that $100 a month will keep my wife in hairdo's. But I am stuck with it. I feel very strongly about the fact, for example, that when I retire, I can, if I wish, draw my full social security benefits, yet I will have a rather substantial income when I retire because I have been working on it all my life. But I do not want to be penalized one bit and neither do I think it is right to go the other route and penalize a man who has set aside money so that he can retire by taking away his social security, because social security is actually an insurance policy that has been handled by the Federal Government and the money is owed to us. I do not believe there is any reason why it should be restrictive.

Madam President, I should add that a person who loses his social security benefits on account of working suffers a reduction in his disposable income larger than the sum of his benefits. This happens because for each dollar in tax-free, social security benefits which the person loses, he earns a dollar which is reduced by Federal, State, and local taxes and by all the expenses incidental to his work, including continued payroll contributions for social security which he is not receiving.

Madam President, there are 10 million Americans, roughly, eligible for social security benefits who are aged 65 to 72 or are the dependents of such persons. At least 2.5 million of them are directly affected by the earnings ceiling. Nearly a million earn enough so that they receive no benefits at all. Another million earn enough so that their benefits are reduced. About a half million more earn amounts which are only $100 or $200 below the ceiling. They are getting their full social security benefits, but nearly everyone of them is intentionally holding his earnings down because of the earnings limitation. Government studies prove that the greatest deterrent to work occurs at just below the ceiling level. In all, I repeat, 2.5 million Americans aged 65 to 72 now suffer because of the earnings limitation.

Madam President, it is time, in my opinion, that this statutory shackle was removed—completely. In my opinion, workers who have contributed from their earnings over a lifetime of work are entitled, as a matter of right, to receive benefits when they reach the annuity age.

Madam President, I emphasize, social security beneficiaries are not wards of the Government. They are not on relief. They are not objects of charity. They are self-respecting Americans who, in substantial part, have paid for the benefits which they will receive in old age.

Social security payments are not gratuities from a benevolent central government. They are essentially a repayment of our own earnings, which we have deposited in trust as a regular contribution and which has been deducted from our salaries and from our employers. This method was designed from the start as a guarantee that benefits would be paid as a matter of right, not of charity. In fact, as the program was first reported by the Committee on Ways and Means in 1935, there was no earnings test at all. Thus, a total repeal of the test today would restore the program to its original form.

Madam President, the cost to eliminate the retirement test completely for workers aged 65 and over is estimated to be no more than $2.2 billion in the first year, just $1 billion more than if the ceiling were simply raised to $3,000. These figures were given to me by the Social Security Administration after I asked it in February to consider these two alternatives.

Madam President, I ask unanimous consent that my exchange of letters with the Social Security Administration be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. GOLDWATER. Madam President, in 1958, the Advisory Council on Social Security Financing concluded that—

> The fact that the worker pays a substantial share of the cost of the benefit provided, in a way visible to all, is his assurance that he and his dependents will receive the scheduled benefits and that they will be paid as a matter of right without the necessity of establishing need.

I propose that we make this promise a truth by repealing the earnings test entirely for all of our older Americans.

I might add that if this amendment is approved it would still be entirely in order for the Senate to consider an additional amendment, such as the Mansfield amendment which I endorse, to lift the earnings ceiling to $3,000 for the 11.6 million social security beneficiaries who are under 65.

Madam President, the committee very graciously heard me on this matter earlier this year. I know that they are not kindly disposed toward this, although I have yet to hear a member of the committee say that I was wrong on the moral rightness of my approach. I think the objections stem more from the cost. I do not agree entirely that the cost would approach $2.2 billion, because conceivably income tax could get into the act and the people who would be gainfully employed would be paying taxes instead of not paying taxes, as most of them are doing today.

I do not intend to ask for a yea-and-nay vote on the amendment. Nor do I intend that this will be the last time that this subject will be touched on by me.

I come from a State that has the second highest number of retirees percentagewise in the Nation. And I have watched people lose their purchasing power year by year by year. I have watched people, who felt they could get along on social security, start out doing it and then find slowly that they cannot hack it, as we say.

Madam President, this is not just for those who are retired and live in my

State. It is also for those people all over this Nation who cannot live on social security or cannot live well on social security or as well as they have been used to living with their earnings.

I would hope, of course, that the chairman of the committee would in his gracious wisdom and kindness agree with the junior Senator from Arizona and accept the amendment. However, I would like to hear what comments the Senator from Utah might care to make on the subject.

EXHIBIT 1

FEBRUARY 1, 1972.

Hon. ROBERT M. BALL,
Commissioner, Social Security Administration, Baltimore, Md.

DEAR COMMISSIONER BALL: On October 26, you were good enough to give me a very detailed answer relative to some questions of mine on repealing the earnings test. Since then, I have had some further thoughts on the issue and would appreciate it very much if you could provide me with answers to some new questions I have.

First, what is the total number of persons aged 65 and over but not yet 72 who were eligible for Social Security cash benefits on January 1, 1972? Second, what would the combined additional contributions have to be to support the program for the next 75 years if the retirement test were removed for everyone aged 65 and over? Third, what would such combined contributions have to be in order to support a lifting of the earnings ceiling to $3,000 instead of $1,680? Fourth, what would the combined additional contribution be if the earnings test were repealed for everyone aged 65 and over but the increased benefits for persons now age 65 or over were financed out of general appropriations?

This information is very important to me, and I would appreciate it if you would try to put together the data as soon as possible.

Sincerely,

BARRY GOLDWATER.

SOCIAL SECURITY ADMINISTRATION,
Baltimore, Md., April 7, 1972.

Hon. BARRY GOLDWATER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GOLDWATER: This is in further reply to your letter of February 1, requesting additional information about the cost of modifying the retirement test. Each estimate shown below is numbered in the same order that the corresponding question was presented in your letter. All estimates of cost represent costs over present law.

1. On January 1, 1972, there were an estimated 10.0 million persons eligible for social security cash benefits who either were (i) aged 65–71 on that date—some 9.1 million—or (ii) not aged 65–71, but were dependents of a worker aged 65–71 whose earnings would affect the receipt of benefits by the dependent—about 0.9 million.

2. The cost to eliminate the retirement test for workers aged 65 and over is estimated to be 0.66% of covered taxable earnings, over the next 57 years. Additional benefit payments in the first full year, assumed to be the 12-month period beginning July 1973, are estimated at $2.2 billion.

3. If the retirement test were modified, for all persons eligible for benefits regardless of age, as follows:

(i) increase the annual exempt amount of earnings from $1,680 to $3,000, and

(ii) withhold $1 for every $2 of earnings above the annual exempt amount (as provided in H.R. 1 as passed by the House of Representatives),

the cost over the next 75 years is estimated at 0.34% of taxable payroll. Additional benefit payments in the first full year are estimated at $1.2 billion.

If the changes were limited to workers aged 65 and over, the 75-year cost would be an estimated 0.32% of taxable payroll; and the first-year cost is estimated at $700 million.

4. If the retirement test were eliminated for workers aged 65 and over, and if the resulting additional benefit payments to those workers who are aged 65 and over on the effective date of the proposed change (and to their dependents) were to be financed from general revenues, the 75-year cost of the additional benefits payable to workers reaching age 65 after the effective date (and to their dependents) is estimated to be 0.63% of taxable payroll.

Sincerely yours,

ROBERT M. BALL,
Commissioner of Social Security.

Mr. BENNETT. Madam President, this is a problem that the Finance Committee has looked at every time we have had a social security bill. There is a lot of appeal to the proposal to eliminate the social security earnings limit. But there are some considerations here that I think the Senate should realize before it votes.

The amendment would eliminate the social security retirement test. If this amendment were to go into effect, every insured person, when he reaches the age of 65, would automatically qualify for social security, even though he goes on working.

Madam President, I have not checked the figure lately, but the last time that I checked it, the average age of retirement of social security recipients was around 68, rather than 65. So, this would eliminate the concept that social security is designed to take care of people after they retire. It would open instead the idea that whenever a person reaches the age of 65, he automatically qualifies for an annuity whether he retires or not.

I was a member of the Finance Committee when we changed the law to allow people to draw social security automatically when they reach the age of 72 on the theory that by that time not only would there be very few of them who were actually working and drawing salaries or wages, but also that the opportunity for people above the age of 72 to do temporarily part-time work was comparatively small.

The Senator from Arizona says that the main objection to this may be the cost. I think we should look at that. It will cost about $2½ billion. That is equivalent to 5 percent of the present cost of social security cash benefits.

We on the Finance Committee have always prided ourselves on the fact that whenever we have recommended increases in social security benefits, we have recommended increases in the tax to cover the cost.

When Congress increased social security benefits 20 percent just a few months ago, we increased the tax. However, in order to lighten the burden of the increase, we said that it would no longer be expected that the social security trust fund would be equivalent to 12 months' payments. We said that we would be satisfied if it were only 9 months' payments. So, we took advantage of this one-time shift in an attempt to save ourselves from having to increase the tax quite as much to cover the future cost of the 20-percent increase. But this was a one-time affair. It is not available to us now.

We have studied the measure before us, and with the additional benefits that the committee has written into the bill, beginning in January 1973, the social security tax will have to rise for each employee and his employer from 5.5 percent of the payroll under present law to 6 percent of the payroll.

If we adopt the amendment of the Senator from Arizona and fund it, we would have to push that up to 6.3 percent of the payroll. And this is part of the problem that people can face. Are the present employees who are paying into the social security trust fund willing to see their social security taxes increased by 5 percent so that people who do not quit working at the age of 65 can automatically add the social security payments to their earned income?

And I am one, Madam President, of a very limited group. I am still paying social security taxes because I am still drawing a salary. And I have passed the age of 72. So it comes both ways for me. I am getting a benefit that comes automatically. However, I am still paying a social security tax.

Under the proposal of the Senator from Arizona, not only would I continue to receive benefits, but all of my friends between the ages of 65 and 72 who have not retired would suddenly become social security recipients.

If we are going to talk about distributing the $2½ billion to social security recipients, is there a better way? This proposal would mean that approximately 800,000 people who have not retired at all would get most of this $2½ billion. There are 700,000 people who have retired partly who would get a little of the money. However, most of this would go to 800,000 people. That would be a real windfall for them since they are all still working.

If we can persuade ourselves that social security taxpayers are willing to increase their tax burden by 5 percent, do we think it is best to give it to 800,000 people or do we want to spread it across the board to all 28 million beneficiaries?

As the Senator from Arizona has already indicated, there is a bill before the Senate with 78 cosponsors that would increase the amount that a person can earn and still maintain his right to claim social security from the present $1,680 to $3,000. The committee recommended $2,400.

The additional $600, the difference between the committee bill and the Mansfield amendment, would cost $600 million, which is approximately one-fourth of what the amendment of the Senator from Arizona would cost. So we are talking now about alternatives.

I think if we were to adopt the amendment of the Senator from Arizona it is hard for me to believe that the Senate would then move back and take a $3,000 limit. I think we are talking about the ultimate and I would have hoped, al-

though this is the privilege of the Senator from Arizona, that we could have voted on the lower one first and then face this one.

I would like to ask the Senator from Arizona whether he is willing to amend his amendment to increase the tax by 5 percent to cover this cost.

Mr. GOLDWATER. No, because, as I said in my statement, I am not convinced the figures supplied me and the figures the Senator from Utah used are correct. I think the income tax levied against income earnings in the wages we are talking about would offset this. I would not approve at this time of an amendment to my amendment. I do not think it would even be in order to raise the social security 5 percent. I recognize as well as the Senator from Utah that if we go beyond a certain point the entire social security system is going to fail. We did not think about these things when it started. Had we thought about these things when the program started maybe we would have made the program voluntary.

Let me point out that while we may say the age of 65 is a retirement age, the Senator from Utah knows full well, having been a businessman as I have been a businessman, that is a rather old age today in American business and it is very difficult to get a job in this country today when you are past the age of 40. So we are not talking about, in my opinion, something we know all about. It is very easy to say it is going to cost $2.2 billion on one approach or $1.6 billion on another approach, but the fact remains this is not a Government benefit. That is, we do not think it is. Maybe the social security funds are all out on I O U's. I do not know. I would like to think that the money I have put into social security is in a trust fund and is not being used for other purposes, but the fact that I and other Americans paid in an amount of money to provide ourselves with income after retirement, I do not think there should be any test that says, "You cannot have it."

This is the moral argument I am using. It involves two mistakes: One, we should not necessarily say when a man should retire. We assume 65 is the age, but I can remember when men were employed at 65, but that is not the rule today, and the rule is being changed very rapidly.

I get back to my basic argument. I think it is an illogical test, an immoral and unmoral test.

Mr. BENNETT. With respect to the Senator's statement that we should have thought about these things when the program was started, I remember that my father used to say, "We are faced with a condition, not a theory."

This is a retirement program. He cannot retire until he is age 65 and get the full benefit of social security. Under other provisions in the law he can retire at age 62 and get an actuarially reduced amount. This is his choice. But the Senator's proposal would turn this from a retirement benefit into a plain annuity.

I am interested in the Senator's use of the word "moral." I am not sure there is any moral content in the decision made 35 years ago to make this a retirement program rather than an annuity program. Of course, the Senator knows the money that he and I have paid into social security all these years is not sitting somewhere in the fund. As I explained earlier, as the result of changes we made in the social security law when we put in the 20-percent increase a few months ago, we reduced the amount that the Social Security System is required to keep on hand: the equivalent of three-fourths of a year's payout; it is a revolving fund. That is all it is.

We are paying out now approximately as much as we take in, but we are holding three-fourths of the year's dollars in there as a kind of contingency fund. So that is the way it is.

As much as I realize the emotional appeal of this amendment, I think there are some practical problems that lead the Senate not to adopt the proposal.

I realize when we get to the Mansfield amendment, with 78 cosponsors, that is going to be adopted. There is no question about that unless 29 of them have deserted and changed their minds.

I appreciate the fact that the Senator from Arizona is not asking for a record vote, and unless there is some further discussion I would be perfectly willing to go to a vote on it.

Mr. GOLDWATER. I have no further arguments to offer. It is a little amazing to me, though, to hear that the Senator does not feel there is a responsibility for each American to receive the money he has paid into what we like to think of as an actuarily sound annuity program. If I had the program with a private company and paid in every month, I would certainly expect to be paid back by that company in full when I reached the age of contract or the age of retirement. I realize the position of the committee, I realize the position of the House. I am a cosponsor of the Mansfield amendment. I joined that knowing that my approach, even though in my opinion it is needed and demanded by social security recipients across the country, might not pass.

So Madam President, if there are no further arguments, as far as I am concerned we can vote.

Mr. BENNETT. Madam President, I cannot resist the temptation to make one further comment. Just after the social security law was passed in late 1930's the Supreme Court had before it the question of whether or not under the social security law every person who paid into it had a specific claim on the money he paid, as one does when he pays into a privately financed annuity program. The Supreme Court decided there was no relationship between the amount of money one pays into social security and the amount one receives. One is a tax, the other is a benefit. On that basis there are single people who can pay into social security until they reach the age of 64, die, and get nothing back.

There are some people who can begin paying when they are 63½ pay the minimum number of quarters, and get benefits, while those of us like the Senator from Arizona and I, who have paid in ever since the first social security tax payment, may get more or less, because of the amount of time we have paid in.

This bill has the provision in another section which says that any person who has paid in for 30 years, regardless of the amount paid in, would be assured of an income of $200 a month, even though, under the present law, he might draw only the minimum benefit. So we have tried to recognize the equities of the person who has paid in for all his working life.

But the Social Security System is judged by the Supreme Court as a two-part system. It is a tax collection program and it is a program to pay out benefits, and the two are not necessarily dependent on each other.

Madam President, the Senator from Arizona has moved his amendment, and I think we are ready to vote on it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arizona (putting the question).

The amendment was rejected.

Mr. GOLDWATER. Madam President, I might say that is the way I like to lose—2-to-1. I am getting used to it.

The PRESIDING OFFICER. The bill is open to further amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Madam President, I ask unanimous consent that the name of the distinguished Senator from Louisiana (Mrs. EDWARDS) be added as a cosponsor—which makes the total number of sponsors, I believe, 79—of the amendment I am about to call up.

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

Mr. MANSFIELD. Madam President, I call up the amendment I originally introduced in the form of a bill (S. 4001) on behalf of the distinguished Senator from Louisiana now presiding (Mrs. EDWARDS), the senior Senator from Vermont (Mr. AIKEN), and the 76 others who have joined as cosponsors.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 89, lines 13, 17, and 24, delete "$200" and insert in lieu thereof "$250".

Mr. MANSFIELD. Madam President, there is little to say as to this amendment except that it is a long overdue amendment which would tie in with the proposal now before the Senate for consideration. There is in the bill a proviso raising the annual amount which can be earned as outside income by social security retirees, people who have earned their retirement, from $1,680 up to $2,400. My amendment would raise the amount of income which could be earned without penalty to the sum of $3,000 per year.

This amendment would provide greater

equity for older Americans whose existence is tied primarily to social security. It does so in two major ways. First, it increases from $1,680 to $3,000 the outside income a social security pensioner is entitled to receive without penalty. The second main feature is that it would reduce the amount by which the petitioner would be penalized should his outside earnings exceed the exemption.

The total effect of the amendment, Madam President, would be to bring greater relief to senior citizens, or at least those of them who happen to be subject to the social security laws. It is in line with past efforts of Congress to grant more equitable treatment to older Americans; and no one in this body has been more diligent in that respect than the distinguished Senator from Louisiana (Mr. LONG), the chairman of the Committee on Finance and the manager of the bill now pending.

In this regard, the Senate would do well to recall that it was Congress on its own—and I repeat that, it was Congress on its own, and especially the Senate—that granted a full 20-percent increase in benefits to social security pensioners this year. Those of us who have cosponsored this legislation believe that this amendment is in keeping with that outstanding record, and I would hope that the Senate would see fit to give its consent to this amendment, so that this glaring inequity which has existed for all too many years—I might and will say too many decades—could be corrected and be brought more in accord with the economic situation, as it affects our older citizens, which exists at this time.

Mr. LONG. Madam President, I think it might come as a surprise to Senators to find that of our 20 million citizens over 65 years of age, there would at most be about 1.9 million, or fewer than 2 million of those citizens, who would be favorably affected by the amendment. The rest of our aged citizens would not be benefited by it.

The reason for that is that after age 72, of course, there is no retirement test, and of those between age 65 and age 72 who are working, most of them receive little earnings. There are 6.5 million who have no earnings at all, and therefore would get no benefit from this provision.

The committee has placed the earnings test at $2,400; and therefore, of those who have earnings, since the number with earnings who would receive no earnings would be increased, the number who would benefit by the amendment is even less than that.

It can be argued, and is generally the view of the committee and of the administration, that the $600 million cost of this amendment could better be spent on other social security benefits that would benefit the entire 28 million persons drawing social security pensions, such as an increase in across-the-board payments, or providing drugs over and above the amounts provided in the bill, or providing more health benefits, or in reducing the price that aged people must pay under part B of medicare for the benefits they are enjoying. In other words, while this amendment has a great deal of appeal to recommend it, other provisions can be found where we could take the same amount of money, $600 million, and benefit a great number of other people who have greater need for it.

I am aware of the fact that a majority of the Senate has joined as cosponsors of the amendment. Therefore, I recognize the Senate would probably be disposed to agree to the amendment; but those of us on the committee have been persuaded by the Department that we could probably find a better way to spend the money, one that is more meaningful and more beneficial to a greater number of people.

Madam President, I ask unanimous consent that during the consideration of this bill, Dr. Laurence Woodworth and two other members of the staff of the Joint Committee on Internal Revenue Taxation be permitted on the floor in order to help us with the technical aspects of this bill under consideration.

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

Mr. LONG. I ask unanimous consent that Mr. Goeffrey Peterson and Mr. John Koskinen, who are assistants on the staff of Senator RIBICOFF, be permitted on the floor during consideration of this measure.

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

Mr. MILLER. Madam President, I believe that the chairman of the Finance Committee, the distinguished Senator from Louisiana (Mr. LONG), has pointed out one of the reasons for the determination of the Finance Committee to increase the earnings limitation to $2,400 a year, rather than to $3,000.

Another aspect of this matter that should be brought to the attention of the Senate is that there is an inequity in the pending amendment, because it treats all social security recipients alike, and they are not all alike at all. Some of them receive the maximum social security and some receive the minimum. When it comes to earnings that are necessary to provide a minimal standard of living, let alone what we might call a decent standard of living, those who are receiving the minimum social security ought to be allowed to earn more without penalty than those who receive the maximum social security.

I believe that those who have cosponsored this amendment perhaps have not thought of this aspect of the matter, because I am quite sure that they want to recognize the differences among the social security recipients. They want to encourage them to work, and have meaningful income, in order to supplement their social security; but particularly they want to do this for those who need it.

I suggest that a social security individual with $1,000 a year in social security benefits is going to have to earn a great deal more in order to have a decent standard of living than someone who is receiving $2,400 a year.

What really ought to be done—and I regret that I did not realize this amendment was coming up at this time—is to increase this earnings limit to $3,000, but to do it in the case of the low-income social security recipient and then scale it down according to the degree of the increase in the social security benefits received by the individual. If $3,000 is our target, and one is receiving $1,000 in social security benefits, that is fine. If one is receiving $2,400 a year in social security benefits, then let them earn up to $1,680, as they can now, without penalty.

This amendment, I am afraid. has not been thought through and there is an inequity that is going to result from it. I think this should be pointed out to the Senate.

If this were modified to treat the differences in social security receipts in a way that would enable the earnings to be increased according to the amount of social security benefits, I would suggest that a very substantial savings would be made in the $600 million price tag on this amendment. This saving could well be put to some other areas of need, such as the drug costs to which the Senator from Louisiana has referred. I thought that I should bring this matter to the attention of my colleague.

Mr. PERCY. Madam President, I wish to indicate my support of the amendment to increase the amount of money a social security recipient can earn from $1,680 to $3,000.

The committee version of H.R. 1 raises the amount of money a social security recipient can earn without suffering a loss of benefits from $1,680 to $2,400. Beyond $2,400, a person suffers a $1 for $2 reduction in benefits.

This amendment raises the social security earnings limitation from $1,680 to $3,000 upon enactment of H.R. 1. This is the figure I recommended to the Senate Finance Committee in formal testimony on January 27 of this year.

Madam President, mail I have received indicates that there is no single aspect of social security which surpasses the earnings limitation in its unpopularity. Elderly Americans think it ludicrous—and so do I—that wealthy older citizens can receive $100,000 in dividends from stocks and bonds, and still retain their full social security benefits. Yet if they work, their payments are reduced if they earn more than $1,680 a year. If one is receiving an outside unearned income, he retains full benefits. If he is receiving earned income from working, he suffers a loss in benefits.

Now, if a recipient earns between $1,680 and $2,880 in 1 year, he suffers a $1 for $2 reduction in benefits. As proposed in the committee bill, this reduction would begin after $2,400. Under the pending amendment, there would be no $1 for $1 reduction. The reduction would remain $1 for $2 even beyond $3,000.

A full quarter of the 20 million elderly Americans live at or near the poverty level. Many of these people are poor for the first time in their lives and for reasons beyond their control. For instance, some have lost private pension rights due to plant shutdowns, even though they may have served a company for as long as 15 or 20 years. Others have worked throughout their lives, but because their incomes were never more

than marginal, they never could accumulate large savings or invest sufficiently in stocks and bonds to provide an adequate retirement income. Still others may have saved for their retirement years, but found their savings completely wiped out because of serious and prolonged illness.

The present system offers these people two choices: They can attempt to supplement their social security incomes by working, or they can try to do so by going on welfare. Those who are able and willing to work can retain only a modest portion of their earnings over $1,680.

In addition to economic need, we should also consider the need of all elderly people—indeed, of all people—to contribute to society through working, and to feel that one's contribution has a value. In this connection, I would like to cite some responses to a questionnaire I gave to the Illinois delegates to the White House Conference on Aging. The specific question I asked was this: Do you feel inadequate income is the most serious problem facing the aged? If not, what do you feel is the most serious problem? Some of the answers were:

Inadequate income is one of the most serious problems, but we might give almost equal weight to the problem of loss of one's role in society.

Insufficient income is a significant problem . . . but equally important are social interaction and work.

I agree that inadequate income is the most serious problem confronting many senior citizens today, but for many others, in almost equal numbers, lack of a satisfying role in their later years is most serious, and for them, finding a place in society will compensate for a lack of income or meet their needs more adequately than money can.

Among the less visible problems are loneliness, a feeling of purposelessness, a feeling of rejection, and other causes that contribute to mental deterioration.

The earnings limitation not only runs counter to the high value our society places on independence and the willingness of individuals to support themselves, but it also actively discourages many elderly persons from finding meaningful jobs.

I would like to see the earnings limitation abolished completely, but to be practical, I support the move to raise it immediately to $3,000.

Madam President, I am pleased that the Senate adopted this amendment that I have cosponsored by the overwelming vote of 76 to 5. I only regret that business in Chicago in connection with my official Senate business this morning prevented my return to Washington until shortly after the vote.

Mr. SPONG. Madam President, I am pleased to cosponsor the amendment offered by the distinguished majority leader to increase the earnings limitation under social security from $1,680 to $3,000 per year.

In a land with as many resources as ours, our retired citizens should be able to spend their retirement years in dignity. Retirement should not mean a reduction in their standards of living. It should not mean difficulties in meeting ordinary financial obligations. Yet, in all too many instances, this is exactly what it does mean.

One way of countering the financial difficulties faced by many of our retirees is to raise the existing earnings limitation—a limitation which is clearly inadequate for these times. I am pleased that the Senate is addressing itself to this today.

There are, however, other actions which should also be taken. In a recent speech prepared for delivery to a retired Federal employees meeting in Portsmouth, Va. I outlined some of these other actions which I believe should be taken to assist our senior citizens and I ask unanimous consent that a copy of that speech be placed at this point in the RECORD.

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

REMARKS BY SENATOR WILLIAM B. SPONG, JR.

During the last five and a half years, I have had the privilege of meeting with many senior citizens. Members of both the retired Federal employees and the association of retired persons have been helpful to me in formulating ideas and in understanding your needs.

I believe I do understand your needs and your problems. Your correspondence has been helpful also.

As a result of these conversations, I decided to concentrate my efforts on legislation affecting senior citizens in four general areas.

1. Tax relief
2. Cost-of-living increases
3. Health insurance costs
4. Realistic annuities

Retirement is a time when most people should be giving more of their time and efforts to community affairs. You have a right to maintain a standard of living comparable to that which you had achieved at the time of your retirement.

Instead, you have watched the cost of living go up and up while your standard of living has gone down and down.

I have concluded that property tax relief for senior citizens should be a first priority in tax reform.

It is unconscionable that our retired citizens—those who have worked long and hard for many years—should be forced to give up their homes or spend an excessive amount of their funds on property taxes. For many of our senior citizens, however, this is exactly what has happened. Faced with limited incomes, usually substantially reduced from what they were during working years, unable or incapable of continuing to work, and often plagued by increasing medical bills, many of our retired people find the property tax particularly burdensome—and continuously growing.

Property taxes have doubled in the past fifteen years. Partially as a result, it is now estimated that close to one million elderly homeowners with annual incomes below $3,000 are forced to turn over 10 percent or more of their total money income for property taxes. Others must restrict spending for needed items in order to meet the tax bills. It is also estimated that many elderly renters pay 25 percent of their rent for property taxes.

I have therefore cosponsored legislation to provide a tax credit against the Federal income tax for property taxes paid by elderly homeowners on owner-occupied dwellings and for that portion of rent resulting from property taxes.

I hope that all levels of government will work together to devise a workable and adequate system of property tax relief for the elderly, and I pledge my support to those efforts. In a nation as wealthy as ours, we should certainly take those actions necessary to see that our retired citizens live in dignity, that they are able to acquire those items they need, that they are able to have some of the pleasantries of life which will make their retirement years enjoyable ones.

In early 1971, I also cosponsored legislation to provide some relief from Federal income taxation for retired Federal employees.

Neither income from social security nor railroad retirement is taxable and equity demands that Federal employees be treated similarly.

As you well know, inflation and continuing increases in the cost of living fall hardest on those living on social security, pensions and other fixed incomes.

More than 532,000 Virginians should benefit from the social security increases recently enacted by Congress. The increases became effective September 1 and will be reflected in the checks which beneficiaries receive early in October.

The recent increase in social security benefits was a step in the right direction, but we must also take other actions. There is no reason why a man or woman—simply because he or she retires—should be forced to reduce substantially his standard of living. Among the other actions we should take is an increase in the earnings limitation under social security. Those who are able to work and want to work in their later years should not be unduly penalized for doing so. The existing earnings limitation of $1,680 is clearly out-dated and should be revised upward in light of increases in the cost of living. This is proposed in H.R. 1 and I urge final action on such an increase before this Congress adjourns.

Many of you are probably not covered by social security and may never be. For those of you who may have had some social security coverage and lost it, you will be interested in knowing that legislation is pending in the House Committee which is designed to correct this. It would provide for an interchange of social security and civil service credits to enable individuals who have some coverage under both systems to obtain maximum benefits based on combined service.

You are all familiar with the cost-of-living increases built into the retirement system. These cost of living increases are triggered by the consumer price index.

I have become increasingly concerned with respect to the application of the index. At worst, it may be the product of manipulation to convince the public that inflation is under control. At least it may be a misapplication of the statistics to accomplish the same purpose or to keep the costs down of those programs which are dependent upon the index. These include civil service as well as military retirement pay.

Early in May I recommended to the chairman of the Joint Economic Committee that an investigation be made of the consumer price index. I offered to introduce the resolution to authorize the study if legislation was needed.

It does not necessarily reflect the cost of living for a retired couple. Many types of costs are peculiar to senior citizens. The committee has assured me that it will take this into consideration during the statistical review.

One of those major costs relate to health care. At the same time I cosponsored a bill to provide tax relief, I cosponsored legislation to increase the Government's share of the premiums for Federal Health Insurance.

Until a few days ago, Federal employees and annuitants were optimistic about the prospects of the Government paying a bigger share of their health insurance costs than it is paying today. They had every reason

to be optimistic. A bill had passed both the House and the Senate.

Unfortunately, the bill is stymied over an issue unrelated to the 575,000 annuitants under the health insurance program. I hope that this stalemate may be broken before the Congress adjourns.

I know that you are interested in the legislation to increase annuities to a realistic figure. This is particularly important to those who retired prior to 1969 when annuities were based on the average of the high five years of employment. There are a number of bills pending in both the Senate and House which vary considerably. Some would provide graduated increases just for those who retired prior to 1969. This is on the assumption that the change to the high three year average along with the cost of living increases would take care of the rest of them. There are other bills which would provide higher increases for all those who retire between January 73 and 74 with reduced increases for those who retire after that time. This is on the assumption that the salaries will have picked up the slack in the meantime. There have been hearings held and I wish I could tell you that legislation would be enacted. You have probably heard me say that I thought one of the problems with people running for public office was over-promise; I do not want to be guilty of that. I am not optimistic about annuity increases being enacted during this session.

I hope the prospects improve with respect to legislation which I know is important to you.

Thank you again for giving me the opportunity to meet with you.

Mr. MANSFIELD. Madam President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. MANSFIELD. Madam President, I ask unanimous consent that all those who cosponsored the bill S. 4001 be listed in the RECORD as cosponsors of the pending amendment.

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

The list of the cosponsors is as follows: Mr. AIKEN, Mr. ANDERSON, Mr. BAKER, Mr. BAYH, Mr. BEALL, Mr. BENTSEN, Mr. BIBLE, Mr. BOGGS, Mr. BROOKE, Mr. BURDICK, Mr. ROBERT C. BYRD, Mr. CANNON, Mr. CASE, Mr. CHILES, Mr. CHURCH, Mr. COOK, Mr. COOPER, Mr. CRANSTON, Mr. DOLE, Mr. EAGLETON, Mr. EASTLAND, Mr. GAMBRELL, Mr. GRAVEL, Mr. GRIFFIN, Mr. GURNEY, Mr. HARRIS, Mr. HART, Mr. HARTKE, Mr. HATFIELD, Mr. HOLLINGS, Mr. HUGHES, Mr. HUMPHREY, Mr. INOUYE, Mr. JACKSON, Mr. JAVITS, Mr. KENNEDY, Mr. MCGEE, Mr. MCGOVERN, Mr. MCINTYRE, Mr. MAGNUSON, Mr. MATHIAS, Mr. METCALF, Mr. MONDALE, Mr. MONTOYA, Mr. MOSS, Mr. MUSKIE, Mr. NELSON, Mr. PACKWOOD, Mr. PASTORE, Mr. PEARSON, Mr. PELL, Mr. PERCY, Mr. PROXMIRE, Mr. RANDOLPH, Mr. RIBICOFF, Mr. ROTH, Mr. SAXBE, Mr. SCHWEICKER, Mr. SCOTT, Mr. SPONG, Mr. STAFFORD, Mr. STEVENS, Mr. STEVENSON, Mr. SYMINGTON, Mr. THURMOND, Mr. TOWER, Mr. TUNNEY, Mr. WEICKER, Mr. WILLIAMS, Mr. YOUNG, Mr. FULBRIGHT, Mr. ALLOTT, Mr. COTTON, Mr. DOMINICK, Mrs. SMITH, Mr. ALLEN, Mr. GOLDWATER, Mrs. EDWARDS, and Mr. MCCLELLAN.

Mr. MANSFIELD. Madam President, I also ask unanimous consent that the Senator from Mississippi (Mr. STENNIS) be added as a cosponsor of the amendment.

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

The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

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

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Minnesota (Mr. HUMPHREY), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Oklahoma (Mr. HARRIS), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Montana (Mr. METCALF) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Wyoming (Mr. HANSEN), the Senator from Illinois (Mr. PERCY) 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 Vermont (Mr. STAFFORD) and the Senator from Ohio (Mr. TAFT) are absent on official business to attend the Interparliamentary Union meetings.

If present and voting, the Senator from Illinois (Mr. PERCY), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 76, nays 5, as follows:

[No. 478 Leg.]

YEAS—76

Aiken	Eastland	Muskie
Allen	Edwards	Nelson
Anderson	Ervin	Packwood
Bayh	Fong	Pastore
Beall	Gambrell	Pearson
Bellmon	Goldwater	Proxmire
Bentsen	Gravel	Randolph
Bible	Griffin	Ribicoff
Boggs	Gurney	Roth
Brooke	Hart	Saxbe
Buckley	Hartke	Schweiker
Burdick	Hatfield	Scott
Byrd, Harry F., Jr.	Hollings	Smith
Byrd, Robert C.	Hruska	Sparkman
Case	Hughes	Spong
Chiles	Inouye	Stennis
Church	Jackson	Stevens
Cook	Javits	Stevenson
Cooper	Magnuson	Symington
Cotton	Mansfield	Talmadge
Cranston	Mathias	Thurmond
Curtis	McClellan	Tunney
Dole	McGee	Weicker
Dominick	Mondale	Williams
Eagleton	Montoya	Young
	Moss	

NAYS—5

Bennett	Jordan, Idaho	Miller
Fannin	Long	

NOT VOTING—19

Allott	Humphrey	Pell
Baker	Jordan, N.C.	Percy
Brock	Kennedy	Stafford
Cannon	McGovern	Taft
Fulbright	McIntyre	Tower
Hansen	Metcalf	
Harris	Mundt	

So Mr. MANSFIELD's amendment 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.

Mr. THURMOND. Mr. President, I ask unanimous consent that John Napier, a member of my staff, be granted the privilege of the floor during discussion on the bill.

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

Mr. BAYH. Mr. President, I ask unanimous consent that a member of my staff, Gordon Alexander, be granted the privilege of the floor during the consideration of H.R. 1.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (S. 1852) to provide for the establishment of the Gateway National Recreation Area in the States of New York and New Jersey, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H.R. 15376) to amend the Service Contract Act of 1965 to revise the method of computing wage rates under such act, and for other purposes.

The message further announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 16029) to amend the Foreign Assistance Act of 1961, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MORGAN, Mr. ZABLOCKI, Mr. HAYS, Mr. FASCELL, Mr. MAILLIARD, Mr. FRELINGHUYSEN, and Mr. BROOMFIELD were appointed managers on the part of the House and the conference.

The message also announced that the House had agreed to the concurrent resolution (S. Con. Res. 99) authorizing the printing of additional copies of the Senate report to accompany H.R. 1, the Social Security Amendments of 1972.

The message further announced that the House had passed a bill (H.R. 9128) to confer exclusive jurisdiction on the Federal Maritime Commission over certain movements of merchandise by barge in foreign commerce, in which it requested the concurrence of the Senate.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

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

H.R. 12903. An act for the relief of Anne M. Sack; and

H.J. Res. 1304. Joint resolution authorizing the President to proclaim October 1, 1972, as "National Heritage Day."

The PRESIDENT pro tempore subsequently signed the enrolled bill and joint resolution.

HOUSE BILL REFERRED

The bill (H.R. 9128) to confer exclusive jurisdiction on the Federal Maritime Commission over certain movements of merchandise by barge in foreign commerce, was read twice by its title and referred to the Committee on Commerce.

CONSUMER PRODUCT SAFETY ACT

Mr. MAGNUSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3419.

The PRESIDING OFFICER (Mr. FANNIN) laid before the Senate the amendment of the House of Representatives to the bill (S. 3419) to protect consumers against unreasonable risk of injury from hazardous products, and for other purposes, which was to strike out all after the enacting clause, and insert:

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Consumer Product Safety Act".

TABLE OF CONTENTS

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) an unacceptable number of consumer products which contain unreasonable hazards are distributed in commerce;

(2) complexities of consumer products and the diverse nature and abilities of consumers using them frequently result in an inability of users to anticipate hazards and to safeguard themselves adequately;

(3) the public should be protected against unreasonable hazards associated with consumer products;

(4) control by State and local governments of unreasonable hazards associated with consumer products is inadequate and may be burdensome to manufacturers; and

(5) regulation of consumer products the distribution or use of which affects interstate or foreign commerce is necessary to carry out this Act.

(b) The purposes of this Act are—

(1) to protect the public against unreasonable hazards associated with consumer products;

(2) to assist consumers in evaluating the comparative safety of consumer products;

(3) to develop uniform safety standards for consumer products and to minimize conflicting State and local regulations; and

(4) to promote research and investigation into the causes and prevention of product-related deaths, illnesses, and injuries.

DEFINITIONS

SEC. 3. (a) For purposes of this Act:

(1) The term "consumer product" means any article, or component part thereof, produced or distributed (i) for sale to a consumer for use in or around a household or residence, a school, in recreation, or otherwise, or (ii) for the personal use, consumption or enjoyment of a consumer in or around a household or residence, a school, in recreation, or otherwise; but such terms does not include (A) any article which is not customarily produced or distributed for sale to or use, consumption, or enjoyment of a consumer; (B) tobacco and tobacco products, (C) motor vehicles or motor vehicle equipment (as defined by sections 102 (3) and (4) of the National Traffic and Motor Vehicle Safety Act of 1966), (D) economic poisons (as defined by the Federal Insecticide, Fungicide, and Rodenticide Act), (E) any article which, if sold by the manufacturer, producer, or importer, would be subject to the tax imposed by section 4181 of the Internal Revenue Code of 1954 (determined without regard to any exemptions from such tax provided by section 4182 or 4221, or any other provision of such Code), or any component of any such article, (F) drugs, devices, or cosmetics (as such terms are defined in sections 201(g), (h), and (i) of the Federal Food, Drug, and Cosmetic Act), or (G) food. The term "food", as used in this paragraph, means all "food", as defined in section 201(f) of the Federal Food, Drug, and Cosmetic Act, including poultry and poultry products (as defined in sections 4 (e) and (f) of the Poultry Products Inspection Act), meat, meat food products (as defined in section 1(j) of the Federal Meat Inspection Act), and eggs and egg products (as defined in section 4 of the Egg Products Inspection Act).

(2) The term "consumer product safety rule" means a consumer product safety standard described in section 7(a), or a rule under this Act declaring a consumer product a banned hazardous product.

(3) The term "hazard" means a risk of death, personal injury, or serious or frequent illness.

(4) The term "manufacturer" means any person who manufactures or imports a consumer product.

(5) The term "distributor" means a person to whom a consumer product is delivered or sold for purposes of distribution in commerce, except that such term does not include a manufacturer or retailer of such product.

(6) The term "retailer" means a person to whom a consumer product is delivered or sold for purposes of sale or distribution by such person to a consumer.

(7)(A) The term "private labeler" means an owner of a brand or trademark on the label of a consumer product which bears a private label.

(B) A consumer product bears a private label if (i) the product (or its container) is labeled with the brand or trademark of a person other than a manufacturer of the product, (ii) the person with whose brand or trademark the product (or container) is labeled has authorized or caused the product to be so labeled, and (iii) the brand or trademark of a manufacturer of such product does not appear on such label.

(8) The term "manufacture" means to manufucture, produce, or assemble.

(9) The term "Commission" means the Consumer Product Safety Commission, established by section 4.

(10) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, or the Trust Territory of the Pacific Islands.

(11) The terms "to distribute in commerce" and "distribution in commerce" mean to sell in commerce, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.

(12) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

(13) The terms "import" and "importation" include reimporting a consumer product manufactured or processed, in whole or in part, in the United States.

(14) The term "United States", when used in the geographic sense, means all of the States (as defined in paragraph (10)).

(b) A common carrier, contract carrier, or freight forwarder shall not, for purposes of this Act, be deemed to be a manufacturer, distributor, or retailer of a consumer product solely by reason of receiving or transporting a consumer product in the ordinary course of its business as such a carrier or forwarder.

CONSUMER PRODUCT SAFETY COMMISSION

SEC. 4. (a) An independent regulatory commission is hereby established, to be known as the Consumer Product Safety Commission, consisting of five Commissioners who shall be appointed by the President, by and with the advice and consent of the Senate, one of whom shall be designated by the President as Chairman. The Chairman, when so designated, shall act as Chairman until the expiration of his term of office as Commissioner. Any member of the Commission may be removed by the President for neglect of duty or malfeasance in office but for no other cause.

(b)(1) Except as provided in paragraph (2), (A) the Commissioners first appointed under this section shall be appointed for terms ending three, four, five, six, and seven years, respectively, after the date of the enactment of this Act, the term of each to be designated by the President at the time of nomination; and (B) each of their successors shall be appointed for a term of seven years from the date of the expiration of the term for which his predecessor was appointed.

(2) Any Commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A Commissioner may continue to serve after the expiration of his term until his successor has taken office, except that he may not so continue to serve more than one year after the date on which his term would otherwise expire under this subsection.

(c) Not more than three of the Commissioners shall be appointed from the same political party. No individual in the employ of, or holding any official relation to, any person, engaged in selling or manufacturing consumer products or owning stock or bonds of substantial value in a person so engaged or who is in any other manner pecuniarily interested in such a person, or in a substantial supplier of such a person, shall hold the office of Commissioner. A Commissioner may not engage in any other business, vocation, or employment.

(d) No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission, but three members of the Commission shall constitute a quorum for the transaction of business. The Commission shall have an official seal of which judicial notice shall be taken. The Commission shall annually elect a Vice Chairman to act in the absence or disability of the Chairman or in case of a vacancy in the office of the Chairman.

(e) The Commission shall maintain a principal office and such field offices as it deems necessary and may meet and exercise any of its powers at any other place.

(f) (1) The Chairman of the Commission shall be the principal executive officer of the Commission, and he shall exercise all of the executive and administrative functions of the Commission, including functions of the Commission with respect to (A) the appointment and supervision of personnel employed under the Commission (other than personnel employed regularly and full time in the immediate offices of commissioners other than the Chairman), (B) the distribution of business among personnel appointed and supervised by the Chairman and among administrative units of the Commission, and (C) the use and expenditure of funds.

(2) In carrying out any of his functions under the provisions of this subsection the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(g) (1) The Chairman, subject to the approval of the Commission, shall appoint an Executive Director, a General Counsel, a Director of Engineering Sciences, a Director of Epidemiology, and a Director of Information. No individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS–18 of the General Schedule.

(2) The Chairman, subject to subsection (f) (2), may employ such other officers and employees (including attorneys) as are necessary in the execution of the Commission's functions. No full-time officer or employee of the Commission who was at any time during the 12 months preceding the termination of his employment with the Commission compensated at a rate in excess of the annual rate of basic pay in effect for grade GS–14 of the General Schedule, shall accept employment or compensation from any manufacturer subject to this Act, for a period of 12 months after terminating employment with the Commission.

(h) (1) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(59) Chairman, Consumer Product Safety Commission."

(2) Section 5315 of such title is amended by adding at the end thereof the following new paragraph:

"(96) Members, Consumer Product Safety Commission (4)."

PRODUCT SAFETY INFORMATION AND RESEARCH

SEC. 5. (a) The Commission shall—

(1) maintain an Injury Information Clearinghouse to collect, investigate, analyze, and disseminate information relating to the causes and prevention of death, injury, and illness associated with consumer products; and

(2) conduct such continuing studies and investigations of deaths, injuries, diseases, other health impairments, and economic losses resulting from accidents involving consumer products as it deems necessary.

(b) The Commission may—

(1) conduct research, studies, and investigations on the safety of consumer products and on improving the safety of such products;

(2) test consumer products and develop product safety test methods and testing devices; and

(3) offer training in product safety investigation and test methods, and assist public and private organizations, administratively and technically, in the development of safety standards and test methods.

(c) In carrying out its functions under this section, the Commission may make grants or enter into contracts for the conduct of such functions with any person (including a governmental entity).

(d) Whenever the Federal contribution for any information, research, or development activity authorized by this Act is more than minimal, the Commission shall include in any contract, grant, or other arrangement for such activity, provisions effective to insure that the rights to all information, uses, processes, patents, and other developments resulting from that activity will be made available to the public without charge on a nonexclusive basis. Nothing in this subsection shall be construed to deprive any person of any right which he may have had, prior to entering into any arrangement referred to in this subsection, to any patent, patent application, or invention.

PUBLIC DISCLOSURE OF INFORMATION

SEC. 6. (a) (1) Nothing contained in this Act shall be deemed to require the release of any information described by subsection (b) of section 552, title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

(2) All information reported to or otherwise obtained by the Commission or its representative under this Act which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, shall be considered confidential and shall not be disclosed, except that such information may be disclosed to other officers or employees concerned with carrying out this Act or when relevant in any proceeding under this Act. Nothing in this Act shall authorize the withholding of information by the Commission or any officer or employee under its control from the duly authorized committees of the Congress.

(b) (1) Except as provided by paragraph (2) of this subsection, not less than 30 days prior to its public disclosure of any information obtained under this Act, or to be disclosed to the public in connection therewith (unless the Commission finds that the public health and safety requires a lesser period of notice), the Commission shall provide such information, to the extent practicable, to each manufacturer or private labeler of any consumer product to which such information pertains, if the manner in which such consumer product is to be designated or described in such information will permit the public to ascertain readily the identity of such manufacturer or private labeler, and shall provide such manufacturer or private labeler with a reasonable opportunity to submit comments to the Commission in regard to such information. The Commission shall take reasonable steps to assure, prior to its public disclosure thereof, that information from which the identity of such manufacturer or private labeler may be readily ascertained is accurate, and that such disclosure is fair in the circumstances and reasonably related to effectuating the purposes of this Act. If the Commission finds that, in the administration of this Act, it has made public disclosure of inaccurate or misleading information which reflects adversely upon the safety of any consumer product, or the practices of any manufacturer, private labeler, distributor, or retailer of consumer products, it shall, in a manner similar to that in which such disclosure was made, publish a retraction of such inaccurate or misleading information.

(2) Paragraph (1) (except for the last sentence thereof) shall not apply to the public disclosure of (A) information about any consumer product with respect to which product the Commission has filed an action under section 12 (relating to imminently hazardous products), or which the Commission has reasonable cause to believe is in violation of section 19 (relating to prohibited acts), or (B) information in the course of or concerning any administrative or judicial proceeding under this Act.

(c) The Commission shall communicate to each manufacturer of a consumer product, insofar as may be practicable, information as to any significant hazard associated with such product.

CONSUMER PRODUCT SAFETY STANDARDS

SEC. 7. (a) The Commission may by rule, in accordance with this section and section 9, promulgate consumer product safety standards. A consumer product safety standard shall consist of one or more of any of the following types of requirements:

(1) Requirements as to performance, composition, contents, design, construction, finish, or packaging of a consumer product.

(2) Requirements that a consumer product be marked with or accompanied by clear and adequate warnings or instructions, or requirements respecting the form of warnings or instructions.

Any requirement of such a standard shall be reasonably necessary to prevent or reduce an unreasonable hazard to the public associated with such product. The requirements of such a standard (other than requirements relating to labeling, warnings, or instructions) shall, whenever feasible, be expressed in terms of performance requirements.

(b) A proceeding for the development of a consumer product safety standard under this Act shall be commenced by the publication in the Federal Register of a notice which shall—

(1) identify the product and the nature of the hazard associated with the product;

(2) state the Commission's determination that a consumer product safety standard is necessary to prevent or reduce the hazard;

(3) include information with respect to any existing standard known to the Commission which may be relevant to the proceeding; and

(4) include an invitation for any person, including any State or Federal agency (other than the Commission), within 30 days after the date of publication of the notice (A) to submit to the Commission an existing standard as the proposed consumer product safety standard or (B) to offer to develop the proposed consumer product safety standard.

An invitation under paragraph (4) (B) shall specify a period of time, during which the standard is to be developed, which shall be a period ending 150 days after the publication of the notice, unless the Commission for good cause finds (and includes such finding in

the notice) that a different period is appropriate.

(c) If the Commission determines that (1) there exists a standard which has been issued or adopted by any Federal agency or by any other qualified agency, organization, or institution, and (2) such standard if promulgated under this Act would prevent or reduce the unreasonable hazard associated with the product, then it may, in lieu of accepting an offer pursuant to subsection (d) of this section, publish such standard as a proposed consumer product safety rule.

(d)(1) Except as provided by subsection (c), the Commission shall accept one, and may accept more than one, offer to develop a proposed consumer product safety standard pursuant to the invitation prescribed by subsection (b)(4)(B), if it determines that the offeror is technically competent, is likely to develop an appropriate standard within the period specified in the invitation under subsection (b), and will comply with regulations of the Commission under paragraph (3). The Commission shall publish in the Federal Register the name and address of each person whose offer it accepts, and a summary of the terms of such offer as accepted.

(2) If an offer is accepted under this subsection, the Commission may agree to contribute to the offeror's cost in developing a proposed consumer product safety standard, in any case in which the Commission determines that such contribution is likely to result in a more satisfactory standard than would be developed without such contribution, and that the offeror is financially responsible. Regulations of the Commission shall set forth the items of cost in which it may participate, and shall exclude any contribution to the acquisition of land or buildings.

(3) The Commission shall prescribe regulations governing the development of proposed consumer product safety standards by persons whose offers are accepted under paragraph (1). Such regulations shall include requirements—

(A) that standards recommended for promulgation be suitable for promulgation under this Act, be supported by test data or such other documents or materials as the Commission may reasonably require to be developed, and (where appropriate) contain suitable test methods for measurement of compliance with such standards;

(B) for notice and opportunity by interested persons (including representatives of consumers and consumer organizations) to participate in the development of such standards;

(C) for the maintenance of records, which shall be available to the public, to disclose the course of the development of standards recommended for promulgation, the, comments and other information submitted by any person in connection with such development (including dissenting views and comments and information with respect to the need for such recommended standards), and such other matters as may be relevant to the evaluation of such recommended standards; and

(D) that the Commission and the Comptroller General of the United States, or any of their duly authorized representatives, have access for the purpose of audit and examination to any books, documents, papers, and records relevant to the development of such recommended standards or to the expenditure of any contribution of the Commission for the development of such standards.

(e)(1) If the Commission has published a notice of proceeding as provided by subsection (b) and has not, within 30 days after the date of publication of such notice, accepted an offer to develop a proposed consumer product safety standard, the Commission may develop a proposed consumer product safety rule and publish such proposed rule.

(2) If the Commission accepts an offer to develop a proposed consumer product safety standard, the Commission may not, during the development period (specified in paragraph (3)) for such standard—

(A) publish a proposed rule applicable to the same hazard associated with such product, or

(B) develop proposals for such standard or contract with third parties for such development, unless the Commission determines that no offeror whose offer was accepted is making satisfactory progress in the development of such standard.

(3) For purposes of paragraph (2), the development period for any standard is a period (A) beginning on the date on which the Commisison first accepts an offer under subsection (d)(1) for the development of a proposed standard, and (B) ending on the earlier of—

(i) the end of the period specified in the notice of proceeding (except that the period specified in the notice may be extended if good cause is shown and the reasons for such extension are published in the Federal Register), or

(ii) the date on which it determines (in accordance with such procedures as it may by rule prescribe) that no offeror whose offer was accepted is able and willing to continue satisfactorily the development of the proposed standard which was the subject of the offer, or

(iii) the date on which an offeror whose offer was accepted submits such a recommended standard to the Commission.

(f) Not more than 210 days after its publication of a notice of proceeding pursuant to subsection (b) (which time may be extended by the Commission by a notice published in the Federal Register stating good cause therefor), the Commission shall publish in the Federal Register a notice withdrawing such notice of proceeding or publish a proposed rule which either proposes a product safety standard applicable to any consumer product subject to such notice, or proposes to declare any such subject product a banned hazardous consumer product.

BANNED HAZARDOUS PRODUCTS

SEC. 8. Whenever the Commission finds that—

(1) a consumer product is being, or will be, distributed in commerce and such consumer product presents an unreasonable hazard to the public; and

(2) no feasible consumer product safety standard under this Act would adequately protect the public from the unreasonable hazard associated with such product,

the Commission may propose and, in accordance with section 9, promulgate a rule declaring such product a banned hazardous product.

ADMINISTRATIVE PROCEDURE APPLICABLE TO PROMULGATION OF CONSUMER PRODUCT SAFETY RULES

SEC. 9. (a)(1) Within sixty days after the publication under section 7(c), (e)(1), or (f) or section 8 of a proposed consumer product safety rule respecting a hazard associated with a consumer product, the Commission shall—

(A) promulgate a consumer product safety rule respecting the hazard associated with such product if it makes the findings required under subsection (c), or

(B) withdraw by rule the applicable notice of proceeding if it determines that such rule is not (i) reasonably necessary to prevent or reduce an unreasonable hazard to the public associated with the product, or (ii) in the public interest;

except that the Commission may extend such sixty-day period for good cause shown (if it publishes its reasons therefor in the Federal Register).

(2) Consumer product safety rules which have been proposed under section 7(c), (e)(1), or (f) or section 8 shall be promulgated pursuant to section 553 of title 5, United States Code, except that the Commission shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

(b) A consumer product safety rule shall express in the rule itself the hazard which the standard is designed to prevent or reduce. In promulgating such a rule the Commission shall consider relevant available product data including the results of research, development, testing, and investigation activities conducted generally and pursuant to this Act.

(c)(1) Prior to promulgating a consumer product safety rule, the Commission shall consider, and shall make appropriate findings for inclusion in such rule with respect to—

(A) the degree and nature of the hazard the rule is designed to prevent or reduce, and

(B) the approximate number of consumer products, or types or classes thereof, subject to such rule; and

(C) the need of the public for the consumer products subject to such rule, and the probable effect of such rule upon the utility, cost, or availability of such products to meet such need.

(2) The Commission shall not promulgate a consumer product safety rule unless it finds (and includes such finding in the rule)—

(A) that the rule (including its effective date) is reasonably necessary to prevent or reduce an unreasonable hazard to the public associated with such product;

(B) that the promulgation of the rule is in the public interest; and

(C) in the case of a rule declaring the product a banned hazardous product, that no feasible consumer product safety standard under this Act would adequately protect the public from the unreasonable hazard associated with such product.

(d) Each consumer product safety rule shall specify the date such rule is to take effect not exceeding 180 days from the date promulgated, unless the Commission finds, for good cause shown, that a later effective date is in the public interest and publishes its reasons for such finding. The effective date of a consumer product safety standard under this Act shall be set at a date at least 30 days after the date of promulgation unless the Commission for good cause shown determines that an earlier effective date is in the public interest. In no case may the effective date be set at a date which is earlier than the date of promulgation. A consumer product safety standard shall be applicable only to consumer products manufactured after the effective date.

(e) The Commission may by rule amend or revoke any consumer product safety rule. Such amendment or revocation shall specify the date on which it is to take effect which shall not exceed 180 days from the date the amendment or revocation is published unless the Commission finds for good cause shown that a later effective date is in the public interest and publishes its reasons for such finding. Where an amendment involves a material change in a consumer product safety rule, sections 7 and 8, and subsections (a) through (d) of this section shall apply. In order to revoke a consumer product safety rule, the Commission shall publish a proposal to revoke such rule in the Federal Register, and allow oral and written presentations in accordance with subsection (a)(2) of this section. It may revoke such rule only

if it determines that the rule is not reasonably necessary to prevent or reduce an unreasonable hazard to the public associated with the product. Section 11 shall apply to any amendment of a consumer product safety rule which involves a material change and to any revocation of a consumer product safety rule, in the same manner and to the same extent as such section applies to the Commission's action in promulgating such a rule.

PETITION BY INTERESTED PARTY FOR CONSUMER PRODUCT SAFETY RULE

SEC. 10. (a) Any interested person, including a consumer or consumer organization, may petition the Commission to commence a proceeding for the issuance, amendment, or revocation of a consumer product safety rule.

(b) Such petition shall be filed in the principal office of the Commission and shall set forth—

(1) facts which it is claimed establish that a consumer product safety rule or an amendment or revocation thereof is necessary; and

(2) a brief description of the substance of the consumer product safety rule or amendment thereof which it is claimed should be issued by the Commission.

(c) The Commission may hold a public hearing or may conduct such investigation or proceeding as it deems appropriate in order to determine whether or not such petition should be granted.

(d) If the Commission grants such petition, it shall promptly commence an appropriate proceeding to prescribe a consumer product safety rule, or take such other action as it deems appropriate. If the Commission denies such petition it shall publish in the Federal Register its reasons for such denial, if such petition and reasons for such denial materially differ from any previous petition and subsequent denial.

JUDICIAL REVIEW OF CONSUMER PRODUCT SAFETY RULES

SEC. 11. (a) Not later than 60 days after a consumer product safety rule is promulgated by the Commission, any person adversely affected by such rule, or any consumer or consumer organization, may file a petition with the United States court of appeals for the District of Columbia or for the circuit in which such person, consumer, or organization resides or has his principal place of business for judicial review of such rule. Copies of the petition shall be forthwith transmitted by the clerk of the court to the Commission or other officer designated by him for that purpose and to the Attorney General. The Commission shall transmit to the Attorney General, who shall file in the court, the record of the proceedings on which the Commission based its rule, as provided in section 2112 of title 28 of the United States Code. For purposes of this section, the term "record" means such consumer product safety rule; any notice or proposal published pursuant to section 7, 8, or 9; the transcript required by section 9(a)(2) of any oral presentation any written submission of interested parties; and any other information, which the Commission considers relevant to such rule.

(b) If the petitioner applies to the court for leave to adduce additional data, views, or arguments and shows to the satisfaction of the court that such additional data, views, or arguments are material and that there were reasonable grounds for the petitioner's failure to adduce such data, views, or arguments in the proceeding before the Commission, the court may order the Commission to provide additional opportunity for the oral presentation of data, views, or arguments and for written submissions. The Commission may modify its findings, or make new findings by reason of the additional data, views, or arguments so taken and shall file such modified or new findings, and its recommendation, if any, for the modification or setting aside of its original rule, with the return of such additional data, views, or arguments.

(c) Upon the filing of the petition under subsection (a) of this section the court shall have jurisdiction to review the consumer product safety rule in accordance with chapter 7 of title 5 of the United States Code and to grant appropriate relief, including interim relief, as provided in such chapter. The consumer product safety rule shall not be affirmed unless the Commission's findings under section 9(c) are supported by substantial evidence on the record taken as a whole.

(d) The judgment of the court affirming or setting aside, in whole or in part, any consumer product safety rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28 of the United States Code.

(e) The remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by law.

IMMINENT HAZARDS

SEC. 12.(a) The Commission may file in a United States district court an action (1) against an imminently hazardous consumer product for seizure of such product under subsection (b)(2), or (2) against any person who is a manufacturer, distributor, or retailer of such product, or (3) against both. Such an action may be filed notwithstanding the existence of a consumer product safety rule applicable to such product, or the pendency of any administrative or judicial proceedings under any other provision of this Act. As used in this section, and hereinafter in this Act, the term "imminently hazardous consumer product" means a consumer product which presents imminent and unreasonable risk of death, serious illness, or severe personal injury.

(b)(1) The district court in which such action is filed shall have jurisdiction to declare such product an imminently hazardous consumer product, and (in the case of an action under subsection (a)(2)) to grant (as ancillary to such declaration or in lieu thereof) such temporary or permanent relief as may be necessary to protect the public from such risk. Such relief may include a mandatory order requiring the notification of such risk to purchasers of such product known to the defendant, public notice, the recall, the repair or the replacement of, or refund for, such product.

(2) In the case of an action under subsection (a)(1), the consumer product may be proceeded against by process of libel for the seizure and condemnation of such product in any United States district court within the jurisdiction of which such consumer product is found. Proceedings and cases instituted under the authority of the preceding sentence shall conform as nearly as possible to proceedings in rem in admiralty.

(c) Where appropriate, concurrently with the filing of such action or as soon thereafter as may be practicable, the Commission shall initiate a proceeding to promulgate a consumer product safety rule applicable to the consumer product with respect to which such action is filed.

(d)(1) Prior to commencing an action under subsection (a), the Commission may consult the Product Safety Advisory Council (established under section 28) with respect to its determination to commence such action, and request the Council's recommendations as to the type of temporary or permanent relief which may be necessary to protect the public.

(2) The Council shall submit its recommendations to the Commission within one week of such request.

(3) Subject to paragraph (2), the Council may conduct such hearing or offer such opportunity for the presentation of views as it may consider necessary or appropriate.

(e)(1) An action under subsection (a)(2) of this section may be brought in the United States district court for the District of Columbia or in any judicial district in which any of the defendants is found, is an inhabitant or transacts business; and process in such an action may be served on a defendant in any other district in which such defendant resides or may be found. Subpenas requiring attendance of witnesses in such an action may run into any other district. In determining the judicial district in which an action may be brought under this section in instances in which such action may be brought in more than one judicial district, the Commission shall take into account the convenience of the parties.

(2) Whenever proceedings under this section involving identical consumer products are pending in courts in two or more judicial districts, they shall be consolidated for trial by order of any such court upon application reasonably made by any party in interest, upon notice to all other parties in interest.

(f) Notwithstanding any other provision of law, in any action under this section, the Commission may direct attorneys employed by it to appear and represent it.

NEW PRODUCTS

SEC. 13. (a) The Commission may, by rule, prescribe procedures for the purpose of insuring that the manufacturer of any new consumer product furnish notice and a description of such product to the Commission before its distribution in commerce.

(b) For purposes of this section, the term "new consumer product" means a consumer product which incorporates a design, material, or form of energy exchange which (1) has not previously been used substantially in consumer products and (2) as to which there exists a lack of information adequate to determine the safety of such product in use by consumers.

PRODUCT CERTIFICATION AND LABELING

SEC. 14. (a)(1) Every manufacturer of a product which is subject to a consumer product safety standard under this Act and which is distributed in commerce (and the private labeler of such product if it bears a private label) shall issue a certificate which shall certify that such product conforms to all applicable consumer product safety standards, and shall specify any standard which is applicable. Such certificate shall accompany the product or shall otherwise be furnished to any distributor or retailer to whom the product is delivered. Any certificate under this subsection shall be based on a test of each product or upon a reasonable testing program; shall state the name of the manufacturer or private labeler issuing the certificate; and shall include the date and place of manufacture.

(2) In the case of a consumer product for which there is more than one manufacturer or more than one private labeler, the Commission may by rule designate one or more of such manufacturers or one or more of such private labelers (as the case may be) as the persons who shall issue the certificate required by paragraph (1) of this subsection, and may exempt all other manufacturers of such product or all other private labelers of the product (as the case may be) from the requirement under paragraph (1) to issue a certificate with respect to such product.

(b) The Commission may by rule prescribe reasonable testing programs for consumer products which are subject to consumer product safety standards under this Act and for which a certificate is required under subsection (a). Any test or testing program on the basis of which a certificate is issued under subsection (a) may, at the option of the person required to certify the product, be conducted by an independent

third party qualified to perform such tests or testing programs.

(c) The Commission may by rule require the use and prescribe the form and content of labels which contain the following information (or that portion of it specified in the rule)—

(1) The date and place of manufacture of any consumer product.

(2) A suitable identification of the manufacturer of the consumer product, unless the product bears a private label in which case it shall identify the private labeler and shall also contain a code mark which would permit the seller of such product to identify the manufacturer thereof to the purchaser upon his request.

(3) In the case of a consumer product subject to a consumer product safety rule, a certification that the product meets all applicable consumer product safety standards and a specification of the standards which are applicable.

Such labels, where practicable, may be required by the Commission to be permamently marked on or affixed to any such consumer product. The Commission may, in appropriate cases, permit information required under paragraphs (1) and (2) of this subsection to be coded.

NOTIFICATION AND REPAIR, REPLACEMENT, OR REFUNDS

SEC. 15. (a) For purposes of this section, the term "substantial product hazard" means—

(1) a failure to comply with an applicable consumer product safety rule which creates a substantial hazard to the public, or

(2) a product defect which (because of the pattern of defect, the number of defective products distributed in commerce, the severity of the risk, or otherwise) creates a substantial hazard to the public.

(b) Every manufacturer of a consumer product distributed in commerce, and every distributor and retailer of such product, who obtains information which reasonably supports the conclusion that such product—

(1) fails to comply with an applicable consumer product safety rule; or

(2) contains a defect which could create a substantial product hazard described in subsection (a)(2), shall immediately inform the Commission of such failure to comply or of such defect, unless such manufacturer, distributor, or retailer has actual knowledge that the Commission has been adequately informed of such defect or failure to comply.

(c) If the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for a hearing in accordance with subsection (f) of this section) that a product distributed in commerce presents a substantial product hazard and that notification is required in order to adequately protect the public from such substantial product hazard, the Commission may order the manufacturer or any distributor or retailer of the product to take any one or more of the following actions:

(1) to give public notice of the defect or failure to comply;

(2) to mail notice to each person who is a manufacturer, distributor, or retailer of such product; or

(3) to mail notice to every person to whom the person required to give notice knows such product was delivered or sold.

Any such order shall specify the form and content of any notice required to be given under such order.

(d) If the Commission determines (after affording interested parties, including consumers and consumer organizations, an opportunity for a hearing in accordance with subsection (f)) that a product distributed in commerce presents a substantial product hazard and that action under this subsection is in the public interest, it may order the manufacturer or any distributor or retailer of such product to take whichever of the following actions the person to whom the order is directed elects—

(1) to bring such product into conformity with the requirements of the applicable consumer product safety rule or to repair the defect in such product;

(2) to replace such product with a like or equivalent product which complies with the applicable consumer product safety rule or which does not contain the defect; or

(3) to refund the purchase price of such product (less a reasonable allowance for use, if such product has been in the possession of a consumer for one year or more (A) at the time of public notice under subsection (c), or (B) at the time the consumer receives actual notice of the defect or noncompliance, whichever first occurs).

An order under this subsection may also require the person to whom it applies to submit a plan, satisfactory to the Commission, for taking action under whichever of the preceding paragraphs of this subsection under which such person has elected to act. The Commission shall specify in the order the persons to whom refunds must be made if the person to whom the order is directed elects to take the action described in paragraph (3). If an order under this subsection is directed to more than one person, the Commission shall specify which person has the election under this subsection.

(e)(1) No charge shall be made to any person (other than a manufacturer, distributor, or retailer) who avails himself of any remedy provided under an order issued under subsection (d), and the person subject to the order shall reimburse each person (other than a manufacturer, distributor, or retailer) who is entitled to such a remedy for any reasonable and foreseeable expenses incurred by such person in availing himself of such remedy.

(2) An order issued under subsection (c) or (d) with respect to a product may require any person who is a manufacturer, distributor, or retailer of the product to reimburse any other person who is a manufacturer, distributor, or retailer of such product for such other person's expenses in connection with carrying out the order, if the Commission determines such reimbursement to be in the public interest.

(f) An order under subsection (c) or (d) may be issued only after an opportunity for a hearing in accordance with section 554 of title 5, United States Code, except that, if the Commission determines that any person who wishes to participate in such hearing is a part of a class of participants who share an identity of interest, the Commission may limit such person's participation in such hearing to participation through a single representative designated by such class (or by the Commission if such class fails to designate such a representative).

INSPECTION AND RECORDKEEPING

SEC. 16. (a) For purposes of implementing this Act, or rules or orders prescribed under this Act, officers or employees duly designated by the Commission, upon presenting appropriate credentials and a written notice from the Commission to the owner, operator, or agent in charge, are authorized—

(1) to enter, at reasonable times, (A) any factory, warehouse, or establishment in which consumer products are manufactured or held, in connection with distribution in commerce, or (B) any conveyance being used to transport consumer products in connection with distribution in commerce; and

(2) to inspect, at reasonable times and in a reasonable manner such conveyance or those areas of such factory, warehouse, or establishment where such products are manufactured, held, or transported and which may relate to the safety of such products. Each such inspection shall be commenced and completed with reasonable promptness.

(b) Every person who is a manufacturer, private labeler, or distributor of a consumer product shall establish and maintain such records, make such reports, and provide such information as the Commission may, by rule, reasonably require for the purposes of implementing this Act, or to determine compliance with rules or orders prescribed under this Act. Upon request of an officer or employee duly designated by the Commission, every such manufacturer, private labeler, or distributor shall permit the inspection of appropriate books, records, and papers relevant to determining whether such manufacturer, private labeler, or distributor has acted or is acting in compliance with this Act and rules under this Act.

IMPORTED PRODUCTS

SEC. 17. (a) Any consumer product offered for importation into the customs territory of the United States (as defined in general headnote 2 to the Tariff Schedules of the United States) shall be refused admission into such customs territory if such product—

(1) fails to comply with an applicable consumer product safety rule;

(2) is not accompanied by a certificate required by section 14, or is not labeled in accordance with regulations under section 14(c);

(3) is or has been determined to be an imminently hazardous consumer product in a proceeding brought under section 12;

(4) has a product defect which constitutes a substantial product hazard (within the meaning of section 15(a)(2)); or

(5) is a product which was manufactured by a person who the Commission has informed the Secretary of the Treasury is in violation of subsection (g).

(b) The Secretary of the Treasury shall obtain without charge and deliver to the Commission, upon the latter's request, a reasonable number of samples of consumer products being offered for import. Except for those owners or consignees who are or have been afforded an opportunity for a hearing in a proceeding under section 12 with respect to an imminently hazardous product, the owner or consignee of the product shall be afforded an opportunity by the Commission for a hearing in accordance with section 554 of title 5 of the United States Code with respect to the importation of such products into the customs territory of the United States. If it appears from examination of such samples or otherwise that a product must be refused admission under the terms of subsection (a), such product shall be refused admission, unless subsection (c) of this section applies and is complied with.

(c) If it appears to the Commission that any consumer product which may be refused admission pursuant to subsection (a) of this section can be so modified that it need not (under the terms of paragraphs (1) through (4) of subsection (a)) be refused admission, the Commission may defer final determination as to the admission of such product and, in accordance with such regulations as the Commission and the Secretary of the Treasury shall jointly agree to, permit such product to be delivered from customs custody under bond for the purpose of permitting the owner or consignee an opportunity to so modify such product.

(d) All actions taken by an owner or consignee to modify such product under subsection (c) shall be subject to the supervision of an officer or employee of the Commission and of the Department of the Treasury. If it appears to the Commission that the product cannot be so modified or that the owner or consignee is not proceeding satisfactorily to modify such product it shall be refused admission into the customs territory of the United States, and the Commission may direct the Secretary to demand

redelivery of the product into customs custody, and to seize the product in accordance with section 22(b) if it is not so redelivered.

(e) Products refused admission into the customs territory of the United States under this section must be exported, except that upon application, the Secretary of the Treasury may permit the destruction of the product in lieu of exportation. If the owner or consignee does not export the product within a reasonable time, the Department of the Treasury may destroy the product.

(f) All expenses (including travel, per diem or subsistence, and salaries of officers or employees of the United States) in connection with the destruction provided for in this section (the amount of such expenses to be determined in accordance with regulations of the Secretary of the Treasury) and all expenses in connection with the storage, cartage, or labor with respect to any consumer product refused admission under this section, shall be paid by the owner or consignee and, in default of such payment, shall constitute a lien against any future importations made by such owner or consignee.

(g) The Commission may, by rule, condition the importation of a consumer product on the manufacturer's compliance with the inspection and recordkeeping requirements of this Act and the Commission's rules with respect to such requirements.

EXPORTS

SEC. 18. This Act shall not apply to any consumer product if (1) it can be shown that such product is manufactured, sold, or held for sale for export from the United States (or that such product was imported for export), unless such consumer product is in fact distributed in commerce for use in the United States, and (2) such consumer product when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such consumer product is intended for export; except that this Act shall apply to any consumer product manufactured for sale, offered for sale, or sold for shipment to any installation of the United States located outside of the United States.

PROHIBITED ACTS

SEC. 19. (a) It shall be unlawful for any person to—

(1) manufacture for sale, offer for sale, distribute in commerce, or import into the United States any consumer product which is not in conformity with an applicable consumer product safety standard under this Act;

(2) manufacture for sale, offer for sale, distribute in commerce, or import into the United States any consumer product which has been declared a banned hazardous product by a rule under this Act;

(3) fail or refuse to permit access to or copying of records, or fail or refuse to make reports or provide information, or fail or refuse to permit entry or inspection, as required under this Act or rule thereunder;

(4) fail to furnish information respecting a substantial product defect, as required by section 15(b);

(5) fail to comply with an order issued under section 15 (c) or (d) (relating to notification, and to repair, replacement, and refund);

(6) fail to furnish a certificate required by section 14 or issue a false certificate if such person in the exercise of due care has reason to know that such certificate is false or misleading in any material respect; or to fail to comply with any rule under section 14(c) (relating to labeling).

(b) Paragraphs (1) and (2) of section (a) shall not apply to any person (1) who holds a certificate issued in accordance with section 14(a) to the effect that such consumer product conforms to all applicable consumer product safety rules, unless such person knows that such consumer product does not conform, or (2) who relies in good faith on the representation of the manufacturer or a distributor of such product that the product is not subject to an applicable product safety rule.

CIVIL PENALTIES

SEC. 20. (a) (1) Any person who knowingly violates section 19 of this Act shall be subject to a civil penalty not to exceed $2,000 for each such violation. Subject to paragraph (2), a violation of section 19(a) (1), (2), (4), (5), or (6) shall constitute a separate violation with respect to each consumer product, involved, except that the maximum civil penalty shall not exceed $500,000 for any related series of violations. A violation of section 19(a) (3) shall constitute a separate violation with respect to each failure or refusal to allow or perform an act required thereby; and, such violation is a continuing one, each day of such violation shall constitute a separate offense, except that the maximum civil penalty shall not exceed $500,000 for any related series of violations.

(2) The second sentence of paragraph (1) of this subsection shall not apply to violations of paragraph (1) or (2) of section 19(a)—

(A) if the person who violated such paragraphs is not the manufacturer or private labeler or a distributor of the product involved, and

(B) if such person did not have either (i) actual knowledge that his distribution or sale of the product violated such paragraphs or (ii) notice from the Commission that such distribution or sale would be a violation of such paragraphs.

(b) Any civil penalty under this section may be compromised by the Commission. In determining the amount of such penalty or whether it should be remitted or mitigated and in what amount, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty when finally determined or the amount agreed on compromise, may be deducted from any sums owing by the United States to the person charged.

(c) As used in the first sentence of subsection (a)(1) of this section, the term "knowingly" means (1) the having of actual knowledge, or (2) the presumed having of knowledge deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations.

CRIMINAL PENALTIES

SEC. 21. (a) Any person who knowingly and willfully violates section 19 of this Act after having received notice of noncompliance from the Commission shall be fined not more than $50,000 or be imprisoned not more than one year, or both.

(b) Whenever any corporation knowingly and willfully violates section 19 of this Act after having received notice of noncompliance from the Commission, any individual director, officer, or agent of such corporation who knowingly and willfully authorized, ordered, or performed any of the acts or practices constituting in whole or in part such violation and who had knowledge of such notice from the Commission shall be subject to penalties under this section in addition to the corporation.

INJUNCTIVE ENFORCEMENT AND SEIZURE

SEC. 22. (a) The United States district courts shall have jurisdiction to restrain any violation of section 19, or to restrain any person from distributing in commerce a product which does not comply with a consumer product safety rule, or both. Such actions may be brought by the Attorney General, on request of the Commission, in any United States district court for a district wherein any act, omission, or transaction constituting the violation occurred, or in such court for the district wherein the defendant is found or transacts business. In any action under this section process may be served on a defendant in any other district in which the defendant resides or may be found.

(b) Any consumer product which fails to conform to an applicable consumer product safety rule when introduced into or while in commerce or while held for sale after shipment in commerce shall be liable to be proceeded against on libel of information and condemned in any United States district court within the jurisdiction of which such consumer product is found. Proceedings in cases instituted under the authority of this subsection shall conform as nearly as possible to proceedings in rem in admiralty. Whenever such proceedings involving identical consumer products are pending in courts of two or more judicial districts they shall be consolidated for trial by order of any such court upon application reasonably made by any party in interest upon notice to all other parties in interest.

SUITS FOR DAMAGES BY PERSONS INJURED

SEC. 23. (a) (1) Any person who shall sustain injury by reason of any knowing (including willful) violation of a consumer product safety standard, regulation, or order issued by the Commissioner may sue therefor in any district court of the United States in the district in which the defendant resides or is found or has an agent, subject to the provisions of section 1331 of title 28, United States Code, as to the amount in controversy, and shall recover damages sustained, and the cost of suit, including a reasonable attorney's fee, if considered appropriate in the discretion of the court.

(c) The remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by common law or under Federal or State law.

PRIVATE ENFORCEMENT OF PRODUCT SAFETY RULES AND OF SECTION 15 ORDERS

SEC. 24. Any interested person may bring an action in any United States district court for the district in which the defendant is found or transacts business to enforce a consumer product safety rule or an order under section 15, and to obtain appropriate injunctive relief. Not less than thirty days prior to the commencement of such action, such interested person shall give notice by registered mail to the Commission, to the Attorney General, and to the person against whom such action is directed. Such notice shall state the nature of the alleged violation of any such standard or order, the relief to be requested, and the court in which the action will be brought. No separate suit shall be brought under this section if at the time the suit is brought the same alleged violation is the subject of a pending civil or criminal action by the United States under this Act. In any action under this section, such interested person may elect, by a demand for such relief in his complaint, to recover reasonable attorney's fees, in which case the court shall award the costs of suit, including a reasonable attorney's fee, to the prevailing party.

EFFECT ON PRIVATE REMEDIES

SEC. 25. (a) Compliance with consumer product safety rules or other rules or orders under this Act shall not relieve any person from liability at common law or under State statutory law to any other person.

(b) The failure of the Commission to take any action or commence a proceeding with respect to the safety of a consumer product shall not be admissible in evidence in litigation at common law or under State statutory law relating to such consumer product.

(c) (1) Subject to section 6(a) (2) but notwithstanding section 6(a) (1), (A) accident and investigation reports made under this Act by any officer, employee, or agent of the

Commission shall be available for use in any civil, criminal, or other judicial proceeding arising out of such accident, and (B) any such officer, employee, or agent may be required to testify in such proceedings as to the facts developed in such investigations.

(2) Subject to sections 6(a)(2) and 6(b) but notwithstanding section 6(a)(1), (A) any accident or investigation report made under this Act by an officer or employee of the Commission shall be made available to the public in a manner which will not identify any injured person or any person treating him, without the consent of the person so identified, and (B) all reports on research projects, demonstration projects, and other related activities shall be public information.

EFFECT ON STATE STANDARDS

SEC. 26. (a) Whenever a consumer product safety standard under this Act is in effect and applies to a hazard associated with a consumer product, no State or political subdivision of a State shall have any authority either to establish or to continue in effect any provision of a safety standard or regulation which prescribes any requirements as to the performance, composition, contents, design, finish, construction, packaging, or labeling of such product which are designed to deal with the same hazard associated with such consumer product; unless such requirements are identical to the requirements of the Federal standard.

(b) Nothing in this section shall be construed to prevent the Federal Government or the government of any State or political subdivision thereof from establishing a safety requirement applicable to a consumer product for its own use if such requirement imposes a higher standard of performance than that required to comply with the otherwise applicable Federal standard.

(c) Upon application of a State or political subdivision thereof, the Commission may by rule, after notice and opportunity for oral presentation of views, exempt from the provisions of subsection (a) (under such conditions as it may impose) a proposed safety standard or regulation described in such application, where the proposed standard or regulation (1) imposes a higher level of performance than the Federal standard, (2) is required by compelling local conditions, and (3) does not unduly burden interstate commerce.

ADDITIONAL FUNCTIONS OF COMMISSION

SEC. 27. (a) The Commission may, by one or more of its members or by such agents or agency as it may designate, conduct any hearing or other inquiry necessary or appropriate to its functions anywhere in the United States. A Commissioner who participates in such a hearing or other inquiry shall not be disqualified solely by reason of such participation from subsequently participating in a decision of the Commission in the same matter. The Commission shall publish notice of any proposed hearing in the Federal Register and shall afford a reasonable opportunity for interested persons to present relevant testimony and data.

(b) The Commission shall also have the power—

(1) to require, by special or general orders, any person to submit in writing such reports and answers to questions as the Commission may prescribe; and such submission shall be made within such reasonable period and under oath or otherwise as the Commission may determine;

(2) to administer oaths;

(3) to require by subpena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(4) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection; and

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(c) Any United States district court within the jurisdiction of which any inquiry is carried on may, upon petition by the Attorney General, in case of refusal to obey a subpena or order of the Commission issued under subsection (b) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(d) No person shall be subject to civil liability to any person (other than the Commission or the United States) for disclosing information at the request of the Commission.

(e) The Commission may by rule require any manufacturer of consumer products to provide to the Commission such performance and technical data related to performance and safety as may be required to carry out the purposes of the Act, and to give such notification of such performance and technical data at the time of original purchase to prospective purchasers and to the first purchaser of such product for purposes other than resale, as it determines necessary to carry out the purposes of this Act.

(f) For purposes of carrying and this Act, the Commission may purchase any consumer product and it may require any manufacturer, distributor, or retailer of a consumer product to sell the product to the Commission at manufacturer's, distributor's, or retailer's cost.

(g) The Commission is authorized to enter into contracts with governmental entities, private organizations, or individuals for the conduct of activities authorized by this Act.

(h) The Commission may plan, construct, and operate a facility or facilities suitable for research, development, and testing of consumer products in order to carry out this Act.

(i) The Commission shall prepare and submit to the President and the Congress on or before October 1 of each year a comprehensive report on the administration of this Act for the preceding fiscal year. Such report shall include—

(1) a thorough appraisal, including statistical analyses, estimates, and long-term projections, of the incidence of injury and effects to the population resulting from consumer products, with a breakdown, insofar as practicable, among the various sources of such injury;

(2) a list of consumer product safety rules prescribed or in effect during such year;

(3) an evaluation of the degree of observance of consumer product safety rules, including a list of enforcement actions, court decisions, and compromises of alleged violations, by location and company name;

(4) a summary of outstanding problems confronting the administration of this Act in order of priority;

(5) an analysis and evaluation of public and private consumer product safety research activities;

(6) a list, with a brief statement of the issues, of completed or pending judicial actions under this Act;

(7) the extent to which technical information was disseminated to the scientific and commercial communities and consumer information was made available to the public;

(8) the extent of cooperation between Commission officials and representatives of industry and other interested parties in the implementation of this Act, including a log or summary of meetings held between Commission officials and representatives of industry and other interested parties;

(9) an appraisal of significant actions of State and local governments relating to the responsibilities of the Commission; and

(10) such recommendations for additional legislation as the Commission deems necessary to carry out the purposes of this Act.

PRODUCT SAFETY ADVISORY COUNCIL

SEC. 28. (a) The Commission shall establish a Product Safety Advisory Council which it may consult before prescribing a consumer product safety rule or taking other action under this Act. The Council shall be appointed by the Commission and shall be composed of fifteen members, each of whom shall be qualified by training and experience in one or more of the fields applicable to the safety of products within the jurisdiction of the Commission. The Council shall be constituted as follows:

(1) five members shall be selected from governmental agencies including Federal, State, and local governments;

(2) five members shall be selected from consumer product industries including at least one representative of small business; and

(3) five members shall be selected from among consumer organizations, community organizations, and recognized consumer leaders.

(b) The Council shall meet at the call of the Commission, but not less often than four times during each calendar year.

(c) The Council may propose consumer product safety rules to the Commission for its consideration and may function through subcommittees of its members. All proceedings of the Council shall be public, and a record of each proceeding shall be available for public inspection.

(d) Members of the Council who are not officers or employees of the United States shall, while attending meetings or conferences of the Council or while otherwise engaged in the business of the Council, be entitled to receive compensation at a rate fixed by the Commission, not exceeding the daily equivalent of the amount rate of basic pay in effect for grade GS–18 of the General Schedule, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. Payments under this subsection shall not render members of the Council officers or employees of the United States for any purpose.

COOPERATION WITH STATES AND WITH OTHER FEDERAL AGENCIES

SEC. 29. (a) The Commission shall establish a program to promote Federal-State cooperation for the purposes of carrying out this Act. In implementing such program the Commission may—

(1) accept from any State or local authorities engaged in activities relating to health, safety, or consumer protection assistance in such functions as injury data collection, investigation, and educational programs, as well as other assistance in the administration and enforcement of this Act which such States or localities may be able and willing to provide and, if so agreed, may pay in advance or otherwise for the reasonable cost of such assistance, and

(2) commission any qualified officer or employee of any State or local agency as an officer of the Commission for the purpose of conducting examinations, investigations, and inspections.

(b) In determining whether such proposed State and local programs are appropriate in implementing the purposes of this Act the

Commission shall give favorable consideration to programs which establish separate State and local agencies to consolidate functions relating to product safety and other consumer protection activities.

(c) The Commission may obtain from any Federal department or agency such statistics, data, program reports, and other materials as it may deem necessary to carry out its functions under this Act. Each such department or agency may cooperate with the Commission and, to the extent permitted by law, furnish such materials to it. The Commission and the heads of other departments and agencies engaged in administering programs related to product safety shall, to the maximum extent practicable, cooperate and consult in order to insure fully coordinated efforts.

(d) The Commission shall, to the maximum extent practicable, utilize the resources and facilities of the National Bureau of Standards, on a reimbursable basis, to perform research and analyses related to consumer product hazards (including fire and flammability hazards), to develop test methods, to conduct studies and investigations, and provide technical advice and assistance in connection with the functions of the Commission.

TRANSFERS OF FUNCTIONS

SEC. 30. (a) The functions of the Secretary of Health, Education, and Welfare under the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) and the Poison Prevention Packaging Act of 1970 are transferred to the Commission. The functions of the Administrator of the Environmental Protection Agency and of the Secretary of Health, Education, and Welfare under the Acts amended by subsections (b) through (f) of section 7 of the Poison Prevention Packaging Act of 1970, to the extent such functions relate to the administration and enforcement of the Poison Prevention Packaging Act of 1970, are transferred to the Commission.

(b) The functions of the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and the Federal Trade Commission under the Flammable Fabrics Act (15 U.S.C. 1191 et seq.) are transferred to the Commission. The functions of the Federal Trade Commission under the Federal Trade Commission Act, to the extent such functions relate to the administration and enforcement of the Flammable Fabrics Act, are transferred to the Commission.

(c) A hazard which is associated with consumer products and which could be prevented or reduced to a sufficient extent by action taken under the Federal Hazardous Substances Act, the Poison Prevention Packaging Act of 1970, or the Flammable Fabrics Act may be regulated by the Commission only in accordance with the provisions of those Acts.

(d)(1) All personnel, property, records, obligations, and commitments, which are used primarily with respect to any function transferred under the provisions of subsections (a) and (b) of this section shall be transferred to the Commission. The transfer of personnel pursuant to this paragraph shall be without reduction in classification or compensation for one year after such transfer, except that the Chairman of the Commission shall have full authority to assign personnel during such one-year period in order to efficiently carry out functions transferred to the Commission under this section.

(2) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges (A) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transferred under this section by any department or agency, any functions of which are transferred by this section, and (B) which are in effect at the time this section takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Commission, by any court of competent jurisdiction, or by operation of law.

(3) The provisions of this section shall not affect any proceedings pending at the time this section takes effect before any department or agency, functions of which are transferred by this section; except that such proceedings, to the extent that they relate to functions transferred, shall be continued before the Commission. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Commission, by a court of competent jurisdiction, or by operation of law.

(4) The provisions of this section shall not affect suits commenced prior to the date this section takes effect and in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this section had not been enacted; except that if before the date in which this section takes effect, any department or agency (or officer thereof in his official capacity) is a party to a suit involving functions transferred to the Commission, then such suit shall be continued by the Commission. No cause of action, and no suit, action, or other proceeding, by or against any department or agency (or officer thereof in his official capacity) functions of which are transferred by this section, shall abate by reason of the enactment of this section. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or the Commission as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this paragraph.

(e) For purposes of this section, (1) the term "function" includes power and duty, and (2) the transfer of a function, under any provisions of law, of an agency or the head of a department shall also be a transfer of all functions under such law which are exercised by any office or officer of such agency or department.

LIMITATION ON JURISDICTION

SEC. 31. The Commission shall have no authority under this Act to regulate hazards associated with consumer products which could be prevented or reduced to a sufficient extent by actions taken under the Occupational Safety and Health Act of 1970; the Act of August 2, 1956 (70 Stat. 953); the Atomic Energy Act of 1954; or the Clean Air Act. The Commission shall have no authority under this Act to regulate any hazard associated with electronic product radiation emitted from an electronic product (as such terms are defined by sections 355(1) and (2) of the Public Health Service Act) if such hazard of such product may be subjected to regulation under subpart 3 of part F of title III of the Public Health Service Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 32. (a) There are hereby authorized to be appropriated for the purpose of carrying out the provisions of this Act (other than the provisions of section 27(h) which authorize the planning and construction of research, development, and testing facilities) and for the purpose of carrying out the functions, powers, and duties transferred to the Commission under section 30—

(1) $55,000,000 for the fiscal year ending June 30, 1973;

(2) $59,000,000 for the fiscal year ending June 30, 1974; and

(3) $64,000,000 for the fiscal year ending June 30, 1975.

(b)(1) There are authorized to be appropriated such sums as may be necessary for the planning and construction of research, development and testing facilities described in section 27(h); except that no appropriation shall be made for any such planning or construction involving an expenditure in excess of $100,000 if such planning or construction has not been approved by resolutions adopted in substantially the same form by the Committee on Interstate and Foreign Commerce of the House of Representatives, and by the Committee on Commerce of the Senate. For the purpose of securing consideration of such approval the Commission shall transmit to Congress a prospectus of the proposed facility including (but not limited to)—

(A) a brief description of the facility to be planned or constructed;

(B) the location of the facility, and an estimate of the maximum cost of the facility;

(C) a statement of those agencies, private and public, which will use such facility, together with the contribution to be made by each such agency toward the cost of such facility; and

(D) a statement of justification of the need for such facility.

(2) The estimated maximum cost of any facility approved under this subsection as set forth in the prospectus may be increased by the amount equal to the percentage increase, if any, as determined by the Commission, in construction costs, from the date of the transmittal of such prospectus to Congress, but in no event shall the increase authorized by this paragraph exceed 10 per centum of such estimated maximum cost.

EFFECTIVE DATE

SEC. 33. This Act shall take effect on the sixtieth day following the date of its enactment, except—

(1) sections 4 and 32 shall take effect on the date of enactment of this Act, and

(2) section 30 shall take effect on the later of (A) 150 days after the date of enactment of this Act, or (B) the date on which at least three members of the Commission first take office.

Mr. MAGNUSON. Mr. President, the recent debate in connection with the passage of S. 3419, the Food, Drug, and Consumer Product Safety Act of 1972, did not note the intended relationship of that bill to the proposed National Institute of Building Sciences.

Both the Senate-passed version of the Housing Act of 1972 and the version pending in the House of Representatives would establish a National Institute of Building Sciences. The purpose of this Institute would be to act as an authoritative source of technological information and advice to housing and building codemaking authorities.

Under subsection 301(e) of S. 3419, the Commissioner of Product Safety, whenever he found that an aspect of the household environment other than a consumer product posed an unreasonable risk, would be authorized to make recommendations to appropriate codemaking authorities where that feature of the household environment was covered by a building, electrical, or other code. It is intended that the Commissioner, in exercising this authority to make recommendations to code authorities, would consult with the National

Institute of Building Sciences when, and if, it is established.

The close consultation intended should provide for a coordinated Federal approach to housing-related codes at the State and local level. This consultation will also be valuable to the Commissioner of Product Safety by making available a more specialized expertise in construction technology than is likely to characterize the Food, Drug, and Consumer Product Agency which will have its principal expertise in other areas.

Mr. President, I move that the Senate disagree to the amendment of the House on S. 3419 and ask for a conference with the House 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. FANNIN) appointed Mr. MAGNUSON, Mr. PASTORE, Mr. MOSS, Mr. RIBICOFF, Mr. KENNEDY, Mr. ERVIN, Mr. COTTON, Mr. COOK, Mr. PERCY, and Mr. JAVITS conferees on the part of the Senate.

SOCIAL SECURITY AMENDMENTS OF 1972

The Senate continued with the consideration of the bill (H.R. 1) to amend the Social Security Act, to make improvements in the medicare and medicaid programs, to replace the existing Federal-State public assistance programs, and for other purposes.

Mr. LONG. Mr. President, those of us who serve on the Committee on Finance are ready to vote on further amendments. There may be an amendment offered by the Senator from Connecticut (Mr. RIBICOFF). I understand that it has not yet been drafted. I believe the Senator intends to explain his views tomorrow to the Senate on this issue. I am not aware of other amendments that Senators may wish to offer at this time. I can understand why they are not prepared to offer amendments. They could not gear their amendments to specific language in the bill, and the bill was not available in print until noon today.

If there are no amendments that Senators wish to offer at this time, I think the Senate would be well advised to turn to another measure. If Senators wish to offer amendments to H.R. 1 now and vote on them, I am ready to go forward.

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

Mr. LONG. I yield.

Mr. RIBICOFF. Mr. President, I agree with the chairman of the committee that probably one of the most controversial parts of this huge bill, with its overwhelming number of pages, sections, and provisions, will be title IV, the question of welfare reform.

I will have my speech and explanation ready tomorrow morning when the Chair recognizes me. I will be on the floor to explain it. The amendment, which combines the conversations I have had over the last few months with the administration to see if we could work out an agreement, will be the amendment I will put in, the substitute amendment No. 559.

As I explained to the chairman of the committee and the leader, there is no reason whatever to drag this debate on. Under no circumstances would I have this amendment stand in the way of the passage or adoption of the many fine parts of the bill which the Committee on Finance worked on so long and so hard over many, many months in order to achieve.

I have in mind probably calling up the amendment Tuesday morning, and when I get recognition and make it the pending business I am sure that with an agreement between the chairman of the committee and the ranking minority member we could arrive at an expeditious understanding as to when we would vote on my substitute for title IV. There will be ample time to discuss it. But I say to the majority whip, who is here, that we could work expeditiously on this important measure.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. ROBERT C. BYRD. Would the Senator, in view of the fact that there will undoubtedly be a sizable number of amendments offered to the substitute, be prepared to offer his amendment on Monday rather than on Tuesday?

Mr. RIBICOFF. I do not know at the present time if there will be a sizable number of amendments.

Mr. ROBERT C. BYRD. There may be.

Mr. RIBICOFF. There may be. My feeling is if this is going to develop it will end up as a basic choice between my proposal and the committee proposal. To my knowledge, unless the ranking minority member is aware that someone will offer the original welfare proposal of H.R. 1, to date no one is prepared to do this.

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

Mr. RIBICOFF. I yield.

Mr. BENNETT. I understand that the original H.R. 1 will be offered.

Mr. RIBICOFF. Very well.

Mr. BENNETT. I am not completely sure who will offer it, but it will be offered. Whether it will come as a substitute for the Senator's or ahead of the Senator's, I do not know, but at least a time pattern could be worked out.

Mr. RIBICOFF. My objective is to bring this issue to a vote in the Senate. I am more than willing to work with the leadership, the chairman, and the distinguished Senator from Utah to see if we can expeditiously dispose of this issue that has been around for 3 years.

Mr. BENNETT. It is my understanding that other alternatives will be offered, so there will be three alternatives to look at.

Mr. RIBICOFF. The Senate should have an opportunity to make up its mind which proposal it wishes to adopt. I know the distinguished Senator from Delaware (Mr. ROTH) has worked hard on a proposal that is similar to what we discussed in the Committee on Finance in 1969. I know he will want an opportunity to present his point of view.

My point of view is that if we debate this with thought and concern and the objective, "Let us decide this issue this session," I am positive we can do it expeditiously.

Mr. ROBERT C. BYRD. Would the Senator be ready and willing to lay down his amendment on, say, Monday, rather than on Tuesday?

Mr. RIBICOFF. Monday night. I think I might be able to work that out so that it would be laid before the Senate on Monday night and made the pending business and start to work on it Tuesday morning. I think this could be worked out. I will be in touch with the minority leader, the ranking minority leader, and the Senator from West Virginia to see if we can come to an understanding.

Mr. ROBERT C. BYRD. Mr. President, as to further amendments to be called up at this time, does the ranking member of the committee know of any?

Mr. BENNETT. We know of none.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed a joint resolution (H.J. Res. 1306) making further continuing appropriations for the fiscal year 1973, and for other purposes, in which it requested the concurrence of the Senate.

HOUSE JOINT RESOLUTION REFERRED

The joint resolution (H.J. Res. 1306) making further continuing appropriations for the fiscal year 1973, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

CONSUMER PROTECTION ORGANIZATION ACT OF 1972

Mr. ROBERT C. BYRD. Mr. President, I ask, in accordance with the order of yesterday, that the Senate resume the consideration of the unfinished business, S. 3970.

The PRESIDING OFFICER. The bill will be stated by title.

The bill was stated by title 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 Senate proceeded to consider the bill.

Mr. ERVIN. 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. Without objection, it is so ordered.

AMENDMENTS NO. 1541

Mr. ERVIN. Mr. President, I call up my amendments numbered 1541 and ask that they be stated.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read the amendments, as follows:

On page 47, between lines 4 and 5, insert the following new section:

"CIVIL ACTIONS AUTHORIZED

"SEC. 408. If the Administrator or anyone acting for him violates or threatens to violate any provision of this Act or any provision of any other law, the person aggrieved by the violation or threatened violation may bring a civil action against the Administrator in the United States district court, and the court shall have jurisdiction to issue any restraining order or injunction necessary or appropriate to protect the person aggrieved against the violation or threatened violation. The United States shall be liable for the costs of the action in the event the ruling of the court is adverse to the Administrator."

On page 47, line 6, strike out "SEC. 408" and insert in lieu thereof "SEC. 409."

On page 47, line 13, strike out "SEC. 409" and insert in lieu thereof "SEC. 410."

Mr. ERVIN. Mr. President, I consider the so-called Consumer Agency bill as drastic a piece of legislation as has been presented to the Senate since I had the honor to become a Member of this body 18 years ago. If this bill should be enacted into law, it will shake the free enterprise system and the economic system of the United States to its foundations.

The Congress, during recent years, has adopted a number of laws to protect the consumer. There are probably more laws on the statute books of the Nation and the States designed to protect the interests of the consumers than there are laws on any other subject.

It has always been contrary to law for those who sell goods or services to resort to deception or fraud to cheat the consumers. As a matter of fact, we have had, since common law days, a criminal offense known as false pretense, and there is not a single spot in the United States where it is not contrary to both the civil and the criminal law for any producer of goods or services to defraud any consumer.

In addition to that, we have a number of laws on the Federal level which have been passed in recent years and which were aptly designed to protect the consumer. Let me enumerate a few of the laws passed in the last few years, since the country became so agitated on the subject of consumerism: Amendments to the Food, Drug, and Cosmetic Act of 1960, and further amendments in 1962. The Hazardous Substances Labeling Act of 1960. The National Traffic and Motor Vehicle Act of 1966. The Radiation Control for Health and Safety Act of 1968. The National Gas Pipeline Safety Act of 1968. The Wholesale Poultry Act of 1968. The Wholesale Meat Act of 1969. The Child Protection and Safety Toy Act of 1969.

In addition to those, we have had the Fair Packaging and Labeling Act of 1966 and the Truth-in-Lending Act of 1969.

In addition, we have had upon the statute books of the Nation for many years laws establishing regulatory agencies. These laws direct the regulatory agencies to regulate the matters committed to their respective jurisdictions in the public interest. In view of the fact that every consumer is a member of the public and, in view of the fact that the public is composed of all consumers, the Senator from North Carolina must confess his inability to see any distinction between an act which is in the public interest and an act which is in the consumer interest.

We have been told in the course of this debate that the consumer agency proposal is an idea whose time has come. I have always been intrigued by the use of Victor Hugo's words about an idea whose time has come, because many ideas come and the time for many ideas comes, but, unfortunately for humanity, there are as many bad ideas whose time has come as there are good ideas whose time has come.

I have been intrigued by many of the arguments which I have heard and read about the necessity of establishing this agency for the protection of the consumer.

The distinguished Senator from Illinois (Mr. PERCY) made a very eloquent plea a few days ago for the enactment of this proposed legislation, and I listened to his argument with much interest.

He told us, for example, that the inspectors of the Department of Agriculture, in the performance of the duties which Congress had imposed upon them by one of the acts to which I have alluded, found some diseased pork and removed it from the market. The inference I drew from the argument of the distinguished Senator from Illinois was that if we had established a consumer agency, there would be no necessity for any of these inspectors from the Department of Agriculture to inspect the pork or meat products on the market, because the consumer agency would keep events of that character from ever happening.

The insinuation was also made that after we have established a consumer agency, no longer will this country witness the sad spectacle of so many elderly people falling and breaking their hips. How in the world the Consumer Agency is going to be able to prevent that I do not know, but that is, in effect, the assurance we are given by the distinguished Senator from Illinois.

We are told that, if we just establish a consumer agency, nevermore in this fair land of ours will any little child drink any dangerous medicine which his parents negligently leave exposed in the home in which he dwells. I do not know how the consumer agency is going to bring about that kind of miracle, but we were assured that the number of babies who die from the effects of poison were not without remedy.

Mr. President, I would say that for each case enumerated by the distinguished Senator from Illinois in his very eloquent speech there is now a law upon the books, either Federal, State, or both, which would undertake to redress those tragedies as far as they can be redressed by human justice, and to prevent their future occurrence insofar as their future occurrence can be prevented by human law or human ingenuity.

This is not the first time that great praises have been sung in the interests of those concerned about the consumer. Some years ago, many of those who are so much concerned about the interests of the consumer wanted to make it certain that the consumer would not injure himself by drinking alcoholic beverages. That was essentially the purpose of the prohibition amendment and the Volstead Act. They were essentially enactments for the benefit of the consumer. They said to all consumers, "Alcoholic beverages are evil, and therefore we are going to put alcoholic beverages beyond your reach." And some of those who were advocating the interests of the consumers in those days were fairly eloquent.

Dr. Billy Sunday, the great evangelist of that day, made this prediction about that law that was passed and that constitutional amendment which was ratified to protect the consumer. He said:

The slums will soon be only a memory. We will turn our prisons into factories and our jails into storehouses and corn cribs. Men will walk upright now. Women will smile, and the children will laugh. Hell will be forever for rent.

That was the bright and rosy picture which was painted by Dr. Billy Sunday in respect to the heaven on earth which would be brought about by the passage of a law to protect the consumer against alcoholic beverages. I shall have occasion at some later date to comment at more length concerning what happened to our country as a result of the enactment of a constitutional amendment, the 18th amendment, and the passage of the Volstead law to protect the consumers.

The first fundamental defect in this bill which I would like to point out is this: If a doctor prescribes medicine for his patient and his patient becomes none the better, but rather the worse, the doctor has intelligence enough and commonsense enough to change his prescription and to prescribe other medicine, different in character and quality from the medicine which he had administered to his patient in times past. This bill, on the contrary, undertakes to prescribe some of the same old medicine which they say has brought the consumer to his present tragic plight. I wish to read to the Senate the statement which appears in section 2 of this bill, which is given as the basis for favorable action on the bill. It reads as follows:

SEC. 2. The Congress hereby finds that—

(1) Federal agencies administer many laws, programs, and activities which substantially affect the health, safety, welfare, and other interests of consumers of the United States;

(2) Federal agencies too often fail to give adequate consideration to the interests of consumers due to the fact that consumers lack effective representation before these agencies;

(3) each year, as a result of a lack of effective representation before Federal agencies and courts, millions of consumers suffer physical and economic injury and other adverse effects in acquiring and using goods and services available in the marketplace;

(4) a governmental organization to represent the interests of consumers before Federal agencies and courts will assist them in exercising their statutory responsibilities in a manner consistent with the public interest and with effective, efficient, fair and responsive government; and

(5) a new independent Federal agency should therefore be established for the purpose of representing the interests of con-

sumers before Federal agencies and courts and for related purposes.

What I have read makes it clear that the proponents of this bill feel that Federal agencies which are charged with the duty of protecting the public interests, must act absolutely in harmony with the consumer interests, or they are not doing their duty; or if they are doing their duty, the laws under which they operate are inadequate to accomplish the purpose of protecting the public interests or the consumer interests.

I would say that if a bureaucracy is not functioning in the public interests, as it is ordered to do, and is not acting in the public interests, as it is ordered to do, the remedy is not piling another bureaucracy on top of it.

In other words, when the medicine does the patient no good, do not compel the patient to take more of the same old medicine. Yet, that is fundamentally the proposal of the consumer agency bill. The agencies now in existence, they say, are not functioning properly. Therefore, pile another agency on top of them and give this other agency the power to throw legal monkey wrenches into the machinery by which the other agencies operate.

I am just a little country lawyer from down in North Carolina, but it would occur to me, according to what we consider to be commonsense in that area of the country, that in the case of regulatory agencies which have been created by act of Congress to make decisions under definite laws which will promote the public interests—that is, the consumer interests—we, first ought to inquire whether these charges that the agencies are not protecting the consumer's interest and are failing to fulfill their functions are true. That is the first question we ought to ask, and we ought to get the answer to that before we act at all.

The next question is this, and it is hypothetical in nature: If these agencies are not properly protecting the public interests—which, as I say, are tantamount to the interests of the consumer—we ought to consider what commonsense and forthright action demand that Congress should do.

I would submit that the first thing we should do is to inquire whether the laws which these Federal agencies are required to enforce are sufficient in their phraseology and their scope to enable them to promote the public interest. That is the kind of thing that ought to be done in a land whose proud boast it is that it is a government of laws and not a government of men.

If our inquiry would lead us to conclude that these regulatory agencies are not able to promote the public interest because of defects in the laws under which they operate, then the intelligent thing for the Senate and Congress to do would be to amend the laws and specify in those laws what these agencies ought to do. It certainly does not seem to be consonant with hard commonsense to say that, instead of doing that, Congress should create another agency and pile it on top of the existing agencies.

The consumers are the only taxpayers we have, and all the extra expense which the creation of another Federal agency is going to impose upon the tax payers of the United States is going to be borne by the consumers, because they are all the taxpayers, we have in the ultimate analysis.

If Congress should make the inquiry as to the sufficiency of the laws under which these regulatory agencies act and should find that the laws are sufficient to enable those who exercise the regulatory powers to promote the public interest, which I reiterate is tantamount to the consumer interests, then the regulators ought to be fired and somebody should be assigned to perform the statutory duties which these sufficient laws impose upon them. That would seem to me to be the commonsense and the forthright thing to do.

But this proposal says, "Oh, no, we are not going to rewrite the laws. We are not going to amend the laws. We are not going to fire the regulators who have proved themselves incompetent to regulate. We are just going to impose another Federal agency, whose cost is to be borne by the consumers, on top of the existing regulatory agencies."

The laws under which these regulatory agencies operate are set forth in the United States Code, and the consumer laws I mentioned before that have been passed by Congress in recent years are in the United States Code.

If any citizen can get a half dozen Philadelphia lawyers who possess the capacity to unscrew the inscrutable, he can ascertain what the laws are. Now laws are nothing in the world but rules of conduct. They prescribe the things which American citizens can do and the things which they are forbidden to do. Those laws can be found in the lawbooks.

I am reminded of the story about the Roman Emperor Caligula. Caligula appointed his horse to high public office. He has been severely criticized in history for so doing, but let it be said to the credit of Caligula that that horse must have had some horse sense, a characteristic which is sadly lacking in some public officials.

Caligula has also been criticized on another score. History informs us that Caligula wanted to get the Romans into trouble for violating the laws, so he wrote his laws out in small letters and had them suspended high up on the walls so that his subjects would violate the laws unconsciously, subjecting themselves to punishment.

That sounds like a foolish way to legislate but, Mr. President, compared with the proposal in this consumer bill, Caligula was a pretty good legislator, because any Roman who could get a ladder that would reach up to where the laws were suspended on the high walls and who could climb up the ladder with a magnifying glass large enough, could determine what the laws were, what he was permitted to do, and what he was not permitted to do.

Not so with this consumer bill. The only laws the producers will have will be the notions on the inside of the Administrator's head—and I will come to that in just a minute.

When this bill came into existence and was originally considered by the committee, it gave all the powers—that is, all the real powers of the Consumer Agency to the Administrator. The committee amended it by adopting an amendment offered by the Senator from Arkansas (Mr. McCLELLAN) which set up a commission composed of three members. One of them would be the chairman and he would be the Administrator, and the other two would be commissioners and, so far as I know from this bill, would have no power whatever. Of course they would be able to prescribe some policies, it says, but every other provision of the bill would give the power expressly to the Administrator. The other two commissioners would have no function whatever to perform.

The general provisions of the law which undertake to give them some general powers would have to be construed in the light of specific provisions of the law which give all the powers to the administrator.

So the addition of these two members of the commission would do absolutely nothing for the bill except to put two more people's salaries on the backs of the taxpayers.

It is about like the same procedure which a railroad followed when it was adjudged it would have to have more firemen on diesel engines when there was absolutely no need for a fireman on a diesel engine. But they were bound by the contracts which compelled them to do so. So one railroad got around the proposition by putting a seat on each diesel engine for his fireman to sit on and put the old fireman on the diesel engine and let them ride back and forth and draw their salaries for sitting on the chairs gazing out at the scenery as they passed by.

That is about all these two additional members of the Commission can perform and about the only function they will have. It is a little bit of featherbedding for them.

So the Administrator of the Consumer Agency would have the right to interject himself into every proceeding before a regulatory agency. He would have the right to appeal any decision he did not like. He would have the right to participate in every activity of every Federal agency where they do anything which he says could affect the consumers.

For example, if the Smithsonian Institution wanted to buy some pencils, and this bill was law, the Administrator could go down to the Smithsonian and participate in the transaction to determine what kind of pencils they should buy and how much they should pay for them. Of course the Administrator could not make the Smithsonian comply with his directions but he can give them advice and they would have to listen to it whether they think it was wise or foolish.

I am like Justice Frankfurter. I think the people should have freedom not to listen to some individuals and to some Federal employees.

Under the bill, if those in charge of the Food and Drug Administration undertake to do anything to insure that the people of the United States shall have pure food and effective drugs without dangerous side effects, the Consumer Ad-

ministrator can come down there and participate as a matter of right in all of their activities which have that end in view.

If the Department of Defense or the Department of the Army or the Department of the Air Force or the Department of the Navy desire to buy some cans of pork and beans for the use of the Armed Forces of this Nation, under this bill, if it should become law, the Administrator could come down there and participate in all of the activities of these different Departments with respect to buying the cans of pork and beans.

The truth is, Mr. President, this bill would give such vast powers to the Administrator of the Consumer Agency that there is only one Being in this entire universe who can exercise those powers with wisdom, and that is the Lord God Almighty.

The human being who could exercise the wisdom and the arbitrary powers which this bill undertakes to give to the administrator has not yet been born, and he will not be born until the morning stars once again sing and all the sons of God shout for joy.

Mr. President, I want to call to the attention of the Senate the definition of interest of consumers. This appears on pages 41 and 42 of the bill.

It says:

(10) "individual" means a natural person;

(11) "interest(s) of consumers" means the substantial concerns of consumers, related to any business, trade, commercial, or marketplace transaction, but not including Government sales to foreign governments, regarding—

(A) the safety, quality, purity, potency, healthfulness, durability, performance, repairability, effectiveness, dependability, availability, or cost of real or personal property, tangible or intangible goods, services, or credit;

(B) the preservation of consumer choice and a competitive market;

(C) the prevention of unfair or deceptive trade practices;

(D) the maintenance of truthfulness and fairness in the advertising, promotion, and sale by a producer, distributor, lender, retailer, or supplier of such property, goods, services, and credit;

(E) the availability of full, accurate, and clear information and warnings by a producer, distributor, lender, retailer, or supplier concerning such property, goods, services, and credit; and

(F) the protection of the legal rights and remedies of consumers;

Mr. President, stated broadly, under this provision of the bill the administrator can interject himself into every regulatory proceeding, can interject himself into every activity of any Federal agency, and can interject himself into the private affairs of every businessman in the United States by demanding of him information if he in his uncontrollable, unreviewable, and arbitrary discretion thinks that any of these matters affect a consumer's interest as defined in the provisions of the Act which I have just read. And that provision is without concern for every trade, every commercial enterprise, all of the goods, all of the land, and all of the services that are offered to all of the people of the United States.

I think this is contrary to the interests of the people. I think it would establish, if the provision is left in the bill, an uncontrollable administrator and would establish a government of one man over the economic freedoms of this country. It would abolish government of law. It would leave the matter in such a confused state that one could not even get a ladder high enough or a magnifying glass big enough or acute enough to measure the unrecorded notions in the head of whatever human being may be selected to be the consumer administrator.

Mr. President, I hope to speak further on this subject at a later date. At the present time I yield the floor to the distinguished Senator from Arkansas (Mr. McCLELLAN), who wishes to present a continuing resolution.

HOUSE JOINT RESOLUTION 1306—CONTINUING APPROPRIATIONS, 1973

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the continuing joint resolution (H.J. Res. 1306), and that the unfinished business be temporily laid aside.

The PRESIDING OFFICER. The clerk will report the joint resolution.

The legislative clerk read as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That clause (c) of section 102 of the joint resolution of July 1, 1972 (Public Law 92–334), as amended, is hereby further amended by striking out "September 30, 1972" and inserting in lieu thereof "October 14, 1972".

The PRESIDING OFFICER. Is there objection to the request of the Senator from Arkansas? The Chair hears none, and the Senate will proceed to the consideration of the joint resolution.

Mr. McCLELLAN. Mr. President, the Committee on Appropriations, at its meeting today, directed me, as chairman of the committee, to report to the Senate the continuing resolution upon its receipt from the House. House Joint Resolution 1306 passed the House of Representatives today. I report the resolution without amendment.

Senators are aware that the present continuing resolution expires at the close of business Saturday, September 30, 1972. The resolution, as it passed the House of Representatives, extends this date to October 14, 1972. Should the Congress adjourn prior to October 14, 1972, the continuing resolution would expire on the date of the sine die adjournment of the second session of the 92d Congress by reason of an earlier amendment to the continuing resolution. However, I do not anticipate that adjournment sine die will occur in the interim between now and October 14.

Mr. President, there are 13 regular annual appropriation bills, and 10 of these bills have passed both the House of Representatives and the Senate. Eight of these bills have been signed into law, and a conference with the House on the State-Justice-Commerce appropriation bill will be held in the near future. The remaining three appropriation bills—the Department of Defense appropriation bill, the foreign operations appropriation bill, and the military construction appropriation bill—have passed the House of Representatives. The foreign operations appropriation bill was ordered reported to the Senate from the Committee on Appropriations today. It is expected that the Department of Defense appropriation bill will be reported to the Senate Friday of this week, and the military construction appropriation bill will be reported to the Senate next week.

There is one bill which was vetoed by the President—the Labor-HEW appropriation bill, H.R. 15417. The new Labor-HEW appropriation bill, H.R. 16654, has passed the House of Representatives and should be reported to the Senate next week.

That leaves one remaining appropriation bill for this session, the supplemental appropriation bill, fiscal year 1973. Some of the budget estimates for this bill were submitted by the President to the House of Representatives today, and, upon receipt of this bill from the House, it will be processed promptly by the Committee on Appropriations.

It is clear that this business which I have described cannot be handled prior to September 30 and, consequently, the continuing resolution should be extended.

I respectfully urge its adoption.

The PRESIDING OFFICER. The joint resolution is open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 1306) was ordered to a third reading, was read the third time, and passed.

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.

Mr. TALMADGE. Mr. President, the debate on S. 3970, the Consumer Protection Organization Act of 1972, has been very interesting, not to mention educational.

It has underscored the fact that one thing is certain: Consumer interests must be represented and that representation should be more visible. Of course, the question is whether this legislation addresses itself to these needs and whether the solutions it offers are appropriate. While the debate has been interesting and educational, it has, in many ways, raised more questions than it has answered. As we learn more of this bill and the problems it seeks to solve and the wrongs which it seeks to rectify, the issues are not as cut and dried and the

answers are not as obvious as they once seemed to be.

I have supported, and expect to support in the future, legislation which will effectively protect consumers from fradulent practices in the marketplace, impure foods and drugs, defective machines, and other dangers with which we may be threatened. The Congress has enacted a great variety of laws and regulations limiting the ability of one man to prosper at the expense of another through unlawful means. The regulatory agencies—SEC, ICC, FTC, FPC, FCC, CAB, FDA, a whole alphabet of institutions—have come into being. The executive departments have likewise been given power to control private activities which might result in public harm. Furthermore, as we all know, consumers have become better educated and more sophisticated. As a result, today's businessman has at least four governors limiting what he can do in selling his product: His own conscience, his competition, his customers preferences, and his Government's rules and regulations. "Caveat emptor"—let the buyer beware—is no longer the rule of the market, has not been for decades, and will never be again, and rightly so I hasten to add. In this body, we are considering legislation to establish an independent Federal organization to represent and protect the interests of consumers. This is a noble purpose. No one can argue with its objective, but we have heard divergent opinions as to how that objective can best be accomplished.

On the one hand, the majority of the Committee on Government Operations, in its report, states as follows:

The bill reported by the committee is well balanced. It will advance the consumer interest without infringing on the legitimate interests of American business. It is aimed not only at providing effective consumer representation in government, but also at improving coordination and policy development in existing programs and strengthening state and local consumer protection efforts.

The jurisdiction of the CAP is necessarily broad, but its powers have been limited and confined to enable it to carry out the purposes for which it was established. The bill has been drafted to assure that the CPA will fit smoothly into the Federal administrative process. The funds authorized provide for a successful launching of the agency but allows no room for wasted manpower or effort.

Mr. President, no one could vote against a bill fitting that description. However, on the other hand, the distinguished chairman of the Committee on Government Operations, the Senator from North Carolina, describes the bill as follows:

I firmly believe that (S. 3970) and the mood it represents presents the basic issue to the United States Senate of how far we want to travel down the road to a totally federally compartmentalized and regulated society. To my mind, (S. 3970) is another major vehicle to allow over-zealous bureaucrats to slow down and impede action within our economic system. With new governmental delays and burdens on the production and development of products within our free enterprise system, I believe we are approaching a real danger point where our economic system, like a burned-out star, could cave in on itself.

This measure puts the Federal government directly into every transaction relating to goods or services consummated or contracted for anywhere in the United States of America. It proceeds on the idea that we must let the government do for the people what the people ought to do for themselves. It is premised on the idea that the people of the United States cannot manage their own affairs without government supervision. It proceeds on the idea that the people of the United States shall no longer be required to recognize their responsibility for the activities of their lives as one of the attributes of liberty.

In short, the bill is based on the theory that every businessman in the United States sits up all night scheming about how he can cheat his customers and that all consumers are a bunch of idiotic nitwits who ought to be put under bureaucratic guard because they can't manage their own affairs.

This bill is being pushed in the name of the consumer, but I can never forget that when the guillotine was about to behead a famous French lady during the French Revolution, she exclaimed, "O Liberty, how many crimes are committed in thy name." I want to say, "O Consumers, what crimes we are about to commit in your name."

Mr. President, no one could vote for a bill fitting that description.

Furthermore, there is some doubt in my mind as to whether the most basic authority of the Consumer Protection Agency is defined as clearly as one would desire. Apparently, it was intended that CPA be a nonregulatory agency since the committee report states as follows:

The committee distinguished two important kinds of consumer protection activities that a Federal agency could perform—regulatory and nonregulatory. Regulatory activities consist of setting and enforcing standards for the conduct of individuals and business entities. This involves, *inter alia*, premarket clearance of products (such as drugs by the FDA); the setting of rates or prices (such as ICC rate regulation), or case-by-case adjudication such as standards for deceptive trade practices before the FTC. Representation, on the other hand, is not a regulatory activity. It consists of presenting legal, economic, scientific, and other types of evidence to a decisionmaker, not of making the ultimate decision.

The committee believes that it would be a major mistake to combine in one consumer agency the functions of regulator and advocate. Accordingly, this legislation gives to the CPA no authority to make decisions concerning the relations between buyer and seller in the marketplace. The CPA has no authority to overrule the decisions of any other agency. It has no authority to alter any other agency's regulatory authority. It has no authority to initiate a judicial proceeding for the enforcement of any other agency's authority. The CPA is primarily an advocate.

The committee strongly believes that the CPA should be entirely nonregulatory. A regulatory agency must consider the entire public interest. It must make judgments by balancing one interest and one argument against another.

The committee does not intend to give the CPA the authority or the responsibility to weigh the interests of business against those of consumers or to decide what solutions are in the best interests of the public at large. Those decisions are regulatory decisions, and are properly made by regulatory agencies.

A consumer advocate, on the other hand, is not designed to be an impartial arbiter. In the same manner as a lawyer retained to represent the interests of a business before a regulatory agency, the CPA will represent the interests of consumers. The CPA is counsel for consumers, not a judge deciding cases. To give regulatory authority to such an agency would be clearly inappropriate.

Mr. President, I completely agree that the Consumer Protection Agency should not be a regulatory agency.

However, judging from the following statement of the distinguished chairman of the Committee on Government Operations, the Senator from North Carolina, the bill reported by his committee vests CPA with regulatory authority:

Section 203(a) of the bill authorizes the Agency to intervene in the more traditional structured proceedings conducted by Federal agencies. Under this section, in the more formalized "proceedings" of such "Federal agencies," consumer agents would enter as a matter of unchallengeable right and assign themselves whatever available participatory status they feel necessary to win the case—anything from submitting a written comment to full party status with the right to cross-examine other parties. See Sec. 203(a).

At present, the forum agency determines whom Congress intended to participate in their proceedings, and what status in those proceedings is warranted under the appropriate law.

The danger, of course, is that the proposed CPA "procedural" discretionary power is, in fact, substantive regulatory power in practice.

It is silly to say that the CPA will have no regulatory function if it is given the power to ask a court to revoke a broadcast license or ban a new drug contrary to the decision of the regulatory agency with primary jurisdiction. Consider how this will work in formal agency adjudications which, by present law, have to be decided upon the record developed during the administrative proceeding. For example, there is no doubt, under this bill, that the CPA could enter any unfair labor practice proceeding of the National Labor Relations Board merely by making the unchallengeable finding that such a proceeding "may" result in a substantial effect upon the interests of consumers in buying fairly priced goods or services. See Sec. 203(a).

Now protection of the interests of consumers may warrant intrusion by the CPA in such a case, but does it warrant full party status (if chosen by the CPA) equal to the labor union involved? That is not for us to determine under this bill, only the CPA.

The point is, the NLRB is required to make its decision on the record. If the Board must allow the CPA into a proceeding as a full party in situations where it would not do so under present law, the hearing record could be "stacked" by the CPA's tax-funded lawyers. And it is that very same hearing record upon which the tax-refunded courts would rely if the tax-funded CPA appeals the tax-funded NLRB decision.

It is for this reason and others that the Federal Trade Commission, no longer a slouch when it comes to consumer protection, opposes this bill's giving the CPA such rights to intrude in FTC adjudications. See letter from Chairman Miles Kirkpatrick on file with Committee on Government Operations.

I believe that the CPA's "procedural" discretion is, in fact, substantive regulatory power and it violates our wise governmental rule of having enforcement proceedings conducted by a single prosecutor. In part, this belief stems from the precept that one accused of wrongdoing be given a fair chance to defend. But it is grounded as well in sound theories of government; The law enforcement agency formulates its policies within broad objectives and brings its enforcement actions to implement specific goals. Its discretion in this regard and the control of its own proceedings should not be disturbed without good reason. There is no

need to sacrifice the teachings of our own experience where the Agency may appear without party status and make its presence felt.

Mr. President, I reiterate that I agree that CPA should not be a regulatory agency, and I hope that S. 3970 will be perfected in such a way as to carry out the intended denial of regulatory authority.

Mr. President, I am also very interested in those provisions of S. 3790 which will permit the Consumer Protection Agency to take other Federal agencies to court. As I understand this legislation, the CPA may appear in Federal courts to secure judicial review or to intervene as of right in civil proceedings involving the review or enforcement of a Federal agency action which may substantially affect the interests of consumers. The majority report of the Committee on Government Operations justifies this grant of authority as follows:

This subsection grants standing to the Administrator to obtain judicial review of any Federal agency action reviewable under law if he participated or intervened in the Federal agency proceeding or activity out of which such action arose. Where the Administrator intervened as a party, he would have such standing under existing law. The bill grants him standing where he participated as well.

This grant of standing is consistent with the committee's concept of the Administrator's exercise of authority under the subsection requiring the Administrator to refrain from intervening unless such intervention is necessary in order to protect the interests of consumers. That subsection encourages the Administrator, wherever feasible, to participate in a manner short of intervention. The committee believes that it would compromise this principle if the Administrator were to be given standing only where he had intervened. If such were the case, the Administrator would be encouraged to intervene, rather than merely to participate, in order to preserve his right to judicial review.

The committee has therefore given the Administrator standing to obtain judicial review both where he intervened at the agency level and where he only participated. This subsection makes similar provisions for the Administrator's authority to intervene as of right in any civil proceeding involving the review or enforcement of a Federal agency action.

The Administrator will have the right to intervene in Federal court cases involving the enforcement, as well as the review, of Federal agency actions. Many Federal agencies have the authority to issue orders such as cease and desist orders, seizures of adulterated foods, or fines—but must go to court to obtain enforcement of these orders. Such cases often involve the interpretation of basic agency statutory authority or rules and challenges to the validity of agency action. They are an important form of administration lawmaking. Accordingly, the bill grants the Administrator authority to intervene and participate in them.

This bill permits the Administrator to intervene in these enforcement proceedings. It does not permit him to initiate enforcement actions. The committee does not contemplate the Administrator's intervention where his proofs and arguments merely duplicate those of the agency. The committee recognized, however, that in some cases the Administrator might wish to argue for a different interpretation of a statute or agency rule which has an important effect on the interests of consumers.

The language in the committee report is somewhat reassuring, but I am troubled with the possibility that the Consumer Protection Agency's power to challenge other Federal agencies in court will result in judicial distortion and overthrow of the laws passed by Congress, a point made by the distinguished chairman of the Government Operations Committee, the Senator from North Carolina:

Under this bill, Congress will be conferring upon the CPA legislative "standing" to take other Federal agencies to court. Standing to sue or appeal, heretofore, was a judicial conclusion based upon the facts and the law in each case.

Our overburdened Federal courts, if this bill is enacted, will now be faced with a docket full of U.S. v. U.S. cases where a Federal agency endowed by Congress with the automatic right to sue to protect the "interests of consumers" is challenging another Federal agency endowed by Congress to take action in the "public interest."

This will mean, of course, that the courts will not be able to trust in Congressional judgment and give great weight to agency expertise. The courts will have to become, in a great many cases, administrative agencies themselves to decide de novo the issues when the "Government" comes to them speaking with two voices.

The distinguished chairman then proceeds to illustrate this important point:

For example, in a recent case of considerable concern in consumer circles, the Food and Drug Administration decided after extensive hearings that peanut butter should contain at least 90 percent peanuts, otherwise it must be labeled imitation peanut butter.

Some consumer groups were satisfied, others wanted a higher percentage. Manufacturers, most of whom produced peanut butter with less than 90 percent peanuts, wanted less, pointing to the fact that consumers liked the taste of their products and considered them peanut butter.

Now suppose the CPA were involved in this case and it challenged in court, as a congressionally mandated expert, the expertise of FDA. Which expert should the court give weight to?

The answer is that the court must go into the record itself to find out which side is right. In effect, the court must hold judicial peanut butter hearings, thus the court could become enmeshed in the type of judicial situation which was supposed to be avoided by Congressional creation of an administrative process.

Some may point to this example and say, quite rightly, that the consumer groups and manufacturers involved could have appealed.

In point of fact, this FDA peanut butter decision was appealed by the manufacturing interests. The courts denied their pleas.

Some may ask, therefore, why not give the CPA the same rights as the manufacturer? The answer is fundamental to our form of government, but a point that has been too often overlooked in considering this bill.

It is one thing to point at the actions of private special interest representatives, be they manufacturers, consumers or environmentalists, in challenging their government in court. That is their right, a right to be cherished.

It is an entirely different thing to confuse that private right with the congressionally mandated duty of Federal agencies to protect the rights of the public.

In cases of special interests challenging governmental actions which affect them, the government often, if not usually, prevails. In cases of government versus government—as proposed in this bill—the government, by definition, always loses. And that loss, if it could have been prevented, means a failing of Congress.

Such internecine warfare indicates not a perfecting furtherance of the governmental process, as in the case of a special interest standing up for its rights, but a breakdown in the government, a house divided which must rely upon the Judicial branch to administer the laws.

This distinction between private rights and public duties is sometimes hard to perceive. Perhaps an analogy to the Judicial branch might make clear this distortion of lawyer-client relationship.

Suppose I were to introduce a bill allowing the judges of any Federal Court of Appeals—not the parties before the court—to intervene in the proceedings of any other Federal Court of Appeals to protect consumer interests, and where the intervening judge disagreed with the decision of the forum judge, to appeal that decision to the Supreme Court as any adversely affected party could.

To assure passage of this bill, I would call it the "Consumer Interest Protection Organization Act," fill it chock full of legal rights that only a handful of lawyers would understand, have Ralph Nader demand the resignation of Chief Justice Warren Burger, and delay progress of the bill until an election year.

To be sure, a small handful of reactionaries might try to argue that intervention by one Federal judge into the responsibilities that we pay another Federal judge to perform is a waste of taxpayers' money, dangerous to our government, and would produce coercion and chaos in our court system.

These arguments easily could be overcome by pointing out that the bill would only provide for procedural not substantive or regulatory rights, that it only would be allowing governmental officials to do better what private citizens could do, and, most important, the arguments of these reactionaries could be totally discounted because they represent special interest groups with less voting power than the larger consumer special interest group.

Because I was concerned with the ramifications of granting a newly created, untried Federal agency with the sweeping power to challenge other Federal agencies in court for practically any reason that the mind of man can conceive, I supported the so-called amicus amendment. This amendment would allow the Consumer Protection Agency to participate in any of the deliberations subject to advocacy under the bill reported by the Committee on Government Operations, those of administrative agencies and courts at Federal, State, and local levels.

However, the amendment would provide the Consumer Protection Agency with a status consistent with that of a Federal agency, not that of a party opponent, in such deliberations.

The Consumer Protection Agency, under the amicus amendment, would act as a congressional delegate to forcefully assist—not oppose—current agencies in giving the interests of consumers appropriate consideration and to identify areas in need of restructuring or additional consumer advocacy power.

The Consumer Protection Agency, under this amendment, would first be allowed to comment in writing or orally in any Federal proceeding or activity of its choice. It would do this, however, in much the same manner as an amicus curiate, instructing the agency or court

on the appropriate law and advocating a position favorable to the interests of consumers.

Second, administrative forums, prior to taking action resulting from a deliberation in which the Consumer Protection Agency appeared, would have been required to give the consumer agents an opportunity to review and comment upon all submitted data, views and arguments upon which the forum agency would make a decision.

Third, if the forum agency still proposed to take final action that in the opinion of the consumer agents was inconsistent with the interests of consumers, the Consumer Protection Agency would have an unchallengeable right to invoke that forum's provisions providing for an administrative rehearing or reconsideration.

The amicus amendment, therefore, attempted to perfect the administrative process, rather than subvert it in the Judicial Branch, forcing Federal judges to make public policy.

I also voted for the amicus approach with the view that this would be a trial period approach. Had the amendment been adopted, it was expected that the Consumer Protection Agency would shortly return to Congress and ask for more power if needed to deal with specific problems. At such time, the Consumer Protection Agency not only would be able to describe these areas of need, but also to suggest appropriate procedures for implementing the new powers.

Mr. President, I regret that the Senate rejected the so-called amicus amendment. I hope that this body will have the opportunity to vote on other amendments incorporating that approach. I believe that if this bill were so amended, it would pass the Senate by an overwhelming margin, and such a measure would, indeed, be landmark legislation in the area of consumer protection.

However, this bill by no means would be the first effort on the part of Congress to prevent consumers from being exposed to unsafe products and fraudulent business practices. For example, on July 21, 1972, the Senate considered at great length S. 3419, a bill to protect consumers against unreasonable risks of injury from hazardous products, and for other purposes.

In his opening statement, the distinguished Senator from Washington, the chairman of the Committee on Commerce, stated that that bill "would usher in a new era in product safety—an era in which Government, industry, and the consumers would work together to assure the safety and efficacy of our foods, drugs, and other products. The bill grants the Federal Government the authority to move decisively against any unsafe product in the marketplace. It also grants the consumer the right to cause such Government movement when the Government fails to act."

Mr. President, I supported that bill and voted for its passage; and, I might add, I yield to no man in my efforts to provide consumers with the representation and the protection they need in the marketplace.

In 1957, my first year in the Senate, the Senate Committee on Agriculture, of which I am now chairman, approved legislation for the continuous Federal inspection of poultry and poultry products in interstate commerce. The distinguished Senator from Minnesota (Mr. HUMPHREY) introduced a similar bill. The distinguished Senator from Vermont (Mr. AIKEN) introduced a similar bill. The late, distinguished chairman of the Committee on Agriculture and Forestry, Senator Allen Ellender, appointed an ad hoc subcommittee consisting of Senator AIKEN, Senator HUMPHREY, and myself, and we wrote the mandatory inspection law that is the law today. This law succeeded a voluntary program that had been put into operation by the Department of Agriculture some 28 years before.

In 1967, the Committee on Agriculture and Forestry approved the Wholesome Meat Act which updated meat inspection laws to provide additionally that all meat and meat products moving in intrastate commerce must be subjected to Federal inspection or State inspection at least equal to the Federal.

In 1968, the Committee on Agriculture and Forestry approved the Wholesome Poultry Products Act which updated those laws, and in 1970 the Committee on Agriculture and Forestry approved the Eggs Products Inspection Act, which assured consumers that eggs and egg products distributed to them and used in products consumed by them would be wholesome, not otherwise adulterated, and properly labeled and packaged.

The 1946 Marketing Act, among other things, provided for national uniform standards of quality for agricultural products to be applied to specific lots of products to promote confidence, reduce hazards in marketing, encourage better preparation for uniform quality products for market, and furnish consumers with more definite information on the quality of products they buy. These standards are applied by or under the supervision of Federal employees of the Department of Agriculture.

Just yesterday, this body by a vote of 71 to 0 passed the pesticide bill which originated in the Committee on Agriculture and Forestry and which will protect those who utilize these hazardous materials and protect consumers from any hazards that the products may create.

We will hold a conference with the other body tomorrow morning at 10 a.m. on that legislation to resolve our differences and, hopefully, we will pass the conference report in the next few days.

Since 1935, the Committee on Agriculture and Forestry has been involved in furthering the interests of farmers, consumers, and the Nation in programs designed to assure an abundance of food and fiber at fair and reasonable prices. Through this encouragement, farmers and the food industry have combined to make it possible for consumers to enjoy the widest variety and the most wholesome and healthful food in the world. Today, farmers feed over 50 million more persons in this country than they did just 20 years ago. Despite this, consumers are now required to devote less of their income for a wider variety and higher quality food than ever before. The Committee on Agriculture and Forestry has long been involved in efforts to provide for and protect all of the people of this Nation, long before the present general interest in preservation of our environment, the conservation of our resources, and the protection of consumers became popular issues.

In this regard, Mr. President, let me hasten to add that our continuing efforts to protect the consumer public must not trample the farmer, the producer of our Nation's food and fiber. In helping the consumer, we must not add credence to the myth that the American farmer's interest and the American consumer's interest are incompatible.

A farmer has to plant, tend, and harvest his crops before he markets them; and before he plants, tends, and harvests, in many cases, he must make decisions critical to him and his family as to what will be selling for what prices and what credit is needed. Delays and court appeals in agricultural marketing orders could bring financial ruin to the doorstep of every farmhouse in a marketing order area. Unless appropriate safeguards are written into S. 3970, overzealous consumer protection agents could exercise coercive power which could result in economic chaos for the farmer. The CPA may not ever have to appeal a decision to the courts; the mere threat of such action would appear sufficient to coerce a USDA decision that is satisfactory to the CPA's discretionary judgment but certainly not satisfactory to the farmer or his interests.

Obviously, Mr. President, I am particularly worried about one area of high visibility and high misunderstanding among consumers and those who profess to represent them. That has to do with the theory held in many quarters that the farmer is the enemy of the consumer and that the Department of Agriculture is the cause of the high prices which housewives have to pay for their food and fiber. Let us not forget that last year the average American family spent only 16.7 percent of its income to buy the best food available in the world, compared to 25 percent in Europe and 50 percent in the Soviet Union for considerably less. Also, let us not forget that the farmers' average income is 24 percent below the median of all other segments of the Nation's productive force.

Mr. President, my point is that neither the American consumer nor the family farmer can afford a broadside attack on our Nation's agricultural programs. I hope that this point will not be lost on the sponsors of this legislation and those who will be charged with carrying out Congress' mandate.

I shall continue to follow debate on S. 3970 with much interest. Much hard work has gone into the preparation of this bill and proposed amendments. It is worthy of in-depth consideration by this body.

Mr. ERVIN. Mr. President, will the

distinguished Senator yield for a question?

Mr. TALMADGE. I gladly yield to my distinguished friend from North Carolina.

Mr. ERVIN. Does not the Senator from Georgia construe this bill to provide that the determination of the administrator that a consumer interest is involved in a case that has gone into a Federal court from a regulatory agency is an unreviewable decision?

Mr. TALMADGE. I do.

Mr. ERVIN. In other words, the administrator, if this bill were enacted, would be given the statutory authority to interject himself into an action in the Federal court reviewing a Federal regulatory agency decision, and the court would be powerless to prevent him from offering evidence or arguing the case, even though the court might say that the basis which he gives for his opinion that a consumer interest is involved is totally without foundation?

Mr. TALMADGE. I agree fully with the Senator. What we would have under this bill, as I construe it, would be, on the one hand, a Federal agency set up by Congress to perform a certain function which serves the national interest. In its area of jurisdiction, it would make decisions which would serve the national interest. On the other hand, the Consumer Protection Agency could come in, meddle at its discretion with the proceedings of that agency, and say, "Oh, no, your decision is wrong; I am going to take you into court." The CPA could then drag that agency into a court which would ultimately make the decision in the matter instead of the agency which Congress set up in the first place for the purpose of making such decisions.

Mr. ERVIN. And that is true notwithstanding the fact that after the decision by the regulatory agency, the regulatory agency and the individuals who are parties to the proceeding may be satisfied that the decision of the regulatory agency was correct?

Mr. TALMADGE. That is correct.

Mr. ERVIN. I thank the Senator.

Mr. TALMADGE. It is very unusual that this bill, as I understand it, operates under the premise that every agency and all the individuals in the Government are corrupt in performing their duties. Under the bill's rationale, we need a super Federal agency that will be incorruptible, one that will attend to the interests of the consumers of this country in an incorruptible manner, and one that will supersede all other agencies that are corrupt and negligent in their duties.

Mr. ERVIN. And does it not proceed on the theory that this consumer agency is going to have the power to persuade the other agencies that they are corrupt and ought to listen to its advice, instead of taking their own knowledge and experience?

Mr. TALMADGE. That is correct. Furthermore, if the Administrator fails to convince them, he can drag them into court. The result could be one agency of the U.S. Government litigating with another agency of the U.S. Government.

Mr. ERVIN. And the poor consumer will be paying lawyer fees and court costs on both sides.

Mr. TALMADGE. In every instance. He will be paying the fees of the lawyers and the salaries of all the Federal agents involved, not to mention those of the court that would be the final umpire in the controversy.

Mr. President, I yield the floor.

Mr. RIBICOFF. Mr. President, we are being told, at exhaustive length, that S. 3970 is a terribly controversial bill that will do all kinds of harm to business and government alike; and because of this that the Senate should be prevented from even voting on the measure.

I would like to point out, however, that this is not the first time this bill has been before the Senate. In 1970, a bill that was virtually the same as S. 3970 was passed by the Senate 74 to 4. There are, of course, some differences. This year's bill for example, is more carefully drafted; it incorporates many more safeguards that will protect business and administrative agencies than did the 1970 bill; and it has already received the endorsement of one of the largest businesses in America, Montgomery Ward's, which has never been known to endorse irresponsible consumer legislation.

The Senate should have a chance to vote on S. 3970. We have other legislation to consider, and it is late in the session. The longer we spend talking about this bill, the less time we will have to consider other important legislation. The sooner we vote, the more time we will have to consider that legislation.

A large majority of the Senate favors enactment of S. 3970. But both those in favor and those opposed should have a chance to vote.

I believe it will be instructive to the entire Senate to place in the RECORD a copy of the vote on final passage of the 1970 bill to establish a consumer protection agency.

The Senators who supported the measure at that time at least have the responsibility of doing what they can to assure that the Senate will once again have the opportunity to express its will on this measure.

I ask unanimous consent that the result of the vote on S. 4459 that took place on December 1, 1970, be inserted in the RECORD at this point.

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

[No. 407 Leg.]

YEAS—74

Aiken, Allott, Anderson, Baker, Bible, Boggs, Brooke, Burdick, Byrd, Va., Byrd, W. Va., Cannon, Case, Cook, Cooper, Cotton, Cranston, Curtis, Dole, Fannin, Fong, Fulbright, Goodell, Gore, Griffin, Gurney.

Hansen, Harris, Hart, Hollings, Hhruska, Hughes, Inouye, Jackson, Javits, Jordan, N.C., Jordan, Idaho, Kennedy, Long, Magnuson, Mansfield, Mathias, McGee, McGovern, McIntyre, Metcalf, Miller, Mondale, Moss, Murphy, Muskie.

Nelson, Packwood, Pastore, Pearson, Percy, Prouty, Proxmire, Randolph, Ribicoff, Saxbe, Schweiker, Scott, Smith, Sparkman, Spong, Stevenson, Symington, Talmadge, Tydings, Williams, N.J., Williams, Del., Yarborough, Young, N. Dak., Young, Ohio.

NAYS—4

Allen, Ellender, Ervin, Holland.

NOT VOTING—22

Bayh, Bellmon, Bennett, Church, Dodd, Dominick, Eagleton, Eastland, Goldwater, Gravel, Hartke, Hatfield, McCarthy, McClellan, Montoya, Mundt, Pell, Russell, Stennis, Stevens, Thurmond, Tower.

QUORUM CALL

Mr. HRUSKA. Mr. President, because of commitments to other Members of this body, I suggest the absence of a quorum and ask unanimous consent that it be called without my losing the right to the floor.

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

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. HRUSKA. Mr. President, I yield briefly to the deputy majority leader for an announcement or two with reference to the program for this afternoon.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Nebraska.

ORDER FOR CONSIDERATION OF RIVER AND HARBORS BILL—S. 4018

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at no later than 5 p.m. today, the unfinished business be temporarily laid aside and that the Senate proceed at that time to the consideration of S. 4018, with the unfinished business to remain in a temporarily laid aside status until the close of business today.

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

ORDER FOR CONSIDERATION OF SOCIAL SECURITY AMENDMENTS OF 1972 TOMORROW MORNING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, at the conclusion of the routine morning business, the Senate resume the consideration of H.R. 1 and that the unfinished business be then temporarily laid aside and remain in a temporarily laid-aside status until an hour tomorrow to be determined by the distinguished majority leader or his designee.

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

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, there is a time limitation agreement on the Rivers and Harbors bill. Therefore, there is a good possibility that there will be at least one rollcall vote today on that bill and possibly rollcall votes on amendments thereto.

Mr. President, I thank the Senator from Nebraska for yielding.

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.

Mr. HRUSKA. Mr. President, I rise in support of the amendment which has been proposed by the Senator from North Carolina. I also rise in opposition to the bill before us in its present form.

The purpose of the pending amendment was well outlined by the Senator from North Carolina, and it would not be my purpose to expand upon it until a little later in my remarks.

The bill before us, however, does vest in the administrator of the Consumer Protection Agency vast powers. They are powers of great discretion and they are powers of wide scope and variety. Most of the area in which he is empowered and delegated to act in this bill is covered by other agencies of the Government—some of them regulatory bodies, some of them being departments of various Cabinet level and Cabinet nature.

It is thought, however, by the authors and the proponents of the bill before us that the administrator should be possessed of these powers, because apparently they are not taking care of their delegated duties sufficiently well. Hence, we have the creation of the commission and also of the powers vested in it and in the administrator.

The thrust of the amendment before us, as I understand amendment No. 1541, is to create in some person aggrieved by a violation or threatened violation of the law the power to bring a civil action against the administrator.

Mr. President, without an attempt at facetiousness, I suppose the situation could be somewhat described by the title of an old song which was current many years ago, and perhaps in terms of decades:

Who will take care of the caretaker's daughter when the caretaker is busy taking care?

We have the caretaker in the form of many regulatory bodies and we have the caretaker in the form of many departments in the Cabinet, and the administrator is appointed as a caretaker for the caretaker.

The Senator from North Carolina seeks to get an amendment into the bill which will have a caretaker over the caretaker of the caretaker, and I suppose we could go on ad infinitum. However, I will leave the arguments in greater detail on this amendment to the Senator from North Carolina beyond what I have just engaged in at the present time.

At the very outset, Mr. President, let me express my great concern and interest in the well being of the consumer.

The title of the pending bill, S. 3970, reads:

A bill 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.

This Senator's record in connection with the best interests of the consumer, I submit, has been a long one and one that has been pursued with a great deal of diligence and high interest in a number of areas. Certainly, the membership of this Senator upon the Subcommittee on Antitrust and Monopoly of the Senate Committee on the Judiciary is such an activity, a membership on that committee which this Senator has enjoyed now for some 15 years. In a series of substantive measures having in mind the advancement and the progress and the well being of the consumer, this Senator has not been found wanting.

In the area of the National Committee on Food Marketing, the better part of 3 years was taken in pursuing a monumental investigation having to do with the well-being of the consumer in the world of food. The report of that national commission is a long one. It is very comprehensive and I am certain that in it the members of that commission—including this Senator, who was a member of it—demonstrated every consideration for the consumer. But just because a particular measure is designated as one designed to protect and serve the interests of consumers is no warranty, nor any guarantee, that it will so serve the interests of the consumers. The label of a measure is not determinative of what it will do and how well it will serve or effectuate its declared purposes.

For that reason it is necessary to engage in an analysis and an examination of its provisions so that we can find out just where it proposes to go, what it proposes to do, and how it will get to its destination.

Mr. President, one of the important issues that is raised by our consideration of S. 3970, the Consumer Protection Organization Act of 1972, and one which is not receiving much attention in the debate is the question of how the proposed Consumer Protection Agency—CPA—would fit into our system of independent regulatory agencies. I propose at this juncture to discuss that subject.

In the last 75 or 85 years there has been a growing up in this country of a very comprehensive system of law based upon the creation and the functioning of regulatory bodies. These regulatory bodies have a definite purpose. There was a definite reason they were created and certainly that was true in the original instance when the Interstate Commerce Commission was established and created back in 1880.

Congress was confronted, it felt, by the necessity of taking some steps to regulate the rates of common carriers and, more particularly of the railroads. Congress felt it was called upon to regulate in greater or lesser degree in regard to some of the services rendered by the railroads, and in particular some of the services not rendered by them.

This Congress, as an institution, did set out some guidelines. But realizing the impossibility of an intelligent, well informed basis for its decisions in the myriad of cases which would arise in these fields, a commission was set up, the Interstate Commerce Commission, and to it was given a mandate, a mandate for the public interest and convenience, and as an extension substantially of the legislative powers possessed by Congress, a delegation of power. The Commission was authorized to hold hearings, to take evidence and formulate rules of procedure and regulations for the common carriers engaged in hauling goods and passengers, and for the purpose of making decisions, handling and prosecuting appeals, if necessary, through the court and a variety of other means.

As a result of the functioning of the Interstate Commerce Commission and other regulatory bodies which were formed and established by law in later years, a vast body of law has developed in the respective areas in which these respective commissions have functioned, a vast body of substantive law and also a vast body of adjective law. There have been many statutes enacted and many rules formulated and put into operation, having the full effect of law. Many regulations have been formulated and adopted and have been applied to common carriers and all the other industries to which these commissions address themselves.

There have been decisions by these regulatory bodies, and also by the courts, which were petitioned in an appellate role to act upon the many decisions that would emanate from the regulatory bodies, and a vast body of law has grown up in the field of the separation of powers and constitutional law.

The bill we are discussing here, S. 3970, goes far beyond regulatory agencies as we know them. With minor exceptions, all entities covered by the word "agency" in the bill are those which are defined in the Administrative Procedures Act, plus a few specific express exemptions which we find in the confines of the present bill.

The purpose of my remarks will be directed chiefly to the impact of S. 3970 on the regulatory bodies, like the ICC, the Food and Drug Administration, the Federal Communications Commission, the Federal Power Commission, the Securities and Exchange Commission, the Civil Aeronautics Board, the Federal Aeronautics Administration, the Packers and Stockyards Act, and others, including, of course, the Federal Trade Commission. My discussion will be along the lines of the impact of the pending bill upon the mission of these regulatory bodies and their procedures and functions, and their role in protecting consumer interests and other interests, including the public interest, and the over-all interest of this Nation which, of course, is much larger in scope than merely the interest of the consumer because however important the consumer is, and he is important—there being 210 million consumers in this country—but however important he is, the fact is that there are additional and even higher interests than that because certainly the general public interest does surpass it.

Those thoughts are uttered without in any way seeking to derogate from the importance and vital need of taking care of many of the things which are bothering and troubling consumers today. We find ourselves at this juncture in connection with the role of these regulatory agencies. The pending bill constitutes a potential and highly likely source and cause of disruption in this vast and complicated system of law, procedure, and jurisprudence which has grown up as a result of the creation of these regulatory bodies.

A new Consumer Protection Agency which this measure would create would be entitled as a matter of right, to intervene with respect to any issue affecting the—nondefined—interests of consumers in any Agency proceeding as a party to represent the interests of consumers and subsequently to bring a proceeding in an appropriate court of the United States for review of the Agency action in order to represent the interests of consumers in the United States generally or of any group or class of consumers.

Clearly, then, the bill involves both judicial and semijudicial proceedings and should be properly referred to the Senate Committee on the Judiciary for hearings or such other action as the committee deems proper, because this bill that pends in this body had been referred to the Committee on Government Operations, but it has many aspects involving judicial proceedings as well as substantive law, adjective law, as well in the field of courts. To illustrate let me outline the following provisions of the bill:

First. Those provisions would create substantial confusion in the entire field of administrative law;

Second. These provisions would overthrow well established case law, including U.S. Supreme Court decisions;

Third. These provisions would saddle already overcrowded Federal courts with the burden of having to make findings they may either not be equipped or reluctant to make;

Fourth. These provisions would give unprecedented authority to a newly created Consumer Protection Agency.

Fifth. These provisions would have courts second-guess what is in the interest of the consuming public while, under well-established principles of administrative law, the courts would be compelled to refrain from second-guessing Agency determinations of what is in the public interest.

Sixth. The sixth point is that the provisions will destroy the entire concept of special expertise of Federal agencies which need, and have developed, special expertise, including the protection of consumer interests, in various specialized fields such as aviation, communications, unfair trade practices, ratemaking, transportation, the market for securities and atomic energy, food, agricultural products, and a host of other fields.

Seventh. These provisions in the pending bill presume that the Consumer Protection Agency could develop the abovementioned expertise in a large number of highly technical and specialized fields which would be a virtual impossibility.

Eighth. Amount to an unconstitutional delegation of legislative authority because Congress cannot abdicate its legislative function and confer carte blanche authority on the Consumer Protection Agency without circumscribing that power in some intelligible manner.

Well established case law amply supports a number of fundamental conclusions with which we should be concerned in regard to the debate in which we are engaged:

First. If the factual findings of an administrative agency "have the support of substantial evidence, then the courts must accept them and consider their legal effect with the benefit of the Administrative Agency's administrative experience."

That is the nub of the case of *Montgomery Ward & Co.* v. *Federal Trade Commission*, decided in 1967, in 379 Fed. 2d.

Second. The second fundamental proposition and conclusion is that the specialized administrative agencies, within the fields of their particular expertise, are the ones that speak in the "public interest" which includes, of course, the "consumer's interest." As stated by the U.S. Supreme Court in *American Airlines* v. *North American Airlines*, 351 U.S. 79, 85 (1956), "we the courts do not sit to determine independently what is the public interest in matters of this kind, committed as they are to the judgment of Administrative Agencies," in this case, the Civil Aeronautics Board.

Third. A third fundamental conclusion is that there is no doubt that administrative agencies charged with the responsibility of considering the "public interest," when making determinations to this effect, must view their determination in the light of the interests of consumers. The U.S. Supreme Court, in *Securities and Exchange Commission* v. *Chenery Corporation*, 332 U.S. 194, 208 (1946), held that—

> The "fair and equitable" rule of § 11(e) of the Public Utility Holding Company Act and the standard of what is "detrimental to the public interest or the interest of investors or consumers" under § 7(d)(6) and § 7(e) were inserted by the framers of the Act in order that the Commission might have broad powers to protect the interests at stake.

Fourth. A fourth conclusion is that it is not necessary for a court, to sustain the order of an administrative agency, that there be a showing of actual deception of the public; the likelihood of the public's being misled suffices. *Pep Boys-Manny, Moe & Jack, Inc.*, v. *F.T.C.*, 122 F. 2d 158, 161 (3rd Cir. 1941). Such likelihood may properly be determined by the Administrative Agency without testimony from consumers themselves.

Certainly, this conclusion is one which is far reaching in the very field and goes in the very direction which the pending bill declares within its language.

A fifth conclusion is that an "aggrieved party" or a representative of an aggrieved class of persons or any organization financed to represent such persons, is under existing law not precluded from intervening and participating in proceedings before any particular administrative agency. In fact, most of the enabling statutes of administrative agencies specifically provide that an "interested party" can intervene in any agency proceeding. This is particularly true where the determination of a particular administrative agency may have a substantial effect on matters of public interest.

A sixth conclusion is that there is—in the words of the Supreme Court of the United States—a simple but fundamental rule of administrative law.

> That rule is to the effect that a reviewing court, in dealing with a determination or judgment which an administrative agency alone is authorized to make, must judge the propriety of such action solely by the grounds invoked by the agency. If those grounds are inadequate or improper, the court is powerless to affirm the administrative action by substituting what it considers to be a more adequate or proper basis. To do so would propel the court into the domain which Congress has set aside exclusively for the administrative agency.

The citation for that is the case of Securities and Exchange Commission against Chenery Corp., decided in 1946. In that case, as I remember it, it was Justice Murphy who wrote the opinion and Justice Jackson who wrote the dissenting opinion.

A seventh conclusion is that, as far as administrative agency determinations of what is in the "public interest" are concerned, which interest includes that of consumers, the courts "have no authority to determine what is in the public interest, except negatively in the sense of insuring that the administrative agency does not attempt to use its powers to vindicate private rights."

That is a quotation from Montgomery Ward & Co. against Federal Trade Commission.

The courts, according to the American Airlines against North American Airlines:

> Decide only whether, in determining what is in the public interest, the [Administrative Agency] has stayed within its jurisdiction and applied criteria appropriate to that determination.

In that same case, the U.S. Supreme Court held with respect to the Civil Aeronautics Board:

> Considerations of the high standards required of common carriers in dealing with the public, convenience of the traveling public, speed and efficiency in air transport, and protection of reliance on a carrier's equipment, are all criteria which the Board in its judgment may properly employ to determine whether the public interest justified use of its powers. *Ibid.*

Thus, the courts will not interfere "except where the remedy selected by an Administrative Agency has no reasonable relation to the unlawful practices found to exist." *F.T.C.* v. *Colgate-Palmolive Company*, 380 U.S. 374, 395 (1965).

Mr. President, in a little while I shall refer again to some of the every far-reaching provisions of the bill pending before us now, which will upset this entire concept of the law as it applies to regulatory agencies and, on the basis of the product of a single committee of the Senate, without reference of that very

important measure to the Committee on the Judiciary of this body, these provisions have been adopted, without consideration, in my judgment, of many of the far-reaching implications and the disruptive influences which will be set loose if we do enact into law S. 3970.

The eighth fundamental conclusion is this: The courts have traditionally deferred to the expertise of administrative agencies in a specialized field and refuse to upset administrative agency determination of what is in the public, including the consumer public's interest. In the words of the U.S. Court of Appeals for the 7th Circuit in *Niresk Industries, Inc.* v. *F.T.C.*, 278 F. 2nd 337, 341:

> The Commission, as other administrative agencies, occupies a unique position which was unknown to common law jurisprudence. The Commission wears all of the hats involved in proceedings instituted under its authority. It is, at once, the accuser, the prosecutor, the judge and the jury. The wide scope of its discretion in the resolution of questions within its realm is founded and sustained by the courts upon the fact that its jurisdiction exists in a specialized field, wherein expertise is felt to be a necessity.

This major premise, Mr. President, would be upset, and badly upset and disturbed, by the vesting in the Commission under S. 3970, or in its Administrator, the vast powers of intervention and of action in litigation in the courts, within the regulatory bodies, and within almost any department of the U.S. Government, set out in the text of the bill.

A final point is this: Finally, it must be emphasized that if S. 3970 is passed it would be vulnerable to an attack of being unconstitutional.

This is an argument commonly made, Mr. President, in the case of many bills considered by this body, as well as by the other body. Normally it is reserved for measures which are of far-reaching, innovative, and fundamental nature, S. 3970 is such a measure, and it does get into an area where considerations of constitutionality are very valid and very vital. It is vulnerable to attack as being unconstitutional because it would be based upon an unconstitutional delegation of legislative power to the Director of the Consumer Protective Agency. The declared purpose of the bill is "to protect and serve the interests of the consumers of goods and services." It authorizes the Director to intervene in any Federal administrative proceeding whenever "he finds" that the Agency's determination "is likely to affect substantially the interests of consumers." Although the bill defines the term "consumer" as meaning "any person who is offered or supplied goods or services for personal, family, or household purposes," it has failed to state what conditions must exist before the Director can intervene in a Federal administrative proceeding. In other words, the term "interests of the consumers" has to be more clearly defined in order that the courts and the public can determine whether the Director has acted within the framework of his authority. This conclusion is supported by many cases, and has been applied in many situations. One, which I now refer to and read from, it is the opinion in the case of *Star-Kist Foods, Inc.* v. *United States*, 275 F. 2d 472 (C.C.P.A., 1959), wherein the court states:

> A constitutional delegation of powers requires that Congress enunciate a policy or objective or give reasons for seeking the aid of the [Executive Branch]. In addition, the act must specify when the powers conferred may be utilized by establishing a standard or "intelligible principle" which is sufficient to make it clear when action is proper. And because Congress cannot abdicate its legislative function and confer carte blanche authority on the [Executive Branch], it must circumscribe that power in some manner. 275 F. 2d at 480.

Therefore, before the Director of the Consumer Protection Agency can constitutionally exercise his authority pursuant to the act, there must be a sufficient standard "which confines his discretion and which will guarantee that any authorized action he takes will tend to promote rather than flout the legislative purpose." Id. 275 F. 2d at 480.

Mr. President, another example of that which occurs to the memory of this Senator was the decision of the Supreme Court on the constitutionality of a measure giving virtually unlimited, undefined, and undescribed rights to the Secretary of State and the State Department to issue or deny passports. The Supreme Court held there that in the absence of something to go by as a basis for their actions, that was an unconstitutional delegation of power. In other words, that statute failed to establish a standard or intelligible principle which would be sufficient to make it clear when their action was proper and when it was not. In almost every instance in which a Federal statute has been under attack on constitutional grounds, the courts have carefully examined the statute to determine whether there has been a proper delegation of legislative authority by Congress. On this point, Chief Justice Hughes, in *Panama Refining Co.* v. *Ryan*, 293 U.S. 388, 79 L. Ed. 446, 456, a leading case in this field, decided in 1934, stated among other things:

> We look to the statute to see whether the Congress has declared a policy with respect to that subject; whether the Congress has set up a standard for [Executive Branch] action; whether the Congress has required any finding by the [Executive Branch] in the exercise of the authority to enact the prohibition.

Thus, in applying that principle to the Consumer Protection Organization Act of 1972, one can only conclude that the act is an unconstitutional delegation of legislative powers to the Director. As stated previously, before the Director could intervene in a particular administrative proceeding involving the interests of consumers, he would have to find that the Agency's determination would have a substantial effect on the interests of consumers. Yet, after reviewing the bill for the standards which the Director is to employ in determining when an Agency's action would substantially affect the interests of consumers, the provisions of S. 3970 yield entirely and solely to the discretion of the Director. This is highly improper. On this point it was stated by the Supreme Court in the case of *Hampton, Jr. & Co.* v. *United States*, 276 U.S. 394, 48 S. Ct. 348, 72 L. Ed. 624, 629 (1927), that—

> The true distinction, therefore, is between the delegation of power to make the law, which necessarily involves a discretion as what it shall be, and conferring an authority or discretion as to its execution, to be exercised under and pursuance of the law. The first cannot be done; to the latter no valid objection can be made.

Therefore, unless the bill specifically states what conditions must exist before the Director can intervene in an administrative proceeding, then it is clearly an unconstitutional delegation of legislative authority.

CONCLUSIONS

Application to S. 3970 of the aforementioned fundamental principles of administrative and constitutional law—which are rooted in the basic concepts of government by separation of powers, proper delegation of legislative powers and judicial self-restraint—clearly compels the following conclusions:

First. The bill, if enacted, would confer on inadequately defined "consumer interests" a right to judicial review. The "public interest," a well-defined, broader and superior "interest," does not now, and will not under S. 1177, enjoy such a right.

Second. The interests of consumers are presently adequately protected by the enabling statutes of existing administrative agencies, not only because those agencies are required by law to consider consumer interests but also because consumers and consumer organizations can, under appropriate circumstances, intervene in Agency proceedings as "interested" or "aggrieved" parties.

Third. Administrative agencies can presently act on behalf of consumers without testimony by consumers themselves, if there is a likelihood that the "public interest" will be adversely affected because the consuming public may be misled.

Fourth. The already-cluttered Federal courts, which have traditionally exercised judicial self-restraint in reviewing Agency determinations of the "public interest," will now be required to second-guess Agency determinations but only insofar as inadequately defined "consumer interests" are concerned. The courts are ill-equipped and reluctant to become the final arbitrators of every issue in this country that may affect the consuming public.

Fifth. Since the courts have traditionally deferred to the expertise of administrative agencies in specialized and highly technical fields, it is more than unlikely that either the Consumer Protection Agency or the courts will ever have the necessary expertise better to protect consumer interests in fields where existing Federal agencies, charged with that responsibility, have developed that expertise.

Sixth. The bill contains no intelligible and well-defined framework within which the Consumer Protection Agency could exercise its ingenuity to protect the consuming public. Rather, it leaves the development of that framework to the unfettered discretion of the Agency. This constitutes an abdication of legisla-

tive responsibility and an improper delegation of legislative authority. The bill is thus more than vulnerable to attack on constitutional grounds.

Mr. President, I refer once again to the suggestions made earlier in my statement and in the opening portions thereof, that a vast body of law, of procedures, and of precedents, both substantive and adjective, has developed in the last 75 years in this broader field of public interest which includes what is greater than merely consumer interest. That body of law has been statute law which has been in the formation and the application of rules having force and effect of law and of regulations by each of the many regulatory bodies in its respective and particular field, in case law, in decisions—many of them emanating from the Supreme Court—and in the development and the application of principles of administrative law. Involved are the delegation of legislative powers, the separation of powers, and principles of constitutional law.

Along comes S. 3970, and, speaking from the vantage point and on behalf, allegedly, of the well-being of the consumer, says that all this body of law, all these things that have developed over the last 75 years or more in this field of regulatory body, will be subordinated to the powers and the discretions and many of the actions of the Administrator of the Consumer Protection Agency.

It is for this reason that a very good case could be made for reference of this bill to the Committee on the Judiciary. I shall not make such a motion at this time, but a good case could be made for the reference of legislation of this character to the Committee on the Judiciary, so that the items to which I have called the attention of the Senate could be studied properly and a report could be made thereon.

Mr. President, because of the unanimous-consent agreement entered into a little earlier, to lay aside the pending measure temporarily in order to take up other proposed legislation, I yield the floor at this time.

PUBLIC WORKS ON RIVERS AND HARBORS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate the rivers and harbors bill, in accordance with the order previously entered.

The PRESIDING OFFICER. The Senate will proceed to the consideration of S. 4018, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 4018) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

Mr. ROBERT C. BYRD. I yield myself 1 minute from the time allotted to the able senior Senator from West Virginia (Mr. RANDOLPH) on the bill.

Mr. President, at the request of the distinguished senior Senator from West Virginia, the manager of the bill, I ask unanimous consent that the following members of the staff of the Committee on Public Works be permitted in the Chamber during the debate on S. 4018: John Purinton, Barry Meyer, John Yago, Bailey Guard, Richard Herrod, and Miss Ann Brown.

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

Mr. ROBERT C. BYRD. I yield.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that Mr. Calloway and Mr. Ellis, of my staff, have the privilege of the floor.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a quorum call, the time to be equally charged against both sides on the bill.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, I yield myself 1 minute from the time allotted to the senior Senator from West Virginia (Mr. RANDOLPH) on the bill.

ORDER FOR ADJOURNMENT TO 8:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 8:30 a.m. tomorrow morning.

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

ORDER FOR RECOGNITION OF SENATORS FANNIN, HART, MAGNUSON, CRANSTON, MOSS, WILLIAMS, SYMINGTON, AND TUNNEY TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, following the recognition of the two leaders under the standing order tomorrow, the following Senators be recognized, each for not to exceed 15 minutes, and in the order stated:

Senators FANNIN, HART, MAGNUSON, CRANSTON, MOSS, WILLIAMS, SYMINGTON, and TUNNEY.

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

ORDER FOR RECOGNITION OF SENATOR ROBERT C. BYRD TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, at the conclusion of the aforementioned orders tomorrow, the junior Senator from West Virginia (Mr. ROBERT C. BYRD) be recognized for not to exceed 10 minutes.

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

ORDER FOR RECOGNITION OF SENATOR SCOTT TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, following the remarks of the junior Senator from West Virginia (Mr. ROBERT C. BYRD) tomorrow, the distinguished Republican leader, the Senator from Pennsylvania (Mr. SCOTT), be recognized for not to exceed 15 minutes.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the orders for the recognition of Senators tomorrow, there be a period for the transaction of routine morning business, for not to exceed 15 minutes, with statements therein limited to 3 minutes.

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

PUBLIC WORKS ON RIVERS AND HARBORS

The Senate continued with the consideration of the bill (S. 4018) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally charged against both sides on the bill.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. RANDOLPH. Mr. President, what is the business pending before the Senate?

The PRESIDING OFFICER. The business pending is S. 4018.

Mr. RANDOLPH. I inquire, simply for the purposes of the record, what is the time limitation?

The PRESIDING OFFICER. Time on the bill is 2 hours with 30 minutes on amendments.

Mr. RANDOLPH. I thank the Presiding Officer.

Mr. President, I yield to myself such time as I may desire.

The PRESIDING OFFICER. How much time does the Senator yield to himself?

Mr. RANDOLPH. If I have to put a time limitation on it, I will say 15 minutes.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 15 minutes.

Mr. RANDOLPH. Mr. President, I am

gratified to join my able colleague from Kentucky (Mr. COOPER) who is the ranking minority member of the Committee on Public Works, as well as other members of the committee, in bringing to the Senate S. 4018, a measure which has received the most careful consideration in the Subcommittee on Rivers and Harbors and Flood Control, through extensive hearings, and full consideration by the membership of the full committee.

Mr. President, prominent among America's major natural assets are our abundant supplies of water to be utilized not for a few of our citizens, but for people generally throughout the United States.

I want to emphasize that, in a modest way, the Federal Government in 1824 took its first steps forward to develop water resources and to use them for the benefit of the people; for commerce, yes; and for business, yes—thinking in terms of the waterways as important sinews of the strength of the economy of the United States.

In many ways since that date, we, in diverse programs, have developed our water resources. We have a network today, as the distinguished Senator from Arkansas (Mr. MCCLELLAN) well understands. He has known and participated in this program. The Senator from Louisiana (Mrs. EDWARDS) is a member of the Public Works Committee and cognizant of the waterways in that State. All of us understand the strength of our waterways system. We have, of course, hydroelectric projects providing power for our people.

I emphasize this point, Mr. President, because West Virginia is a State dependent for so much of its economy on coal. I recall when I voted for a project for hydroelectric power in the Northwest, that famous Hanford project. And I hope that it can be said today in truth that I attempt to look at the country as a whole and the value of the projects, regardless of the areas of the country and the types of projects involved.

In this legislation we have attempted to think in terms of the projects that benefit the community, as we develop the water supply projects sponsored by the Federal Government.

Our people are intensely interested in and dependent on protection from the ravages of floods. As the result, we have made increasing efforts to control waters that very often run wild. But we are thinking today in several levels—about the strength of our waters, the supply of our waters, not only of clean waters, but also of water today that must be clean for use in the plants and factories of our country.

I hope that in a very few days we will complete action on the amendments to the Clean Water Act. So we have a complexity today that we did not have 15, 20, or 30 years ago. This is one phase of our water resources development program that we address ourselves to this afternoon. It is an effort to direct our water resources for the benefit of most of the people in the United States of America. This Rivers and Harbors Flood-Control Act of 1972 has the endorsement of our committee, and I hope, the support of the Senate, as we authorize a wide variety of projects.

We make several changes, to be true, in the basic law that governs the planning, and the execution of water resources development activities. We conducted 12 days of hearings in the subcommittee, chaired by the Senator from North Carolina (Mr. JORDAN), who is unavoidably absent today, but is representing the Senate in another assignment. Testimony was heard from many interests. The public was heard. Members of Congress, speaking for their constituencies, were heard. Witnesses included, of course, Federal Government representatives and the official spokesmen of the States. Then at the local level we were most interested in hearing from people, from individual citizens and, of course, from responsible organizations.

We have had monetary considerations, as the Senator from Kentucky and I know, in connection with this legislation. In S. 4018 the total this year in new money that would be authorized is $546,022,300. This sum is comparable with the cost of other recent legislation of this type that has been presented to the Senate. There are two parts to the bill. Title I includes navigation projects, and these are very important to the country, costing $17,525,900.

Then we have another category addressing a problem which increasingly must be met as we consider beach erosion damage in this country. So for beach erosion control projects, we have in this legislation included $3 million of authorization.

For flood control and multiple-purpose projects, we believe an authorization in title II of $525,469,000 will adequately meet the needs at the present time.

There are five projects related to something we do not hear much about in the consideration of such a bill. I refer to navigational improvements. The bill authorizes a project in North Carolina and South Carolina, for example, on the Little River Inlet, at a cost of $6,271,000, which will improve access and eliminate hazardous navigation conditions.

I think it is appropriate, with the Senator from Texas (Mr. BENTSEN) in the Presiding Officer's chair at this time, to mention that project at Galveston Bay, which would be modified at at cost of $2,302,000. We call it the Texas City Channel project. This was a matter that was discussed thoroughly within the subcommittee.

The channel of the Kansas River in Kansas City, Kans., would be lengthened to make it adequate for present and expected barge traffic. The Federal share is estimated at $3,082,900.

We move then from the Texas project to a project in the heartland of America. Then we move into Alaska and tell Members of the Senate of the Hoonah Harbor program, consisting of improvements to reduce the impact on the harbor of deep water waves and winter ice. This project of necessity costs money, and we have programed it for an authorization of $3,710,000.

Another project would authorize the improvement of another Alaskan facility at Metlakatla Harbor. It would expand the present inadequate harbor so as to accommodate more shipping, a greater number of vessels.

I mention now, because the able Senator from New York (Mr. JAVITS) is on the floor, that within a bill of this kind it is important, as I indicated earlier, that we think in terms of beach erosion control. We have a project authorized on the northern shore of Long Island, in Suffolk County, N.Y. We propose Federal expenditures of $3 million there to alleviate erosion conditions in the area of Sunken Meadow State Park and Callahan's Beach.

So there are many facets of this legislation. Title II authorizes 23 flood control and multiple-purpose projects. These projects, together with the Federal expenditures are shown in the table which I now ask unanimous consent to have printed in the RECORD.

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

Flood control projects

Project:	*Federal cost of new work*
Potomac River Basin, Md. & Va.	$65,050,000
Santee River Basin, N.C.–S.C.	58,565,000
Middle Atlantic Coastal Area, Va.	17,010,000
James River Basin, Bueno Vista, Va.	11,539,000
Roaring River, North Carolina	10,758,000
Pocatalico River, W. Va.	7,545,400
Salt River Basin, Campground, Ky.	50,800,000
Licking River, Falmouth, Ky.	6,300,000
West Tennessee Tributaries, Tenn.	6,600,000
Perry County Drainage Districts No. 1, 2, & 3, Mo.	2,698,000
Cache River Basin, Ark.	5,232,000
Pascaqoula River, Miss.	32,410,000
Pearl River, Miss.	38,146,000
Mississippi River at Praire du Chien, Wis.	2,300,000
Des Moines River	76,000
Spring River, Mo.	14,600,000
Grand River Basin, Mo.	28,620,000
Great Lakes, Point Place, Ohio	960,000
Beals Creek, Tex.	2,526,000
Peyton Creek, Tex.	8,490,000
Blanco River, Tex.	42,271,000
South Umpqua River, Oreg.	113,000,000

Mr. RANDOLPH. Mr. President, we have important projects in Virginia and Maryland, and we are thinking in terms of the problems of the Potomac River and its tributaries, which are largely uncontrolled. There are great fluctuations in the flow of the river that are critically important to the National Capital area.

Mr. President, do I have time remaining on my 15 minutes?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. RANDOLPH. I thank the Presiding Officer.

One of the major authorizations of this title involves the construction of two dams in the Potomac River Basin. These projects were authorized by the Senate in the 1970 act, but were not included in the conference report on flood control—rivers and harbors that year. The projects involved are the Verona Dam on the Middle River in Virginia and the Sixes Bridge Dam on the Monocacy River in Maryland.

The Potomac River and its tributaries are largely uncontrolled. As a result there are great fluctuations in the flow of the river that are of particularly critical importance to the Washington, D.C. metropolitan area, much of which depends on the Potomac for its public water supply.

The Washington area is the fastest growing metropolitan region in the United States. It, therefore, must have a source of water supply that is not totally dependent upon the capriciousness of nature. There have been occasions in recent years when the flow in the Potomac River was dangerously low. Studies by the Corps of Engineers indicate that these conditions are likely to recur with increasing severity as the demand for water grows. The possibility of water shortages and curtailment of water use in our National Capital can be avoided only if we act to provide the facilities for storage and regulation of streamflow.

In addition to the water supply needs of the Washington area, a number of communities upstream on the Potomac and its tributaries are troubled by flood conditions. The Verona and Sixes Bridges projects authorized in this bill would help to alleviate flooding in Virginia, Maryland, and West Virginia.

The Federal cost of the Sixes Bridge project is estimated at $30,700,000, and of the Verona project at $34,350,000.

Both of these projects are consistent with extensive studies that have been made throughout the Potomac Basin. Their impact would be felt throughout a significant portion of the basin, not only through assurance of water supplies, but because of their flood control and recreational benefits.

Mr. President, I believe it is extremely important that these two projects be authorized this year so we may begin without further delay to provide the kind of stabilized stream-flow conditions that are necessary on the Potomac River.

The bill also authorizes a major project on the Broad River in North Carolina and South Carolina in the construction of the Clinchfield Dam and Lake. This project, estimated to cost $58.5 million would provide flood control, water supply, water quality and recreational benefits throughout a wide area, as well as enhance the economic development potential of the region.

Two major projects are authorized by this bill in the State of Kentucky. First is the Camp Ground Lake on Beech Fork in the Salt River Basin. Once again a major concern in this area is flooding with damaging and threatening floods occurring about once a year. The area is intensively farmed and there are a number of small communities for which flooding is a constant danger. The project is very desirable to reduce this threat of flooding and to help facilitate the further economic improvement of the region.

The ranking minority member of the committee (Mr. COOPER) addressed himself to these matters before the committee. The Senator from Kentucky may discuss this matter further.

This legislation also authorizes the establishment of the Big South Fork National River and Recreational Area. This major facility would stretch from the Cumberland Plateau in Tennessee to Lake Cumberland in Kentucky. The establishment of the Big South Fork area has been a matter of particular concern to the ranking minority member of the Committee on Public Works (Mr. COOPER) and the Senator from Tennessee (Mr. BAKER). Both have studied its potential thoroughly and strongly supported it during committee development of this bill. The area would comprise approximately 125,000 acres and would be a major stimulus to increased employment and economic growth in the two-State region.

S. 4018 also authorizes two important projects for Missouri. The largest of these is the Pattonsburg Lake project on the Grand River near Gallatin, Mo. The bill modifies the existing authorization to permit the inclusion of hydroelectric generating facilities.

Also authorized for Missouri is the construction of a multipurpose lake on Center Creek near Joplin, at a Federal cost of $14.6 million. This is an urgently needed facility to help control flooding along the Spring River which causes damage to eight urban centers, as well as to farms and public facilities. In addition, it would help provide local water supplies and recreational opportunities.

The largest single authorization in the bill is that for the construction of the Days Creek Dam and Lake on the South Umpqua River near Days Creek, Oreg. This installation, estimated to cost $113 million, is intended to serve a number of purposes, principally flood control during the winter and water supply during the low flow season in the summer.

Mr. President, I call attention to portions of S. 4018 that directly concern my State, but also relate to similar situations throughout the country. I refer to the serious erosion along the banks of the Ohio River, one of the major waterways of the United States and an important commercial artery for a heavily industrialized area covering several States.

On July 7, 1972, I visited New Martinsville, W. Va., to inspect the severe damage caused by the rapidly wearing away of the Ohio River's shores. I was accompanied on this trip by Lt. Gen. Frederick J. Clarke, Chief of the Army Corps of Engineers, which is carrying out an extensive program of modernizing navigational facilities along the Ohio River. Erosion conditions are serious not only at New Martinsville, but throughout the length of the Ohio River. Similar situations, I am told, exist on streams throughout the United States.

Arresting streambank erosion is a difficult and expensive task. It is one that requires additional study and research if we are to find an effective means of protecting many river bank communities from incursions by rivers. To facilitate and improve our knowledge about this problem, I sponsored provisions in this bill, S. 4018, which authorizes an intensive study of streambank erosion along the Ohio River, between Chester and Kenova, W. Va. Included in this project is authority for demonstration projects to help develop new techniques for erosion control.

It is my intention that out of this study will grow new and improved techniques that can be applied elsewhere where streambank erosion poses a constant threat to the homes and jobs of millions of people.

Related to this section is another provision of the bill which increases the general authority of the Corps of Engineers to initiate and carry out streambank erosion control projects. The Corps of Engineers would be authorized to carry out projects with the Federal cost of up to $250,000 each, on its own initiative, with a total annual expenditure limitation of $5 million. Both of these figures are increases with the present single project limitation being $50,000, and the annual ceiling $1 million.

A serious water supply problem in West Virginia would be greatly alleviated by the Pocatalico River Basin project authorized in this bill. Streams in the Pocatalico River Basin are utilized as sources of water supply for a number of communities and the present quantity of water is inadequate for this purpose. There is also periodic flooding as well as erosion. Some of the communities which rely on the Pocatalico water supply are in the suburban area of the city of Charleston, and are growing residential communities. Water problems in these communities have caused great concern to residents for a number of years.

The project authorized in this bill would cost $3.7 million and includes the construction of two multipurpose dams and extensive land-treatment activities in the basin.

In another area of southern West Virginia, flooding conditions occur far too frequently along the Guyandotte River. Part of this problem in this mountainous region is the inability of the river to accommodate increased flows. Consequently, this bill authorizes $2 million to be used for cleaning and dredging of the Guyandotte. This is an interim measure intended to provide relief until completion in 1974 of the R. D. Bailey Lake project upstream of the affected area. This major facility should prevent the recurrence of downstream flooding conditions such as those that now exist. The R. D. Bailey project is of particular interest to my West Virginia colleague (Mr. ROBERT C. BYRD), its early advocate and principal sponsor.

The Tug Fork Valley of West Virginia is another area that has suffered from chronic and frequent flooding. Flood protection facilities are urgently needed and such work was authorized by the 1970 Flood Control Act. This work was authorized subject to the approval of the Appalachian Regional Commission and the President. This approval, however, has not been forthcoming and the residents of the valley, particularly in the communities of Williamson and Matewan, continue to suffer. The principal problem in this project is one of cost-benefit justification. The urgent need for these

facilities authorized by the 1970 act, however, is so great that the committee decided that they should be provided regardless of the economics involved. This bill, therefore, removes the requirement for approval of the Appalachian Regional Commission and the President. This action should permit the Tug Fork Valley projects to proceed to remove the continuous danger of flooding.

In the same general area, communities in both Kentucky and West Virginia rely on a dam on the Big Sandy River, located near Fort Gay, W. Va., for local water supplies. In 1965 this dam was authorized to be turned over to the local authorities. S. 4018 authorizes the Corps of Engineers to do necessary repair work on this dam to place it in good condition and preventing its collapse.

Throughout the development of these West Virginia projects, I have been in frequent contact with Senator ROBERT C. BYRD. He knows well the importance of water resource improvements and has contributed significantly to this legislation to better our State.

In addition to individual projects, this bill makes several changes in the basic law under which the Corps of Engineers conducts flood control and river and harbor projects.

Principal among these is an increase from $1 million to $2 million in the size of small flood control projects that the Corps of Engineers can undertake without specific congressional authorization. The total for all of these type projects is also increased from $25 million to $50 million annually. The increase is needed because of higher construction costs since the establishment of the existing limits. While the Corps may undertake these small projects without congressional authority, the committee has asked that it be formally notified of each such project and be kept informed as to the small projects program.

There is a situation not addressed in this bill that continues to cause great concern to the committee and remains unresolved. We are disturbed by proposals made last year by the Water Resources Council that would greatly impair our ability to develop water resource projects. This situation is ironically the result of a series of events intended to improve the procedures whereby proposed projects are judged. Unfortunately, however, the results intended by the Congress have not come to pass. The River and Harbor Act of 1970 provides a four-account system for evaluating projects. These include the effect of projects on: first, national income; second, regional development; third, environmental quality; and fourth, social well-being of the people. The Council's proposal published in the Federal Register on December 21, 1971, gives full consideration to the first and third of these items but weakens the second—regional development—and totally ignores the fourth—social well-being of the people.

The Council's proposed new evaluation standards also include a change in the discount rate of interest which is used to measure the economic feasibility of projects. The result would be a higher interest rate based on the cost of borrowing money on the open market. In simple terms, this procedure would deny funds for water resource projects if those funds could earn more money invested in private enterprises.

This is an irrational approach that treats water resources as simply another commodity on the marketplace. It fails to recognize that there is no alternative to a national program for water resource development, and ignores the water needs of the country.

The new principles and standards have not been finally promulgated by the Water Resources Council. I hope that the Council is conducting a thorough review of these proposals in light of their shortcomings that I have just discussed. With water becoming an increasingly precious commodity in many sections of our rapidly urbanizing country, it is essential that we do not put roadblocks in the path of efforts to effective utilize our water supplies.

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

Mr. RANDOLPH. I yield.

Mr. BAYH. Mr. President, I wish to add my congratulations and I wish particularly to commend the Senator for the Shoreline Erosion Control Demonstration Act of 1972, which is part of the pending legislation. I fully support this effort to develop means to combat shoreline erosion. I am glad to see that under section 103(c)(3) at least one of the demonstration projects must be located at a site on the Great Lakes.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. RANDOLPH. I yield myself 3 additional minutes.

Mr. BAYH. I am sure the Senator is familiar with the situation we have in Indiana where we have the famous Dunes National Lakeshore Park. Most of it is situated between a harbor in Michigan City and the Burns Harbor at Portage, Ind. Because of the breakwater in Michigan City there has been a tremendous shoreline erosion problem. The problem is so serious that I fear irreparable damage is being done to the shoreline and the dunes in the park. This park provides a much-needed recreation area of great ecological value to millions of citizens.

I want to ask the chairman if this is the kind of situation where a shoreline erosion demonstration project would deserve the most serious study and would be undertaken under the erosion demostration project provisions of the bill.

Mr. RANDOLPH. Yes, under the demonstration projects we would have that situation studied. It has peculiar strength because it is on public property, and I think it is a type program in which a demonstration or pilot project can prove important, not only to that area but to helping solve problems in other areas of the country later.

I commend the Senator for his interest in the subject.

Mr. BAYH. I thank the distinguished chairman and I express my hope and anticipation that a shoreline erosion control demonstration project will be undertaken at the Indiana Dunes National Lakeshore. There is rather conclusive evidence that the erosion is directly related to the construction of the breakwater adjacent to the port facility at Michigan City in which the Federal Government was involved. Thus, we have not only erosion, but also it ties into Federal construction, which to my mind is an additional reason for selection of this site.

Mr. RANDOLPH. Yes. The Senator's point is valid. I appreciate his comment in reference to this area.

Mr. BAYH. I appreciate the thoughtfulness of the Senator from West Virginia.

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

Mr. RANDOLPH. I yield to my friend from Georgia.

Mr. TALMADGE. Mr. President, the distinguished chairman of the committee will recall that I, with the cosponsorship of both Senators from South Carolina and my colleague from Georgia, have offered a bill, S. 2347, to name the Trotters Shoals Dam and Reservoir that lies between Georgia and South Carolina after our late colleague, Senator Richard Brevard Russell. I discussed that matter with the able chairman several months ago. He indicated his strong interest in commemorating Senator Russell in a similar manner.

Would the chairman advise me of the status of that project at the present time?

Mr. RANDOLPH. The chairman wants to be very candid and speak always as the record indicates he should. I do remember what the able Senator from Georgia said. We gave the name of our former distinguished colleague from Georgia, Mr. Russell, to a very important building. That would not mitigate against another project, of course, carrying his name.

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

Mr. RANDOLPH. I yield myself an additional 3 minutes.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. RANDOLPH. We would, of course, be receptive to a project of this kind and I would have no objection if the Senator wishes to offer a proposal.

Mr. TALMADGE. I appreciate that very much. If the Senator will permit me, I will offer such an amendment shortly.

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

Mr. RANDOLPH. I yield.

Mr. JAVITS. I was very grateful for what the Senator said about beach erosion projects. I especially wish to thank the committee members, the Senator from Kentucky (Mr. COOPER), and the Senator from West Virginia (Mr. RANDOLPH) for their consideration of the project in New York.

It will be recalled that the law passed in 1970 provided for Federal participation in the cost of projects providing hurricane protection, in the discretion of the Secretary of the Army, and so on, for not more than 70 percent of the total cost exclusive of the land costs.

We had a very bad experience with respect to hurricane protection and

beach erosion and the effort of the corps to place a quantum of each in the mixed projects, which caused us, for all practical purposes, to have no benefit of the 70-percent provision at all. We complained about it bitterly, and it blocked many projects which were otherwise desirable. The committee now has absolutely clarified the matter, so that it now becomes "significant hurricane protection."

As we understand, if a project has "significant hurricane protection," whatever else it may have, and it is publicly owned property, then the Federal participation is 70 percent, and there is no longer any question about allocation or anything else. The one-shot test is "significant hurricane protection."

If my understanding of that is correct, I think it simplifies matters and will tremendously encourage, in the interest of the United States as well as my own State, projects of this character.

Mr. RANDOLPH. Mr. President, do I have additional time?

The PRESIDING OFFICER. The Senator from West Virginia has 31 minutes remaining.

Mr. RANDOLPH. I yield myself 2 additional minutes.

In response to the very helpful observation of the Senator from New York, I do recall his intense interest in this subject. As he has noted, in section 226(b) we do use the language that he has indicated, "providing significant hurricane protection shall be, for publicly owned property, 70 per centum of the total cost exclusive of land costs."

We think that this is a fair percentage, and we appreciate the Senator's interest in bringing it to our attention in the past and his support of the provision in the bill today.

Mr. JAVITS. And does the chairman accept what I understand it to mean, which means that it is a one shot test? The test is that the whole project, whatever else may be in it, gives "significant hurricane protection"?

Mr. RANDOLPH. That is correct.

Mr. JAVITS. I thank my colleague very much. He is most helpful.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. COOPER. Mr. President, I promised to yield 2 minutes to the Senator from Oregon (Mr. HATFIELD), but before I do so, I wish to make a brief statement.

The chairman of the Public Works Committee, the distinguished Senator from West Virginia (Mr. RANDOLPH), who has served so long and so capably in this position, has outlined very clearly and succinctly the work of the committee.

Before I make a short statement on the bill before us, I would like to say that I have now served for 14 years as the ranking Republican member of the subcommittee, as well as the full committee, under the leadership of Senator RANDOLPH, and I do not recall a happier time in my service here than to be in the company of the Senator, who has been always so fair—to the minority as well as to the majority, equally toward all of us—and who has listened to each of our pleas and every one of our requests with courtesy and with justice.

I may say also for the committee as a whole, those who served in the past and those who serve with us now, whether it was in the field of rivers and harbors, highways, economic and regional development, or the very serious questions, air and water pollution, we have enjoyed remarkable cooperation with each other, sharp debate, full attendance at our meetings, and remarkable work by the staffs on both sides. The work of Senator BOGGS, who will be the ranking member next year, of Senators BAKER and DOLE, each ranking on their subcommittees, and the contributions of Senators BUCKLEY and STAFFORD as newer but active Members, has been outstanding.

I wanted to make this statement because this may be the last bill—perhaps there will be one other—that I shall have a part in managing on the floor of the Senate.

I would like also to recall the work of others on the Appropriations Committee on these projects—the great Senator from Louisiana, the late Allen Ellender, who was patient as chairman of the Appropriations Subcommittee on Public Works, hearing literally thousands of witnesses. He gave them all the satisfaction that they had had their day in court, and had been heard.

That tradition, of course, has been followed and that task taken up by the distinguished Senator from Mississippi (Mr. STENNIS) and his colleague, the distinguished Senator from North Dakota (Mr. YOUNG).

We often hear criticisms of the programs of the Corps of Engineers. I would like to say, for the benefit of the Senate and the people we represent, that the civil works program, while it is executed by the Corps of Engineers, is primarily under the jurisdiction of the Congress of the United States. The Corps of Engineers faithfully carries out the directions and orders of the Committees on Public Works and the Congress itself—and always, in my judgment, faithfully, with great competence, and with great technical skill. Coming from the Army of the United States at West Point, as do many of the corps officers, they show their great devotion to duty and to their country. We should recall that the jurisdiction of the Corps of Engineers embraces the works for improving rivers, lakes, coastal areas, and harbors of the United States in the interest of navigation, flood control, hydroelectric power development, water supply, pollution abatement, recreation, beach erosion control, and other allied water purposes. Much of this work has been carried on for over 145 years since the first appropriation by Congress in 1824. In the river and harbor and flood control legislation since that time Congress has delineated the policies, prescribed the procedures and authorized the water resources developments which constitute the present civil works program, and has delegated to the Corps of Engineers the duty of planning, providing, and administering the works involved therein.

Just a personal comment, to give my own experience: I look back to 1947, when I entered the Senate for the first time. My State of Kentucky is blessed with rivers and waterways. It always surprises many to know that, with the exception of Alaska, it is the best watered State in the Union. It has more miles of navigable rivers than any other State in the Union with the exception of Alaska. That is primarily because in the 1820's and 1830's the legislature of Kentucky furnished money to build locks and dams which made not only the Ohio but the Big Sandy, the Kentucky, and the Green River navigable.

I can remember when the steamboats came up the Cumberland River to Burnside, Ky., 6 miles below where I lived. But when I came to the Senate there was only one reservoir in Kentucky, and it was built by the Tennessee Valley Authority. Every year when the rivers and waters from the surrounding hills flowed down, they inundated the valleys below them and destroyed land, natural resources, and human life, year after year.

I am happy to say that today every one of the major rivers in Kentucky have been harnessed. There is still work to be done, but who would say that it was not a proper work, and a humanitarian work, for the Corps of Engineers to perform? And work of that character has occurred all over this land.

We hear today a great deal about the environment, and we are all very much much interested in it. Our Committee on Public Works, with the present occupant of the chair, Mr. BENTSEN, and our new Member, the Senator from Louisiana (Mrs. EDWARDS) actively participating so well with the Senator from Maine (Mr. MUSKIE), the Senators from Delaware and Tennessee (Mr. BOGGS and Mr. BAKER), the Senator from West Virginia (Mr. RANDOLPH), and all the Members, have given great attention to environmental protection measures and have developed major legislation in this field which will have lasting effect.

But do not forget, it was only a few years ago that recurrent floods threatened this Nation of ours—and they still do—and we faced the question of whether there would be enough water to provide for this country's needs. There would not be enough water, except for the work of the Corps of Engineers and the foresight of Congress.

Mr. President, I wanted to say that, from deep feeling and from my experience. Now, if I may continue a few moments, I will address myself briefly, as I have always done, to the Kentucky projects which are included in the committee bill:

First, I am glad that the proposed Camp Ground Lake, a part of the Salt River Basin, Ky., project has been included in the bill reported by the committee. Damaging or threatening floods occur in the Salt River Basin about once a year. A number of small communities are subject to at least partial inundation. The proposed dam, with an estimated Federal cost of $50.8 million, will provide flood control benefits for hundreds of homes and thousands of acres of fertile farm land. There is also a need for water quality control storage, water-oriented recreational opportunities, and future water supply in the basin. The average annual flood damages to the region are estimated at $775,000 under existing conditions is estimated that an-

nual recreation visitation to the area will average 1,728,000 initially and that it will ultimately reach 3,496,000.

Second, on March 14, 1972, Senators BAKER and BROCK of Tennessee, Senator COOK of Kentucky, and I introduced S. 3349, a bill to authorize the establishment of the Big South Fork National River and Recreation Area in the States of Kentucky and Tennessee.

Hearings were held on this bill, both in Washington and Whitley City, Ky., at which testimony was received from the Corps of Engineers, the Forest Service of the Department of Agriculture and the Bureau of Outdoor Recreation of the Department of the Interior, and also other interested local citizens and conservation groups.

The plan encompasses about 30,000 acres in McCreary County, Ky.—of which nearly half is already national forest land—and approximately 90,000 acres to be located in Tennessee. It was delineated to include the areas of greatest beauty and natural value, and at the same time affecting as few families as possible. We are very happy that S. 3349, as modified after our hearings, has been included as a provision of this bill.

Third, section 209 of the committee bill would change the effective date of section 221 of the Flood Control Act of 1970 from January 1, 1972, to January 1, 1974. This section requires that, prior to commencement of construction, the non-Federal interests enter into an enforceable contract with the Secretary of the Army to perform the required items of local cooperation. Recently, four recreation development contracts were returned to the State of Kentucky as not meeting the requirements of section 221, because the obligation to repay was made conditional on the future appropriation of funds by the State. An opinion of the attorney general of Kentucky states that this section may be in violation of the Kentucky constitution, as they cannot authorize the creation of obligations against future revenues. Other States are also affected by this provision. This change in the effective date will permit construction to go forward on projects that might otherwise be stopped.

Finally, I am happy that the committee included an authorization for the Falmouth local protection project which is an alternative to the Falmouth Dam and Reservoir authorized by the Flood Control Act approved June 28, 1938. That project was inactive until 1964 following the serious flood at Falmouth, the county seat of Pendleton County, Ky., when it was reactivated. Planning funds for the large multipurpose reservoir have been appropriated beginning in 1970, but the project has been controversial and the subject of opposition as well as strong support. It has been questioned before the Appropriations Committee each year, because of the large proportion of recreation benefits, among other reasons, and concern has been expressed in testimony and in reports of the Senate Committee on Appropriations about the amount of land that would be taken—35,000 to 40,000 acres in an area that includes some of the best Kentucky farmland east of the Bluegrass. Although displaced farm families would receive relocation payments, it appears doubtful they would be able to compete for high-priced land in central Kentucky. The reservoir originally had an estimated cost of $61 million—now $73 million—and a benefit-cost ratio of 1.4 to 1 using an interest rate of 3¼ percent.

In December 1969, the Appropriations Committees included in the conference report for fiscal 1970 public works appropriations, funds, and direction to the corps for a study of alternatives "including local protection for the cities of Falmouth, Covington, and Newport, which shall be conducted concurrently with the resumption of preconstruction planning." The results of that study were submitted as a special report of the Corps of Engineers dated August 1971, entitled "Alternatives to Falmouth Lake, Licking River Basin, Ky." and published earlier this year by the Senate Committee on Public Works.

The study shows that there is a feasible alternative to the large Falmouth reservoir; one having a benefit-cost ratio equivalent to the high dam, and providing local flood protection—the principal purpose sought from the beginning—at far lower cost. That alternative consists of two local floodwalls. The first, an extension of the floodwall system protecting Kentucky communities across the river from Cincinnati is the Newport-Wilders floodwall, estimated cost $6,760,000, benefit/cost ratio 1.4. It is already authorized. The second, and most necessary part of the alternative, is a floodwall at Falmouth. It has an estimated cost of $6.3 million and a benefit-cost ratio of 1.3 to 1 when calculated at the same interest rate used in justifying the proposed Falmouth Reservoir, for which it is the feasible alternative.

Earlier this year, the Senate Committee on Appropriations and the Senate itself approved $50,000 in fiscal 1973 funds for planning the Falmouth floodwall, but the item was dropped in conference to await authorization. The provision in the committee bill would provide that authorization.

It is the intention of the provision to permit advanced engineering and design of the local protection alternative to Falmouth reservoir. Planning for the floodwall should proceed concurrently with continued planning of the reservoir, which appears at least 3 years from a final decision point on initiation of construction. While the reservoir would of course provide a wider variety of benefits—at far greater cost and environmental impact—the floodwalls could well provide the necessary local flood protection more economically, and perhaps much more quickly. The purpose of this authorization is to avoid delay in finally securing flood protection for the city of Falmouth, by making this local protection alternative realistically and promptly available when the time for decision arrives as to whether or not to build the proposed Falmouth dam and reservoir.

Mr. President, the committee bill also contains in section 224 authorization to the Corps to repair and convert to a fixed-type structure dam No. 3 on the Big Sandy River at Fort Gay, W. Va., Louisa, Ky. And I know my colleague, Senator COOK, will offer an amendment to include the Midlands, Ky., proposal below Care Run reservoir.

The PRESIDING OFFICER. Who yields time?

Mr. COOPER. I yield 2 minutes to my distinguished colleague from Oregon.

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

Mr. MANSFIELD. Mr. President, will the Senator yield, without losing his right to the floor?

Mr. HATFIELD. I yield.

Mr. MANSFIELD. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, I withdraw the request.

The PRESIDING OFFICER. Does the Senator request unanimous consent to vacate the order for the yeas and nays?

Mr. MANSFIELD. I ask unanimous consent that the order be vacated.

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

Mr. HATFIELD. Mr. President, before turning to a particular project of special interest to me, I want to call the attention of my colleagues to the wise stewardship exercised over this bill by the distinguished chairman, Mr. RANDOLPH, and the distinguished ranking Republican, Mr. COOPER. These two gentlemen have a tremendous task in overseeing the broad range of proposals before their committee. It is to their credit that they are able to send such proposals to the Senate floor with the needed background and justification.

We will miss the leadership given on this side of the aisle by Mr. COOPER when he retires at the end of this Congress, but I think I speak for the membership on this side of the aisle when I recognize the degree of nonpartisanship that is exercised by the chairman (Mr. RANDOLPH).

Mr. President, I want to call special attention to a project included in the omnibus rivers and harbors bill now before us, bill S. 4018. I refer to the flood control section, and a project covered on pages 23 and 24 of the bill—the South Umpqua project, or the Days Creek project, as it is known to many Oregonians.

The people of the South Umpqua River Basin are plagued with extremes of streamflows. Devastating floods occur with oppressive frequency—there have been five in the past 12 years. Each summer, on the other hand, streamflows become lower than in almost any other major stream in western Oregon. The proposed Days Creek Dam and Reservoir would meet the problems associated with these extremes, to the great benefit of the people of Douglas County.

Floodflows of the South Umpqua River and its tributaries cause damages throughout almost the entire drainage area. They also contribute to the damages caused by the Umpqua River, into which the South Umpqua flows. The problem along the South Umpqua is especially severe because most of the available level land in the basin lies ad-

jacent to the streams of this drainage area. Most developments and transportation routes have been located in the flood plain. During major floods, water covers entire flatland expanses, inundating towns and interrupting transportation. Often the South Umpqua rises to flood stage before emergency action can be taken, due to the impervious soils of the drainage area which do not readily absorb storm runoff. Floods on the South Umpqua are thus more severe and rise faster than on most other streams of western Oregon. Damages from the 1964 and 1971 floods downstream from the Days Creek site have totaled $20 million; but at the projected 1985 development of the region floods of the 1964 and 1971 varieties would cause more than $43 million total damages—at 1971 prices.

This region of Oregon has hot, dry summers—very little rain falls and extended droughts occur. Less than 5 percent of the annual precipitation occurs from July through September, during the last part of the growing season. The area needs a reliable source of irrigation water, but under present conditions the natural flows in the South Umpqua are insufficient, in most water-short years, to satisfy existing water rights. Holders of these rights have been forced to abstain from exercising them when stream depletion has been threatened in recent summers.

Most of the municipal and industrial water supply in the basin is obtained from surface water sources, and future development must expand these sources since there is a general lack of underground water. In addition to this problem of water supply, the South Umpqua River receives the major portion of the basin's waterborne waste load. During low summer flows, the river has not been able to assimilate that load, causing a serious water quality problem. In several areas the stream becomes unsafe for water-contact usage because of profuse algal growth, bacterial contamination, and floating solids. These same areas are the vicinity of major municipal and industrial water supply systems.

The depleted summer flows, the poor water quality, and high water temperature have wreaked havoc with the fishery resource of the South Umpqua River. At present there remains only a small fraction of the fish population that local residents state to have existed in earlier days. Augmentation of summer flow, as would be provided by a storage reservoir at Days Creek, would alleviate the three conditions I have just outlined. Present-day summer flows of the South Umpqua at Brockway have been observed to drop as low at 36 cubic feet per second—bankfull is 45,000 cubic feet per second—with a water temperature of 87 degrees. Consider what Days Creek will do in this regard: It will decrease the average August temperature of the river below the dam by 15 degrees—from 70 to 55 degrees—by increasing the average flow from 70 to 950 cubic feet per second.

The movement to save the South Umpqua River from collapse of its resource capabilities and to spare the people of this basin from the frequent destructive floods began with a public meeting in Roseburg, Oreg., in 1956. Since that time, the development of this proposal has been a model of cooperation between the Federal Government and the local people. Local desire has never been in doubt, from 1956 when 100 people showed up at the Roseburg meeting to state the need for control of this resource, to last year when 1,200 people demanded an immediate solution to the problems of the South Umpqua River at the final public meetings on the project.

I have been impressed with the depth and breadth of the Corps of Engineers' consideration of the problems and possible solutions related to the water resource of the South Umpqua. Their treatment of the environmental aspects of Days Creek and its alternatives has likewise been admirably complete. The result of 15 years of diligent effort is this excellent proposal for a project that is badly needed.

I thank the committee for including this proposal in the pending bill.

Mr. BOGGS. Mr. President, I wish to express my support for S. 4018, the omnibus navigation, beach erosion, and flood control legislation. In particular, I would like to bring to the attention of my colleagues section 103 of the bill, which creates a national demonstration project for beach erosion control. Specifically, section 103(c)(3) states:

> Demonstration projects established pursuant to this section shall emphasize the development of low-cost shoreline erosion control devices located on sheltered on inland waters. Such projects shall be undertaken at no less than two sites on the shoreline of the Atlantic, gulf, and Pacific coasts, at not less than one site on the Great Lakes, and at locations of serious erosion along the shores of Delaware Bay, particularly at those reaches known as Pickering Beach, Kitts Hummock, Bowers, Slaughter Beach, Broadkill Beach, and Lewes in the State of Delaware. Sites selected should, to the extent possible, reflect a variety of geographical and climatic conditions.

This language is quite similar to language contained in S. 3603, which I introduced earlier this year. This bill was introduced because of the critical erosion danger that exists along Delaware Bay.

The U.S. Army Corps of Engineers recently completed a national shoreline study, undertaken at the direction of Congress. In the regional inventory report that covered Delaware, the corps made this statement:

> Along the beaches between Pickering Beach and Lewes, erosion of the shoreline, with few exceptions, has been continuous since earliest surveys dating to 1843. During the 10-year period from 1954 to 1964, the loss of beach above mean low water between Kitts Hummock and Lewes totaled 532,000 cubic yards annually.

The study then added this discouraging point:

> The reach of shore between Pickering Beach and Lewes experienced a net landward recession of the shoreline since 1843, averaging from 3 to 9 feet per year between 1843 and 1964.

I should point out that many sites along the bay—at Lewes, Broadkill, and Bowers, among others—have lost as much as 30 feet to erosion in the past year alone.

Quite obviously, the current erosion damage is no temporary problem. Nature is not repairing itself. This continuing threat must be met with new innovative methods to reverse this damage, and it must be met now.

I believe that new solutions are needed because conventional beach nourishment tactics have a short life expectancy and high annual maintenance costs. And they simply do not last. It is urgent that we find and demonstrate new methods and devices to reverse beach erosion, new methods and devices that will be of value in Delaware Bay as well as in numerous other coastal areas in our great Nation.

Section 103 is intended to provide such a permanent solution with new techniques, benefiting Delaware and our Nation.

Mr. President, the Committee on Public Works devoted considerable time during hearings on the erosion problems in Delaware. We heard testimony—valuable testimony—from officials of the State as well as residents of the coastal area. My colleagues will find a fuller evaluation than I can give of this danger beginning on page 595 of the hearing record.

In conclusion, Mr. President, I urge my colleagues to adopt this important provision.

Mr. TALMADGE. Mr. President, on behalf of myself and my colleague from Georgia (Mr. GAMBRELL), the distinguished senior Senator from South Carolina (Mr. THURMOND), the distinguished junior Senator from South Carolina (Mr. HOLLINGS), the distinguished Chairman of the Committee on Public Works, the Senator from West Virginia (Mr. RANDOLPH), the Senator from Texas (Mr. BENTSEN), and the Senator from Kentucky (Mr. COOK), I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. THURMOND. Mr. President, I ask unanimous consent that further reading of the amendment be waived.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment will be printed in the RECORD.

Mr. TALMADGE'S amendment is as follows:

> On page 50, at the end of the bill, add a new section, as follows:
>
> In honor of the late Richard B. Russell, and in recognition of his long and outstanding service as a member of the United States Senate, the Trotters Shoals Dam and Lake, Savannah River, Georgia and South Carolina, shall hereafter be known and designated as the Richard B. Russell Dam and Lake, and shall be dedicated as a monument to his distinguished public service. Any law, regulation, map, document, or record of the United States in which such project is referred to shall be held and considered to refer to such project by the name of the Richard B. Russell Dam and Lake.

Mr. TALMADGE. I ask unanimous consent that the names of the Senator from Nebraska (Mr. CURTIS), the Senator from New Hampshire (Mr. COTTON), the Senator from Kentucky (Mr. COOPER), the Senator from Delaware

(Mr. BOGGS), and the Senator from Arkansas (Mr. MCCLELLAN) be added as cosponsors of my amendment.

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

Mr. TALMADGE. Mr. President, the purpose of this amendment is to designate the Trotters Shoals Dam and Lake, a project on the Savannah River between the States of Georgia and South Carolina, as the Richard B. Russell Dam and Lake in honor of my late distinguished colleague, Senator Richard Brevard Russell, who served in this body for 36 years as one of the most capable and respected Senators in the history of our Republic.

I have discussed my amendment with the distinguished chairman and the ranking minority member of the committee, and I understand that they agree with the proposal. Therefore, I shall not discuss it further. I hope my fellow Senators will agree to the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. TALMADGE. Mr. President, may we have a vote on the amendment?

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. RANDOLPH. I yield back my time.

Mr. TALMADGE. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Georgia (Mr. TALMADGE).

The amendment was agreed to.

Mr. MCCLELLAN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

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

Mr. MCCLELLAN'S amendment is as follows:

On page 19, beginning with line 21, strike out all through line 10 on page 20 and insert in lieu thereof the following: "expanded to provide for acquisition by fee or by environmental easement of not less than 70,000 acres for mitigation lands for fish and wildlife management purposes at an estimated cost of $5,232,000. Local interests shall contribute 50 per centum of any costs incurred in excess of $4,740,000 in acquiring such property rights. An environmental easement shall prevent clearing of the subject land for commercial agricultural purposes or any other purpose inconsistent with wildlife habitat and shall allow any landowner to manage the subject lands to provide a perpetual regularly harvested hardwood forest, which may be harvested in such a manner as to provide food and habitat for a variety of wildlife. No action may be initiated for any other taking of prospective mitigation lands until an offer has been made to the land owner thereof to take an environmental easement, provided that no less than 30,000 acres shall be open for public access. If any".

Mr. MCCLELLAN. Mr. President, before I discuss the amendment, I want to add my expressions of deep appreciation to the distinguished Senator from West Virginia (Mr. RANDOLPH), the chairman of the committee, the distinguished Senator from Kentucky (Mr. COOPER), and all the members of the Committee on Public Works, not only for the bill that is before us this afternoon, but for the very splendid work of that committee throughout the years.

I noted that the Senator from West Virginia, in making his opening statement, spoke of his efforts, in the discharge of his duties on this committee and particularly as chairman of it throughout the years, to look at projects that were submitted, not particularly in consideration of what they might do for or how they might benefit the State of West Virginia, but that he has always looked at these matters as a whole, as to how the Nation might benefit from them, and I can bear testimony to that from my experience over the years with this committee, because that has been the case; and I want to express my thanks and gratitude to the committee at this hour for the many fair considerations and often possibly generous considerations it has given to my own State for projects that were of great importance to Arkansas' progress and are essential to the protection of our valleys for flood control and for the conservation of the great water resources of my State.

Mr. President, the amendment I have presented is calculated to do two things. It would add no money to the bill. If it will accomplish anything in that respect, it will lessen the cost. It is also calculated to expedite the acquisition of property that is essential to the construction of the project.

The bill provides for the Federal Government to acquire some 30,000 acres of land in fee and possibly up to 40,000 acres additional in easements in order to provide wildlife mitigation lands and preserve certain timber areas that would be essential to wildlife habitat in the Cache River Valley.

This amendment simply provides that before the Government takes any land in fee, it must offer to the landowner the opportunity to give an easement, and thus we may avoid having to purchase a great deal of land that the bill otherwise provides for, as it is now written.

This would also enable them to expedite the matter if they had to go into court to condemn. That might involve proceedings that would last a year or two in court. This way, it gives the landowner an opportunity to negotiate an easement, and he can retain control of his land for all purposes, except that he cannot clear it for agricultural purposes. He can harvest his timber on it and manage it otherwise. It would simply be protected as an area for wildlife habitat, and thus it would protect a large timber area that otherwise would soon be cleared up and would be lost to this generation and generations to come; whereas, this amendment is designed to preserve the land.

This amendment strikes out certain provisions of the bill and substitutes the language of the amendment.

The amendment has been presented to the distinguished Senator from West Virginia, the chairman, and other members of the committee, and they are familiar with it. I believe they agree with the views I have expressed about the amendment, and I trust that they are willing to accept it.

Mr. RANDOLPH. Mr. President, the Senator from Arkansas is very knowledgeable in this area, and he counseled with us. We believe that the language of his amendment is really a clarification of what we in the committee desire.

I accept the amendment, and I speak in this instance for the ranking minority member, the Senator from Kentucky (Mr. COOPER).

Mr. MCCLELLAN. I think that was our intent all the way through, and the amendment simply clarifies the language in the bill. The amendment clearly sets forth the purpose and intent of the proposed legislation.

Mr. RANDOLPH. The Senator is correct.

Mr. MCCLELLAN. Mr. President, I yield back the remainder of my time.

Mr. RANDOLPH. I yield back the remainder of my time.

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

The amendment was agreed to.

Mr. COTTON. Mr. President, are we acting under a time limitation on the bill?

The PRESIDING OFFICER. There is a 2-hour limitation on the bill, with 30 minutes on an amendment in the first degree and 20 minutes on an amendment in the second degree.

Mr. RANDOLPH. Mr. President, I yield 5 minutes to the distinguished Senator from New Hampshire.

Mr. COTTON. I thank the distinguished Senator.

Mr. President, I join the distinguished Senator from Arkansas in his words of commendation for the work of this committee through the years. I also have profound admiration and affection for the Senators from Kentucky, Tennessee, and West Virginia.

Do I correctly understand that the report on the bill is not yet available?

Mr. RANDOLPH. The Printing Office has not yet returned the report. Ordinarily, the chairman of a committee would want to come to the floor with the report available. The leadership—both Republican and Democratic, in this instance—believing that the measure by and large would be acceptable to the Senate after reasonable debate and understanding, thought the report would not be necessary. So, in a sense, at their request, Senator COOPER and I agreed to proceed.

Mr. COTTON. I understand that, and I am not questioning it. We have need of haste, and we have need of legislating.

Mr. RANDOLPH. The Senator is correct—the report is not available.

Mr. COTTON. Can the distinguished chairman—perhaps he has already done so when I was not present—give us the total money cost of this bill?

Mr. RANDOLPH. Yes. The Senator has done that in his opening statement. I want to be correct. It is difficult to recall the exact figures. The total cost of new money is $546,022,300. That is the ap-

proximate cost of most of the proposed legislation.

Mr. COTTON. Is that the immediate cost of acquisition, or does it cover the total cost of the projects contained in the bill?

Mr. RANDOLPH. I say to the Senator from New Hampshire that these are projects that would be authorized in the pending legislation.

Mr. COTTON. In other words, it would cover the total cost of the projects and would not call for further authorizations in succeeding years?

Mr. RANDOLPH. I do not hesitate on this, but I only say that that is the testimony of the Corps of Engineers. I have every reason to believe that they are not going to vary over the lifetime of the project, the completion of the work. That is the only way we could bring a bill here.

Mr. COTTON. In the past, I have observed some cases in which the authorization was for a portion of the project and that there would have to be additional authorizations later. I understand from the chairman that in his best judgment and from the evidence concerning all these projects——

Mr. RANDOLPH. Our best judgment would be that these authorizations will not be increased.

Mr. COTTON. A little more than a half billion dollars would cover the cost of all the projects?

Mr. RANDOLPH. That is correct.

Mr. COOPER. Mr. President, will the Senator yield at that point?

Mr. RANDOLPH. I yield.

Mr. COOPER. I think we would have to say this: As we have experienced in the last few years, if construction costs increase in the ratio they have been increasing, it is probable that there could be some increase; but the Corps of Engineers submits these projects to the committee based on the estimated cost.

Mr. COTTON. The Senator from Kentucky, like the Senator from West Virginia, is always very frank and candid, and I appreciate his statement.

I only want to say—and may I have maybe 5 minutes extra?

Mr. RANDOLPH. Mr. President, I yield an additional 5 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 5 additional minutes.

Mr. COTTON. I only want to say, Mr. President, that through the years, back in the days when I was serving on the Public Works Committee, and now as they come before the Appropriations Subcommittee on Public Works, I have had a good deal of experience with the Corps of Engineers. I can scarcely remember an instance when the Corps of Engineers came in and did not have a compulsive desire to buy something, build something, or dam something—that is spelled d-a-m. I seem unable to remember a single instance of an important project that did not far exceed, before its completion, the first authorization.

We are, of course, legislating at a time when we are running into terrific deficits. This half a billion dollars in itself worries me.

Another point, and it may be minor, but I note on pages 48 and 49 of the bill this paragraph:

> For the purpose of financially assisting the States of Tennessee and Kentucky, McCreary County, Kentucky, and Scott, Morgan, Pickett, and Fentress Counties in Tennessee, because of losses which they may sustain by reason of the fact that certain lands and other property within them may be included within the national river and recreation area established by this Act and shall thereafter no longer be subject to real and personal property taxes levied or imposed by them, payments shall be made to them on an annual basis and in an amount equal to that which they would have received from such taxes but for the establishment of the national river and recreation area.

Now, Mr. President, I have been informed by the Senator from Kentucky that, in his opinion, this would be a negligible amount, but I think we are setting a precedent here.

If my State of New Hampshire had payments in lieu of taxes for the White Mountain National Forest which occupies 25 percent of the area of the State of New Hampshire, I guess it would be the biggest moneymaker for the State of New Hampshire. All over this country, in State after State after State, large areas of States are owned by the Federal Government. In some of the Western States—I do not know, but nine-tenths of their area belongs to Uncle Sam. This would establish a new precedent.

While this particular payment in lieu of taxes might be comparatively small, if this is to be the course pursued in the future, I do not know how much the Federal Government would find itself eventually paying to the States, and their subdivisions in lieu of taxes.

I also note in this language—and I thank the Senator from Vermont (Mr. AIKEN) for calling it to my attention—that the amount is to be paid "in an amount equal to that which they would have received from such taxes but for the establishment of the national river and recreation area."

However, it does not say the amount they would now receive.

Mr. AIKEN. Mr. President, the reason I called this to the attention of the Senator from New Hampshire is that when they took land for similar purposes in our area, the reimbursement would be on what was then being paid in taxes. Had that land not been taken by the Federal Government, it might have been 100 times that now, and the taxes coming in would be 100 times as much. So I think there should be some goal there, otherwise the sky is the limit on future payments to the communities from whom the land is taken.

Mr. COTTON. Mr. President, I am reluctant in any way to oppose this, because I greatly admire the Senators from Kentucky and Tennessee and their fidelity to their States. I feel rather strongly that this matter of reimbursement for national parks or recreation areas is unfair to the States that already have vast areas taken from them for which they are getting nothing in lieu of taxes.

The PRESIDING OFFICER. The time of the Senator from New Hampshire has expired.

Mr. COTTON. May I have 2 more minutes?

Mr. RANDOLPH. Mr. President, I yield 2 additional minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 2 minutes.

Mr. COTTON. This sets a precedent. The taxes now paid are very minimum in lieu of taxes, but it does set a precedent for the future. My good friends, whom I admire so much, remind me a little bit of the Scot who not only killed two birds with one stone, but wanted the stone back.

It seems to me that this provision on pages 48 and 49 of the bill is a dangerous provision. I do not know that I can even vote for this bill because of the amount involved with that loophole.

I thank the Senator from West Virginia very much for yielding me this time.

Mr. COOPER. Mr. President, I understand the question the Senator from New Hampshire raises. If the Senator will give me a few minutes I will explain why the language is in there, as I can appreciate that it could raise concern about creating a precedent for the future.

However, the example just referred to in the Senator's own State, is similar to the situation in Kentucky. It will take me 2 or 3 minutes to explain what this project is all about.

For years, the Corps of Engineers proposed that a large hydroelectric dam be built in McCreary County in Kentucky, on the Big South Fork. That river is a tributary of the Cumberland River that extends into Scott County, Tenn., across the Kentucky-Tennessee line. It is the same river and the very same area as the site of a proposed dam, which the Senator may recall—the Devil's Jump Dam. That was a $152 million proposal, which due to increased costs became more than $200 million.

I remember that on five occasions that I was able to secure passage in the Senate of the Devil's Jump Dam project—and on five occasions the House refused it, although it had the approval of three administrations, and every agency that had an interest in it, including the Federal Power Commission. But because of the opposition of the private utilities from all over the Nation who zeroed in on it, and the opposition of the large coal companies and, finally, the conservationists, we finally decided, Senator Morton and I, Senator BAKER whose father Congressman Howard H. Baker worked for it for years, and Senator Gore, that we could not proceed with the power dam.

Four years ago, we asked the Department of Agriculture, because the Forest Service concerned with the national forest was in that department, the Corps of Engineers, who had planned the dam, and the Department of the Interior, which includes the Bureau of Outdoor Recreation and the Park Service, to propose an alternative for the recreational, conservation and preservation uses of

this spectacular and unique area. In 1970, they presented six alternatives for the Big South Fork River—a very beautiful river, 90 miles long, which is a very clean river with great palisades and having rippling rough waters—white waters as they are called. This national recreational area would cost about $30 million to establish—about one-fifth of the originally estimated cost of the hydroelectric high dam, which would have resulted in flooding of the gorge behind the dam.

In McCreary County, the recreation area would require perhaps 30,000 acres of land. In Tennessee, as I recall, it requires about 90,000 acres of land. McCreary County, Ky., is a county which I know very well. The U.S. Government already owns some 150,000 acres of land in McCreary County, in the Daniel Boone National Forest. It is a very poor county indeed.

The county receives no payments in lieu of taxes from the Forest Service, except meager amounts from such timber that is sold from the national forest. So looking ahead to a condition where, if this measure should be approved, it would take nearly 30,000 acres of land into the national recreation area—about half of it from the Forest Service, and the remainder from private land—the county would have little left. The national forest is not a national park. It has few recreational facilities. The county would have very little income left. This land, I would assume—knowing it pretty well—is assessed at $30 or $40 an acre. It is estimated that this provision would cost the Federal Government, I think in McCreary County, perhaps $15,000 or $20,000, in an area where they have practically no incomes at all. For the whole project it would be about $100,000 a year.

McCreary County used to be a part of the county in which I live. It is the county south of mine. Unfortunately, it bears the reputation of being about the poorest county in the United States. To be frank, that is the reason we put it in. It is for a 5-year authorization. If it did not work out in 5 years, the committee and the Apporpriations Committee could make such changes as they desire. I wanted to give the Senators the full facts.

Mr. COTTON. Will the Senator yield for another question?

Mr. COOPER. Yes; I will. I may have overstated the figure on the amount of taxes that might be lost. It is my own recollection that it would be much smaller than that. My recollection would be $9,000 per year in McCreary County, if it makes a difference.

Mr. COTTON. I would like to make it very plain and clear to both my friend, the distinguished senior Senator from Kentucky, and my friend, the distinguished junior Senator from Kentucky, that I am not questioning the need in this matter. But I have a recollection in the past half-century of land taken in my section of the country that was purchased for a dollar or $2 or $3 an acre, but its present value would be many, many dollars more an acre.

In my case, as a member of the New Hampshire Legislature, because of the fact that we had some townships and school districts that were almost completely encompassed in the national forest area with a subsequent loss of taxes. I introduced a bill, and the bill passed, by which the State would reimburse these township school districts for the equivalent of one-half of what the taxes would have been at the time of the passage of the bill.

Under this provision, if I read it correctly, if the land taken in this instance should increase its value so that its value would be greatly enhanced, we authorize the payment of an amount equivalent to taxes that not only would be received at its present value, but would increase as its value increases.

Mr. COOPER. Will the Senator yield?

Mr. COTTON. I yield.

Mr. COOPER. I want to make it clear, for interpretation, that is not intended at all.

Mr. AIKEN. That is not intended. That was my problem.

Mr. COOPER. I think that is clear.

Mr. COTTON. Is there anything in the report to indicate that interpretation—in the report that is not before us?

Mr. COOPER. I would be glad to amend the provision immediately, here on the floor, in line with the suggestion, if it is not clear.

Mr. COTTON. I do not think it needs to be amended if the intent is in the report.

Mr. COOPER. I do not recall, but I can tell the Senator that was the intention of the Senator from Tennessee (Mr. BAKER) and myself, who wrote this legislation, and of our cosponsor, the junior Senator from Kentucky (Mr. COOK). I am sure he would agree with me on this.

Mr. COOK. Will the Senator yield?

Mr. COTTON. I do not have any time, but I would be glad to yield.

Mr. COOK. May I say that the basic intention was that the value be established at the time of taking, and once it belonged to the Federal Government, the total project, the value would be established and it could never be revalued.

Mr. COTTON. I think the legislative history made on the floor by both the Senators from Kentucky and the Senator from Vermont would be sufficient protection on that point, and I thank the Senators.

Mr. AIKEN. I was concerned, because the land was taken by the Federal Government from the State of Vermont that was valued at $5 an acre. It was not taxed very much at the time. Some of that land is valued at $5,000 an acre. If there is any stream or any water or any view, the value of the land there is whatever one asks for it. But if a fair value is to be fixed on it, that would be sufficient for tax purposes.

Mr. COTTON. May I say, I am perfectly satisfied on this point by the assurance of the two Senators. I do, however, still have some reservations about setting a precedent for reimbursement of lost taxes on these projects. I am afraid it might rise in the Congress to haunt us sometime in the future and may open the gate for large sums.

Mr. COOPER. Mr. President, I will be glad to suggest this change to make it absolutely clear.

The PRESIDING OFFICER. The Senator may offer his amendment.

Mr. COOPER. I propose an amendment: on page 49, line 5, after the word "taxes", add a comma and insert "at the time of the acquisition of such property".

The PRESIDING OFFICER. Is the Senator offering this as the amendment?

Mr. COOPER. I am.

The PRESIDING OFFICER. Will the Senator please send the amendment to the desk?

Mr. COOPER. I send the amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 49, line 5, after the word "taxes" add a comma and insert "at the time of the acquisition of such property".

The PRESIDING OFFICER. Who yields time on the amendment?

Mr. COTTON. Mr. President, I appreciate the amendment and I thank the Senator. It certainly is complete assurance, but I want to make it plain that I was already willing to accept the legislative history made on the floor by these three Senators. This amendment makes it entirely clear.

The PRESIDING OFFICER. Who yields time? Do the Senators yield back their time on the amendment?

Mr. COOPER. I yield back the remainder of my time.

Mr. COTTON. 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 of the Senator from Kentucky. (Putting the question.)

The amendment was agreed to.

Mr. COOK. Mr. President, I have an amendment at the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk proceeded to state the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 50, at the end of line 9, add a new section 228 to read as follows:

The Cave Run Lake Project authorized by the Flood Control Act approved June 22, 1936 and June 28, 1938, is modified to provide that the construction of any proposed road to the Zilpo Recreation Area located in Bath and Menifee Counties, Ky., shall not be undertaken until there is full opportunity for public review and comment on the environmental impact statement pertaining to such proposed road.

Mr. COOK. Mr. President, the amendment consists of only one paragraph and I wish to read it. It reads as follows:

The Cave Run Lake Project authorized by the Flood Control Act approved June 22, 1936 and June 28, 1938, is modified to provide that the construction of any proposed road to the Zilpo Recreation Area located in Bath and Menifee Counties, Ky.—shall not be under-

taken until there is full opportunity for public review and comment on the environmental impact statement pertaining to such proposed road.

Mr. COOK. Mr. President, in eastern Kentucky on the Cave Run Lake Reservoir there is an area known as the Pioneer Weapons Area. It may be the only one of its kind in the United States. It was established in the early 1960's by reason of an agreement between the Kentucky Department of Fish and Game and the U.S. Department of Forestry, in the Daniel Boone National Forest.

The only type hunting that can occur here in this area is with bow and arrow or with muskets. No other type weapon can be utilized. There is a proposed road that would almost dissect this particular area. This may sound a little like a rather mundane issue to Members of the Senate, but the only place they wish to place the road is in the last major wild turkey nesting area in that part of the State.

Therefore, I propose this as an amendment to the bill, purely and simply to give the great advocates of the Pioneer Weapons Area, the Kentucky Sportsmen, the League of Sportsmen, some 40,000 strong, an opportunity to express their views of the environmental study and find out if there may be another means by which a road may go in this area that does not dissect the area in two.

I have discussed this matter with my colleague from Kentucky and the chairman of the committee (Mr. RANDOLPH). It is my understanding they are willing to accept the amendment. If that is the case, I yield back the remainder of my time. I would like to say I have one other amendment that will not take more than 2 minutes.

Mr. RANDOLPH. Mr. President, both the Senator from Kentucky (Mr. COOPER) and the Senator from West Virginia accept the amendment.

Mr. COOK. This language is comparable to language that will appear in the House bill. It was placed in there by my colleague, Representative SNYDER from Kentucky who is the ranking member of the Subcommittee on Rivers and Harbors of the Public Works Committee in the House. This is language he placed in the bill which was accepted.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. COOK. I yield back the remainder of my time.

Mr. RANDOLPH. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. COOK. 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 proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 18, line 24, insert the following:

That the Midland Local Protection Project, in Kentucky, for flood protection and other purposes, is hereby authorized substantially in accordance with the recommendations of the Secretary of the Army in his report on the Development of Water Resources in Appalachia, dated April 1971, at an estimated cost of $8,230,000, except that no funds shall be appropriated to carry out this section until the project is approved by the Appalachian Regional Commission and the President. Planning and construction shall also be coordinated and compatible with the Midland New Community plans recognized in preapplication approval by the Office of New Communities, Department of Housing and Urban Development.

Mr. COOK. Mr. President, this amendment that I send to the desk is going to cost some money, I say to the Senator from Arkansas, but it is referred to as a 201 project and the only way this money can be spent is by approval of the Appalachian Regional Council and the President.

Mr. President, this amendment would establish the Midland local protection project at an estimated cost of $8,230,000 to provide flood protection and to supplement the control by Cave Run Reservoir.

No funds would be appropriated to carry out this project, however, until approval is received from the Appalachian Regional Commission and the President.

The affected area consists of nine eastern Kentucky counties centered around the site of the potential urban service center located on the Licking River immediately below Cave Run Dam.

The principal elements of the LPP are six levee sections totaling 59,650 feet, a 250-foot concrete wall section and 1,500 feet of channel realinement. This project construction would be phased to match the master planned urban development. This LPP, with the reservoir system in operation, would protect the core of the area of development against the standard project flood.

Mr. President, chronic unemployment and underemployment in this economically depressed area leaves the residents far below the national level of income and economic well-being. Residual flooding, principally from Triplett and Salt Lick Creeks, would impede development within the flood plain and hinder realization of the full potential of this proposed regional employment and urban service center. Consequently, it is imperative that mechanisms be available for ready improvement.

In considering the cost-benefit ratio it is necessary to view the compatability of the project with the entire new community plans for the area of which it is a part. These plans have been recognized in preapplication approval by the Office of New Communities of Housing and Urban Development.

This project is a direct outgrowth of the new evaluation procedures used by the Corps of Engineers in developing its recommendations to the Commission in the water resources report. The justification for the Midlands project is not based on the limited purpose of flood control for existing needs only. It is based on the fact that this project is the critical and essential first step to the development of the entire new service center community. Other aspects of this program are well underway and the overall program has an overriding beneficial impact on the economy of the region.

The importance of this project to this area of the commonwealth cannot be stressed enough.

Mr. President, I ask that the amendment be approved.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. COOK. I yield back the remainder of my time.

Mr. RANDOLPH. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. COOPER. Mr. President, I send to the desk an amendment asd ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 49 in lines 12 and 13 strike the words "such sums as may be necessary" and insert in lieu thereof "$32,850,000".

Mr. COOPER. Mr. President, I will explain the amendment briefly. Just a few moments ago the Senator from New Hampshire (Mr. COTTON) and I and others were discussing this national river and recreation area on the Big South Fork River in Kentucky and Tennessee. I said the cost was about $30 million. Looking at the records submitted to us by the Corps of Engineers and the other participating agencies—the Department of Agriculture, the Department of the Interior, the Bureau of Outdoor Recreation—the exact sum estimated for the project would be $32,850,000.

The language in the bill is that it shall be authorized for "such sums as may be necessary" to carry out the provisions of this section.

I believe it is the judgment of the Senate and the Congress that they prefer to see the estimated sum stated correctly, rather than just to leave it open-ended and say, "Such sums as may be necessary."

Also, we would be able to tell our people what we have been told is the cost. I want to make that very clear.

I yield back my time.

Mr. RANDOLPH. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. SCHWEIKER. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without

objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page two between lines 25 and 26, insert the following:

That the authorization for the beach erosion control project for Presque Isle Peninsula, Erie, Pennsylvania, as provided in section 101 of the River and Harbor Act of 1960 (74 Stat. 480) is reinstated and extended, under the terms existing immediately prior to the termination of such authorization, for a period of five years from the date of enactment of this Act, or if the review study of such project being carried out by the Secretary of the Army is not completed prior to the end of such period until such study is completed and a report thereon submitted to the Congress.

SEC. 2. There is authorized to be appropriated not to exceed $3,500,000 to carry out this provision.

Mr. SCHWEIKER. Mr. President, briefly, this is an amendment to authorize the reinstatement and extension of the authorization for the beach erosion control project for Presque Isle Peninsula, Erie, Pa.

The purpose of this amendment is to extend the authority for Federal participation in the Presque Isle cooperative beach erosion control project for a period of 5 years. My amendment also authorizes $3,500,000 to support the work necessary on this important project.

Federal participation in the Presque Isle Beach erosion control project was originally authorized by the 1960 River and Harbor Act (Public Law 66–645) for a period of 10 years. That authority existed from 1961 to May 1971, when it expired.

Presque Isle State Park and its beaches are considered a statewide resource in Pennsylvania, and truly are a national resource as well. About 4 million people from all over the Nation enjoy the area annually. For many years, attempts have been made to control erosion at these beaches. Such attempts, however, have been ineffective and temporary in nature. Severe winter storms, particularly last winter, have taken a heavy toll. It is essential that immediate steps be taken to restore the beach areas of the peninsula. My amendment would permit the Corps of Engineers to repair the storm damage and erosion of the beaches.

I have asked the Army Corps of Engineers how the Federal Government can be of assistance to the residents of Erie and the many tourists who use Presque Isle State Park and its recreation facilities. I am advised that in order for the Corps of Engineers to actively work on the area, it is necessary to obtain an extension of Federal participation in the project beyond the expiration date which occurred in May 1971.

The extension will permit Federal participation in emergency restoration of beach areas that may be required to protect park facilities from severe damage. It will also provide useful and attractive bathing areas until more permanent modifications can be authorized and constructed. This is exactly what my amendment will do. This legislation would authorize Federal participation to a maximum of 70 percent of the cost of improving public park areas.

Presque Isle State Park meets all the criteria for 70-percent participation and the cost of work done on the cooperative project for the 10 years prior to 1971 has been shared on that basis, with 30-percent State participation.

I was fortunate to have the opportunity to tour the Presque Isle area on June 2d and to see firsthand the unfortunate damage done to this valuable area during the severe storms late last year and in January of this year. My tour impressed upon me more than ever before the necessity of taking early, positive action to repair the damage done and to prevent future similar devastation.

During my June 2d tour, I was struck by the difference of these beaches from that of my last visit to Presque Isle several years ago. Once-beautiful beaches were devastated by the winter storms, and sandbags have been placed at the water's edge in a desperate effort to temporarily control the continuing erosion. It quickly became apparent to me that unless emergency action is taken, additional serious erosion of the beach front area, along with a deterioration of the groins which were completed in 1956 and 1966 will occur.

The Corps of Engineers held public hearings on June 2 in Erie. At that time, I testified on the need for early action. In addition, many community organizations and individual citizens emphasized the importance of Presque Isle State Park as a recreation area for northwestern Pennsylvania. These people have shown their sincere concern to both State and Federal representatives about the need to undertake an emergency restoration of the beach area.

Mr. President, I believe that a two-step program to eliminate beach erosion at Presque Isle State Park is needed. First, we need an emergency restoration of the beach areas. This is what my amendment will provide. Second, we will need permanent protection for the peninsula. After the Corps of Engineers has had a chance to complete their studies, we can determine specifically what must be done to provide permanent protection. Additional legislation will certainly be needed at a later date for this purpose.

I am advised by the corps, however, that the earliest possible date under their schedule for the beginning of construction is 1978. Unless beach erosion control measures are taken now, it will clearly be much more expensive to provide permanent protection 6 years from now. Thus, it is vitally important that the emergency restoration measures be authorized immediately so that the continuing erosion can be minimized and so that our citizens can enjoy the reaction area.

Presque Isle State Park is simply too valuable to Pennsylvania and to the Nation to permit continued erosion and storm damage to take place. I emphasize that, although Presque Isle is a State park, it is a national resource. May I add, too, that because of its location and other unique circumstances, this is one of only a few areas of Lake Erie where people can swim and fish without being concerned about pollution. Presque Isle is a sanctuary untroubled by the pollution of the Great Lakes.

The legislation I have introduced is an essential first step in the process of providing permanent protection for Presque Isle. There is an increasing demand for recreation by our citizens, and we must take all necessary steps to preserve this beautiful area. We must save it, and I strongly urge the Senate to adopt this important amendment.

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

Mr. SCHWEIKER. I am glad to yield.

Mr. RANDOLPH. I would not ordinarily interject at this point. In our conversations with the Corps of Engineers, we have found that this is one of the most devastated areas of erosion of all of our waterways that we have ever known in this country. I appreciate the attention the able Senator from Pennsylvania has given to this matter in bringing it to our attention and causing the Corps of Engineers and those of us on the committee to realize the urgency of this project.

Mr. SCHWEIKER. I thank the Senator from West Virginia, as well as the Senator from Kentucky, for their help and leadership in this matter.

Mr. President, I ask unanimous consent that my senior colleague (Mr. SCOTT) may be listed as a cosponsor of the amendment.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). Without objection, it is so ordered.

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

The PRESIDING OFFICER. All time on the amendment has been yielded back.

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

The amendment was agreed to.

Mr. SCHWEIKER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent to dispense with the reading of the amendment.

The PRESIDING OFFICER. Without objection, further reading of the amendment will be dispensed with.

The amendment is as follows:

In Title II, page 17, line 12 insert the following:

DELAWARE RIVER BASIN

The project for Tamaqua Local Protection Project on Wabash Creek, Pennsylvania, Delaware River Basin, for flood protection, and other purposes, is hereby authorized substantially in accordance with the recommendations of the Secretary of the Army in his report on the Development of Water Resources in Appalachia, dated April 1971, at an estimated cost of $2,355,000, except that no funds shall be appropriated for this project until it is approved by the Appalachian Regional Commission and the President.

Mr. SCHWEIKER. Mr. President, this amendment has also been cleared with the majority and minority.

Mr. President, the Borough of Tamaqua in Pennsylvania has suffered recurring floods and extensive damage as a result of the fact that the Wabash Creek runs through a culvert under the borough.

The solution is simple. The Corps of Engineers has proposed construction of a bypass tunnel to divert the Wabash

Creek into the Little Schuylkill River near the southern edge of town.

The final report of the Secretary of the Army on this proposal has been submitted as has the environmental impact statement. Both have received favorable consideration by all Federal and State agencies involved. The Subcommittee on Flood Control has taken testimony on this proposal, and the committee staff is familiar with the problem. I would hope, therefore, that the distinguished chairman of the Public Works Committee would consider it appropriate to accept this amendment.

I ask unanimous consent that the distinguished senior Senator from Pennsylvania (Mr. SCOTT) be added as a cosponsor of this amendment.

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

Mr. SCHWEIKER. Mr. President, I yield back the remainder of my time.

Mr. RANDOLPH. Mr. President, the destructiveness of Hurricane Agnes brought this project to our attention. What the Senator from Pennsylvania has said is valid.

We accept the amendment, and I yield back my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

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

The amendment was agreed to.

The PRESIDING OFFICER. Are there further amendments to be offered to the bill? If there be no further amendment to be offered, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading.

The bill was read the third time.

Mr. DOLE. Mr. President, wise water resource development is highly important to our Nation. Forward-looking utilization and augmentation of America's natural water endowments provides benefits to millions of our citizens in terms of water and wildlife conservation, flood control, electrical power generation, irrigation, recreation, and general economic improvement.

The Committee on Public Works, which has unique responsibilities for both environmental legislation and the authorization of water resource projects, has reported the 1972 omnibus rivers and harbors bill. As a member of this committee and ranking member of the Subcommittee on Flood Control, Rivers, and Harbors, I know that detailed consideration has been given to these projects through the course of extensive hearings at which the studies conducted by the Army Corps of Engineers as well as the views of many interested citizens were examined. The committee has devoted considerable attention to each of these projects and to the many needs and technical requirements associated with each.

KANSAS RIVER NAVIGATION

One of the projects, authorized by the committee, subject to final approval of the Department of the Army and the Office of Management and Budget, will provide harbor navigation improvements for the lower 9.33 miles of the Kansas River. The project would involve dredging a channel 9 feet deep and 150 feet wide, with accompanying bank training and stabilization structures. The estimated cost would be $3,095,900 exclusive of $4,100 for navigation aids. The benefit-cost ratio is 2.5.

Kansas River navigation has been a subject of great interest in east central Kansas, particularly in those counties which adjoin the river—and most especially in Wyandotte County, which contains a rapidly growing industrial area along the path of the Kansas River as it flows into the Missouri River at Kansas City. With the expanded development of navigation of the Missouri over the past years which is projected to continue into the future, it is only natural that expansion into the larger tributaries would come. The Lower Kansas River is a particularly well-suited stream for this purpose, since it has good water flow; a wide, well-protected flood plain; and the potential for significant utilization. The Corps of Engineers' investigation has borne out this assessment.

It was noted that the Corps of Engineers' study covered the entire 52-mile portion of the river from Lawrence to the mouth, but it was determined that the combined factors of cost, environmental impact and potential for utilization dictated that at this time the lower 9.33 miles was the most feasible and justifiable portion to undertake. Hopefully, the improvements and increased use growing out of this portion of the project may eventually lead to the full development of the river upstream.

The Corps of Engineers' study also identifies other advantages of this development. Because no dams or locks are required, the cost will be low. Environmental effects will be minimized by careful construction methods, and continuing pollution abatement programs will further improve water quality. The Corps of Engineers will be able to maintain strict control on development of loading and unloading facilities through its construction permit program. Recreational uses also have been identified. Thus, from all objective criteria this appears to be a highly worthwhile and well-conceived project.

I would also point out that the project has strong support from local interests; and when the solid cost-benefit ratio of 2.5 is taken into account, the Kansas River navigation project stands as a highly valuable, economical, and popular addition to the water resource picture in the State of Kansas.

Kansas has an outstanding record of cooperation with the Federal Government in preserving its water resources and making them more valuable, more attractive and of greater benefit to its citizens. I believe the Kansas River navigation project contained in this year's rivers and harbors bill represents a sound and well-designed continuation of this record. And I urge the Senate to give this bill its approval.

Mr. HOLLINGS. Mr. President, I rise to support S. 4018 and in particular to express my appreciation to the chairman and members of the committee for including in this bill the substance of S. 1053, which I introduced earlier in this Congress to establish a program to develop and demonstrate low-cost means of preventing shoreline erosion. I was cosponsor of S. 4591, the original legislation which was introduced during the last few days of the 91st Congress by Senators TYDINGS and MATHIAS. Because of the press of time, the legislation was not acted upon by that Congress. Along with Senator MATHIAS, I reintroduced the bill in this Congress, and I am pleased that we have a total of 27 cosponsors.

Legislation of this type is desperately needed and logically follows the results of the national shoreline study which was included by this committee in the Rivers and Harbors Act of 1968 (Public Law 90-483). This study was completed and submitted to Congress in August 1971. It clearly establishes the fact that the erosion of our shoreline areas has become a serious national problem. There is great interest in combating this problem—an interest that is shared by private landowners, conservation groups, the Federal Government as well as the States. Unfortunately, the capabilities and the technology to properly preserve our coastal shoreline and to effectively prevent erosion have not kept pace with the rapidly increasing use and development of this shoreline.

As in many other shore areas, my State of South Carolina has experienced many costly instances of erosion and in many cases, irreparable harm has resulted. Marine life has been altered or destroyed, navigable channels have been blocked, and land literally has been lost forever. Many of these problems are caused by natural events such as waves, tides, currents, land-water drainage, and wind. Man also has caused many problems through development of navigational facilities, housing sites, industrial projects, and other programs which have not taken into account the byproduct of shoreline erosion. Pollution caused from ocean dumping and other sources has presented other problems.

S. 1053, now section 103 of S. 4018, the Shoreline Erosion Control Demonstration Act of 1972 contemplates a 5-year program to develop and demonstrate low cost means to prevent the eradication of our shoreline. The bill directs the Secretary of the Army to establish a 15-member shoreline erosion advisory panel which would recommend criteria for the selection of demonstration sites, make periodic reviews of the program, and, most importantly, suggest methods to disseminate the information learned about shoreline erosion control devices that are developed by the program. Six million dollars would be authorized to fund this program.

The fight against shoreline erosion is an ancient one and the list of attempts to combat the forces which cause erosion range from seawalls and dikes to the planting of artificial seaweed. Certainly, there is technology available to combat the problem of erosion. Unfortunately, most of this technology is too costly for an individual landowner or for instances of erosion which are short of being severe.

After identifying approximately 15,400 miles of our national shoreline that

was undergoing significant erosion, the corps study then proceeded to identify an area in this total of 2,700 miles where the erosion was considered critical. The cost of remedial measures to halt erosion of this 2,700 mile area was $1.8 billion plus an average annual beach nourishment cost of about $73 million. This high estimate is particularly startling when one considers that there would yet remain almost 13,000 miles of shoreline that would not be touched by any type of solution.

What is lacking and what we need is the technical expertise for low cost methods of shoreline erosion prevention and low cost projects to implement this expertise, the Shoreline Erosion Control Demonstration Act would establish the program which can develop this technology.

As I indicated earlier, this act is a logical sequence to the Corps of Engineers study. This 3-year study dealt with the overall problems of beach erosion and evaluated the nature and severity of our national shoreline erosion problem.

The study indicated that, outside of Alaska, 43 percent of this Nation's shoreline is experiencing significant erosion. Of a total 36,940 miles of shoreline, the corps determined that 15,400 miles are experiencing significant erosion. Precise figures for the monetary values of the national losses due to erosion are not available. Yet between $30 and $50 million a year has been a reliable estimate.

As the corps indicated in their June 15 testimony before the Rivers and Harbors Subcommittee of the Public Works Committee, much of this eroding shoreline is in private hands. Further, they acknowledge that the shoreline protection programs are not keeping pace with the need for erosion control, and they indicated that this is particularly evident where private owners are involved and public funds are not available. By developing low cost means of preventing shoreline erosion, the Erosion Control Act, would create a program that will address the problem at its most severe point—namely, that erosion taking place on private land where public funds are not available and where the private owner is incapable of bearing the excessive costs involved in implementing the known methods of erosion prevention. The corps substantiated this need when they stated in their testimony that the shoreline erosion study indicated a need for the development of improved methods and techniques for controlling erosion.

With the high level of technology which this country has been able to achieve, it would seem unconscionable for us to permit irrevocable harm to be done to our shorelines merely because we do not possess and do not attempt to obtain the low cost technology to prevent erosion. The Erosion Control Act is a significant step toward the development of this technology.

Clearly, the matter of our coastal area goes beyond the question of erosion. As chairman of the Subcommittee on Oceans and Atmosphere, I introduced earlier this session a bill to develop a management plan and program for our coastal and estuarine zone areas. This legislation is now in conference. In addition, I introduced a measure to regulate the dumping of materials into the ocean, and we are currently in conference with the House on this bill as well. Coastal zone management, regulation of ocean dumping and prevention of shoreline erosion are three steps in an overall approach to the management of our coastal areas. The returns from such an approach are clearly substantial. They present a wise investment in preserving, restoring, and developing our shores.

The Erosion Control Act will provide us with needed technical expertise to minimize and combat the erosion that is eating at these shores. Consequently, I urge the Senate to consider this legislation favorably.

The PRESIDING OFFICER. Who yields time on the bill?

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

Mr. COOPER. Mr. President, I yield back my time on the bill.

The PRESIDING OFFICER. All time is yielded back on the bill.

The question is on the adoption of the bill—putting the question.

Mr. COTTON. Mr. President, were not the yeas and nays ordered?

The PRESIDING OFFICER. The order for the yeas and nays was vacated.

Mr. COTTON. Mr. President, I will not ask for the yeas and nays, but I call attention to the fact that there were certain Members on the floor when the yeas and nays were called for, and I regret that the order for the yeas and nays was withdrawn. Because of the hour and the fact that this is a bill which will go to the Appropriations Committee in due time, I am not going to ask for the yeas and nays. In fact, I could not get them if I asked for them, because there are not enough Senators here to get them. I do, however, express my regret that the order for the yeas and nays was withdrawn.

Mr. RANDOLPH. Mr. President, I think I should say that there is no disposition on the part of the chairman of the committee not to have the yeas and nays. In fact, I think it is important always to indicate that. Insofar as I am concerned, the yeas and nays on any important legislation are in order.

There was a discussion with the Senator from Kentucky, the Senator from West Virginia, and many Senators came to us and frankly requested that, because of appointments and other assignments, there not be a rollcall on final passage, if there was no strong feeling against the bill that would call perhaps for a division. It was under that arrangement that the Senator from Kentucky and the Senator from West Virginia agreed.

I must say—and the leadership can entertain this thought—that insofar as I am concerned, we could go over and have a rollcall vote tomorrow morning. I want always the expression of the membership.

Mr. COTTON. Mr. President, will the Senator yield to me?

Mr. RANDOLPH. Surely.

Mr. COTTON. Mr. President, I hope that what I said was not misunderstood. In the first place, there is no Member of the Senate in whom I have greater confidence than the distinguished chairman of this committee. I have served with him many years. He would not be party to any kind of parliamentary procedure that was not perfectly open and perfectly fair to every Member of the Senate, and if anything I said about the yeas and nays could possibly be interpreted as criticism, I most humbly apologize for it, and it was not so intended.

I know that in the closing days of any session legislation has to be jammed through and handled as expeditiously as possible, and I know, after 18 years in this body, that there has never been a time in the closing days and hours, and maybe weeks now—I do not know what the story is on that—when there has not been rather speedy legislation, sometimes not as carefully handled as we would hope.

This bill carries over half a billion dollars for projects. The report has not been in the hands of a Member of the Senate. That is not the fault of the chairman. It is not the fault of the committee, but is due to the situation involved in printing. So that in these times when vast deficits are being accumulated, we pass this authorization without reading the report, without seeing the evidence, and without any final vote of record.

This is only an authorization, and I know that if any Senator would take exception to what I have just said, he would inform me that this is only an authorization; it does not appropriate a dollar; any appropriation will have to be scrutinized and go through the process of the Appropriations Committee, of which I have the honor to be a member. That is true.

Mr. President, I am not going to ask for the yeas and nays and inconvenience Senators, but Mr. President, we all know what happens every time we pass an authorization bill. It goes out to the country and goes out to the States in which there will be benefits and projects, and they think that Congress has already voted them x number of dollars.

The public does not know the difference between an authorization and an appropriation. So when we pass a measure that authorizes over half a billion dollars, then the next step is that everyone calls for the appropriations, and Senators across the States call for them. If I have heard it once, I have heard it a hundred times: "Why, Congress has authorized this. How can you postpone this for 1 year or 2 years or 3 years?"

That is the reason that this Senator has become rather chary about just voting for every authorization that comes along.

Mr. President, I certainly commend the committee for their hard work on this bill, and I will not impose any further delay or objection.

The PRESIDING OFFICER. Do Senators yield back their remaining time?

Mr. RANDOLPH. I yield back the remainder of my time.

Mr. COOPER. Mr. President, let me say just one thing. I have great respect for what the Senator from New Hampshire has said. I might say that extensive hearings were held on this bill under the leadership of the Senator

from North Carolina (Mr. JORDAN), and, in executive sessions, we did go over the bill very carefully. If there were any questions about the readiness of a project for action by the Senate, we attached to it the condition that no project could be funded in any way until every step had been taken through the regular procedures of the Corps of Engineers, and the project had received approval of the President which, of course, is the Office of Management and Budget.

The bill was reported on September 21, 1972. It appears on page 10 of the calendar as order No. 1145. I note that on this copy of the calendar there is an inscription to notify me.

I did hear, from time to time, suggestions by the majority whip that this bill would be called up some time this week. This afternoon I received a telephone call stating that as there was not very much on the calendar to be considered, and that the leadership would like very much to bring up this bill around 5 o'clock.

I did call every member of the minority on the Public Works Committee, to see if there was any objection. I also called several Senators who, I had been informed, had amendments. I was also assured that, over the public address system to every office, there would be a call notifying Senators that the bill would be considered.

The question arose about a rollcall. As the Senator from West Virginia has stated, several Senators could not be present for a rollcall, and had to be leaving. So when a request for a rollcall was heard, Senator RANDOLPH and I told the majority leader (Mr. MANSFIELD) that we had had these inquiries, and I suppose it was on our request that he said all right, he would call it off.

I am sorry about it if the Senator feels he received insufficient notice. I would agree with Senator RANDOLPH that if the Senator from New Hampshire feels it would be better, I would be perfectly ready to let the matter go over and have a rollcall on it in the morning.

Mr. RANDOLPH. I fully understand the concerns expressed by the Senator from New Hampshire and his desire to have an expression by Senators through a rollcall vote. I firmly believe that each Member should have the right to express himself, by his words in debate and by his vote. This is the essence of the democratic system under which we live. Therefore, I repeat my willingness to wait until tomorrow for a final vote on this measure.

Mr. COTTON. Mr. President, I do not suggest that. I am sure that, with the confidence the entire Senate has in this committee, a rollcall would result in the passage of the bill, and as a matter of fact the Senator from New Hampshire does not even want to suggest it.

I certainly am not going to delay this action any longer. If there were a rollcall I would be compelled—because of this unprecedented payment of taxes lost because of the land being taken—to vote against the bill.

The PRESIDING OFFICER (Mr. HOLLINGS). Does the Senator from Kentucky yield back the remainder of his time?

Mr. COOPER. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is: Shall the bill pass?

The bill (S. 4018) was passed, as follows:

S. 4018

An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes

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

TITLE I—RIVERS AND HARBORS

SEC. 101. That the following works of improvement of rivers and harbors and other waterways for navigation, flood control, and other purposes are hereby adopted and authorized to be prosecuted under the direction of the Secretary of the Army and supervision of the Chief of Engineers, in accordance with the plans and subject to the conditions recommended by the Chief of Engineers in the respective reports hereinafter designated: *Provided*, That the provisions of section 1 of the River and Harbor Act approved March 2, 1945 (Public Law Numbered 14, Seventy-ninth Congress, first session), shall govern with respect to projects authorized in this title; and the procedures therein set forth with respect to plans, proposals, or reports for works of improvement for navigation or flood control and for irrigation and purposes incidental thereto, shall apply as if herein set forth in full:

NAVIGATION

Little River Inlet, North Carolina and South Carolina: House Document Numbered 92–362, at an estimated cost of $6,271,000;

Texas City Channel, Texas: House Document Numbered 92–199, at an estimated cost of $2,302,000;

Kansas River Channel, Kansas City, Kansas: report of the Board of Engineers for Rivers and Harbors dated March 29, 1972, at an estimated cost of $3,028,900, except that no funds shall be appropriated for this project until approved by the Secretary of the Army and the President;

Hoonah Harbor, Alaska: House Document Numbered 92–200, at an estimated cost of $3,710,000;

Metlakatla Harbor, Alaska: Senate Document Numbered 92–64, at an estimated cost of $2,160,000.

BEACH EROSION

North Shore of Long Island, New York: House Document Numbered 92–199, at an estimated cost of $3,000,000;

That the authorization for the beach erosion control project for Presque Isle Peninsula, Erie, Pennsylvania, as provided in section 101 of the River and Harbor Act of 1960 (74 Stat. 480) is reinstated and extended, under the terms existing immediately prior to the termination of such authorization, for a period of five years from the date of enactment of this Act, or if the review study of such project being carried out by the Secretary of the Army is not completed prior to the end of such period until such study is completed and a report thereon submitted to the Congress. There is authorized to be appropriated not to exceed $3,500,000 to carry out this provision.

SEC. 102. At any water resources development project under ths jurisdiction of the Secretary of the Army, where non-Federal interests are required to hold and save the United States free from damages due to the construction, operation, and maintenance of the project, such requirement shall not include damages due to the fault or negligence of the United States or its contractors.

SEC. 103. (a) This section may be cited as the "Shoreline Erosion Control Demonstration Act of 1972."

FINDINGS AND PURPOSE

(b) The Congress finds that because of the importance and increasing interest in the coastal and estuarine zone of the United States, the deterioration of the shoreline line within this zone due to erosion, the harm to water quality and marine life from shoreline erosion, the loss of recreational potential due to such erosion, the financial loss to private and public landowners resulting from shoreline erosion, and the inability of such landowners to obtain satisfactory financial and technical assistance to combat such erosion, it is essential to develop, demonstrate, and disseminate information about low-cost means to prevent and control shoreline erosion. It is therefore the purpose of this Act to authorize a program to develop and demonstrate such means to combat shoreline erosion.

SHORELINE EROSION PROGRAM

(c) (1) The Secretary of the Army shall establish and conduct for a period of five fiscal years a national shoreline erosion control development and demonstration program. The program shall consist of planning, constructing, operating, evaluating, and demonstrating, prototype shoreline erosion control devices, both engineered and vegetative.

(2) The program shall be carried out in cooperation with the Secretary of Agriculture particularly with respect to vegetative means of preventing and controlling shoreline erosion, and in cooperation with Federal, State, and local agencies, private organizations, and the Shoreline Erosion Advisory Panel established pursuant to subsection (d).

(3) Demonstration projects established pursuant to this section shall emphasize the development of low-cost shoreline erosion control devices located on sheltered or inland waters. Such projects shall be undertaken at no less than two sites on the shoreline of the Atlantic, gulf, and Pacific coast, at not less than one site on the Great Lakes, and at locations of serious erosion along the shores of Delaware Bay, particularly at those reaches known as Pickering Beach, Kitts Hummock, Bowers, Slaughter Beach, Broadkill Beach, and Lowes in the State of Delaware. Sites selected should, to the extent possible, reflect a variety of geographical and climatic conditions.

(4) Such demonstration projects may be carried out on private or public lands except that no funds appropriated for the purpose of this Act may be expended for the acquisition of privately owned lands. In the case of sites located on private or non-Federal public lands, the demonstration projects shall be undertaken in cooperation with a non-Federal sponsor or sponsors who shall pay at least 25 per centum of construction costs at each site and assume operation and maintenance costs upon completion of the project.

SHORELINE EROSION ADVISORY PANEL

(d) (1) No later than one hundred and twenty days after the date of enactment of this Act the Secretary of the Army shall establish a Shoreline Erosion Advisory Panel. The Secretary shall appoint fifteen members to such Panel from among individuals who are knowledgeable with respect to various aspects of shoreline erosion, with representatives from various geographical areas, institutions of higher education, professional organizations, State and local agencies, and private organizations: *Provided*, That such individuals shall not be regular full-time employees of the United States. The Panel shall meet and organize within ninety days from the date of its establishment, and shall select a Chairman from among its members. The Panel shall then meet at least once each six months thereafter and shall expire ninety days after termination of the five-year program established pursuant to section 3.

(2) The Panel shall—

(a) advise the Secretary of the Army generally in carrying out provisions of this Act;

(b) recommend criteria for the selection of development and demonstration sites;

(c) recommend alternative institutional, legal, and financial arrangements necessary to effect agreements with non-Federal sponsors of project sites;

(d) make periodic reviews of the progress of the program pursuant to this Act;

(e) recommend means by which the knowledge obtained from the project may be made readily available to the public; and

(f) perform such functions as the Secretary of the Army may designate.

(3) Members of the Panel shall, while serving on business of the Panel be entitled to receive compensation at rates fixed by the Secretary of the Army, but not in excess of $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 of the United States Code for persons in Government service employed intermittently.

(4) The Panel is authorized, without regard to the civil service laws, to engage such technical and other assistance as may be required to carry out its functions.

PROGRAM AND PROGRESS REPORT

(e) The Secretary of the Army shall prepare and submit annually a program progress report, including therein contributions of the Shoreline Erosion Advisory Panel, to the chairman of the Senate and House of Representatives Committees on Public Works. The fifth and final report shall be submitted sixty days after the fifth fiscal year of funding and shall include a comprehensive evaluation of the national shoreline erosion control development and demonstration program.

APPROPRIATIONS

(f) There is authorized to be appropriated for the fiscal year ending June 30, 1973, and the succeeding four fiscal years, a total of not to exceed $6,000,000 to carry out the provisions of this Act. Sums appropriated pursuant to this section shall remain available until expended.

SEC. 104. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to investigate, plan, and construct projects for the control of streambank erosion in the United States, its possessions, and the Commonwealth of Puerto Rico, in the interests of reducing damages from erosion, the deposition of sediment in lakes and waterways, the destruction of channels and adjacent lands, and other adverse effects of streambank erosion, when in the opinion of the Chief of Engineers such projects are consistent with the objectives of sound flood plain management and will result in substantial public benefits through the provision of needed protection to public, residential, and commercial properties.

(b) No such project shall be constructed under this section if the estimated Federal first cost exceeds $250,000. Any such project shall be complete in itself and not commit the United States to any additional improvement to insure its successful operation, except as may result from the normal procedure applying to projects authorized after submission of survey reports.

(c) For all projects undertaken pursuant to this Act, appropriate non-Federal interests shall furnish assurances satisfactory to the Secretary of the Army that they will—

(1) provide without costs to the United States all lands, easements, and rights-of-way necessary for the construction of the project;

(2) hold and save the United States free from damages due to construction;

(3) operate and maintain all the works after completion in accordance with regulations prescribed by the Secretary of the Army; and

(4) contribute 25 per centum of the first cost of the project.

(d) The authority contained in this section is supplemental to, and not in lieu of, the authority contained in section 14 and of the Act approved July 24, 1946 (60 Stat. 653), as amended

(e) There is authorized to be appropriated not to exceed $10,000,000 per annum for the construction of the projects authorized by this section.

SEC. 105. (a) The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized and directed to (1) make an intensive evaluation of streambank erosion along the Ohio River with particular emphasis on the reach from Chester to Kenova, West Virginia, with a view to determining whether bank protection works should be provided at this time; (2) develop and evaluate new methods and techniques for bank protection, conduct research on soil stability, identify the causes of erosion, and recommend means for prevention and correction of the problems; and (3) report to Congress the results of the studies together with his recommendations in connection therewith.

(b) In view of the serious bank erosion problems along the Ohio River, the Secretary of the Army is authorized to undertake measures to construct and evaluate demonstration projects as determined by the Chief of Engineers: *Provided*, That, prior to construction, local interests furnish assurances satisfactory to the Secretary of the Army that they will provide without cost to the United States lands, easements, and rights-of-way necessary for construction and subsequent operation of the projects; hold and save the United States free from damages due to construction, operation, and maintenance of the projects, and operate and maintain the projects upon completion.

SEC. 106. (a) The project for navigation in the Atchafalaya River and Bayous Chene, Boeuf, and Black, Louisiana, authorized by the River and Harbor Act of 1968 (82 Stat. 731) is hereby modified to provide that the local interests shall contribute 25 per centum of the costs of areas required for initial and subsequent disposal of spoil, and of necessary retaining dikes, bulkheads, and embankments therefor.

(b) the requirements for appropriate non-Federal interest or interests to furnish an agreement to contribute 25 per centum of the construction costs as set forth in subsection (a) shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State or States involved, interstate agency, municipality, and other appropriate political subdivisions of the State and industrial concerns are participating in and in compliance with an approved plan for the general geographical area of the dredging activity for construction, modification, expansion, or rehabilitation of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated.

SEC. 107. That portion of the Hudson River in New York County, State of New York, bounded and described as follows is hereby declared to be not a navigable water of the United States within the meaning of the laws of the United States, and the consent of Congress is hereby given to the filling in of all or any part thereof or the erection of permanent pile-supported structures thereon:

Beginning at a point on the United States bulkhead line lying southerly one hundred forty feet from the intersection of said bulkhead line and the northerly line of West Forty-seventh Street extended westerly;

thence westerly along a line perpendicular to said bulkhead line to a point one hundred feet easterly of the United States pierhead line;

thence southerly along a line parallel to said bulkhead line eight hundred eighty-six feet three inches;

thence easterly along a line perpendicular to said bulkhead line to the point of beginning.

This declaration shall apply only to portions of the above-described area which are bulkheaded and filled or occupied by permanent pile-supported structures. Plans for bulkheading and filling and/or permanent pile-supported structures shall be approved by the Secretary of the Army, acting through the Chief of Engineers, on the basis of engineering studies to determine the location and structural stability of the bulkheading and filling and/or permanent pile-supported structures in order to preserve and maintain the remaining navigable waterway. Local interests shall reimburse the Federal Government for any engineering costs incurred under this section.

SEC. 108. Section 113 of the Rivers and Harbors Act of 1968 is hereby amended to read as follows:

"SEC. 113. Those portions of the East and Hudson Rivers in New York County, State of New York, lying shoreward of a line within the United States pierhead line as it exists on the date of enactment of this Act, and bounded on the north by the north side of Spring Street extended westerly and the south side of Rutgers Slip extended eastwardly, are hereby declared to be nonnavigable waters of the United States within the meaning of the laws of the United States. This declaration shall apply only to portions of the above-described area which are bulkheaded and filled or are occupied by permanent pile-supported structures. Plans for bulkheading and filling and permanent pile-supported structures shall be approved by the Secretary of the Army, acting through the Chief of Engineers, on the basis of engineering studies to determine the location and structural stability of the bulkheading and filling and permanent pile-supported structures in order to preserve and maintain the remaining navigable waterway. Local interests shall reimburse the Federal Government for any engineering costs incurred under this section.

SEC. 109. Notwithstanding section 105 of the Rivers and Harbor Act of 1966 (80 Stat. 1406) or any other provision of the law, the States of Illinois and Missouri, which are connected by the bridge constructed by the city of Chester, Illinois, pursuant to Public Law 76–751 and Public Law 82–512, are authorized to contract individually or jointly with the city of Chester, Illinois, on or before June 1, 1974, to assume responsibility for the operation, maintenance, and repair of the Chester Bridge and the approaches thereto and lawful expenses incurred in connection therewith (exclusive of principal, interest, and financing charges on the outstanding indebtedness on such bridge and approaches). When either or both States enter into such an agreement, all tolls thereafter charged for transit over such bridge shall, except as provided in the last two sentences of this section, be used exclusively (a) to retire outstanding indebtedness (including reasonable interest and financing charges) on the bridge and approaches thereto and (b) credited into a sinking fund established for such bridge. No tolls shall be charged for transit over such bridge after the outstanding indebtedness on the bridge and approaches (including reasonable interest and financing charges) has been retired, or sufficient funds are available through the sinking fund to pay off all outstanding indebtedness (including reasonable interest and financing charges) on such bridge and approaches. If a State declines or is unable to participate in the agreement authorized by this section, the other State

may assume the responsibilities such State would have assumed under such an agreement. In that event, the assuming State shall be entitled to receive from toll revenues, after provision is made for principal and interest payments on any indebtedness then outstanding on the bridge and its approaches, as reimbursement, an amount of money (no less often than annually) which is equal to the nonparticipating State's fair share of the operating, maintenance, repair, and other lawful costs incurred in connection with the bridge and its approaches.

SEC. 110. Notwithstanding any other provision of law, the States of Illinois and Iowa, which are connected at Keokuk, Iowa, by the bridge constructed by the Keokuk and Hamilton Bridge Company pursuant to Public Law 63-342 and at Burlington, Iowa, by the bridge constructed by the Citizens' Bridge Company, pursuant to Public Law 64-1, are authorized to contract individually or jointly with either or both of the cities of Keokuk, Iowa, and Burlington, Iowa, on or before June 1, 1974, to assume responsibility for the operation, maintenance, and repair of the bridges at Keokuk and Burlington and the approaches thereto and lawful expenses incurred in connection herewith. When either or both States have entered into such an agreement any outstanding principal and interest indebtedness on account of a bridge shall be paid from reserve funds accumulated for that purpose and the balance of said funds, if any, shall be used to defray costs of operating and maintaining the bridge. After such an agreement is entered into with respect to a bridge, that bridge shall thereafter be free of tolls.

SEC. 111. Title I of this Act may be cited as the "River and Harbor Act of 1972".

TITLE II—FLOOD CONTROL

SEC. 201. Sections 201 and 202 and the last three sentences in section 203 of the Flood Control Act of 1968 shall apply to all projects authorized in this title. The following works of improvement for the benefit of navigation and the control of destructive floodwaters and other purposes are hereby adopted and authorized to be prosecuted by the Secretary of the Army, acting through the Chief of Engineers, in accordance with the plans and subject to the conditions recommended by the Chief of Engineers in the respective reports hereinafter designated.

POTOMAC RIVER BASIN

The project for Verona Dam and Lake, Virginia, for flood protection and other purposes is hereby authorized substantially in accordance with the recommendations of the Secretary of the Army in House Document Numbered 91-343, at an estimated cost of $34,350,000.

The project for Sixes Bridge Dam and Lake, Maryland, is hereby authorized substantially in accordance with the recommendations of the Secretary of the Army in House Document Numbered 91-343, at an estimated cost of $30,700,000.

SANTEE RIVER BASIN

The project for Clinchfield Dam and Lake on Broad River, North Carolina and South Carolina, Santee River Basin, for flood protection, and other purposes, is hereby authorized substantially in accordance with the recommendations of the Secretary of the Army in his report on the Development of Water Resources in Appalachia, dated April 1971, at an estimated cost of $58,565,000, except that no funds shall be appropriated for this project until it is approved by the Appalachian Regional Commission and the President.

MIDDLE ATLANTIC COASTAL AREA

The project for hurricane-flood protection at Norfolk, Virginia, authorized by the River and Harbor Acts approved September 3, 1954, and October 23, 1962, as amended and modified, is hereby further modified and expanded to provide for beach erosion control and hurricane-flood protection between Rudee Inlet and Eighty-ninth Street of Virginia Beach substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 92-365, at an estimated cost of $17,010,000.

JAMES RIVER BASIN

The project for flood protection for the city of Buena Vista on the Maury River, Virginia, is hereby authorized substantially in accordance with the recommendations of the Board of Engineers for Rivers and Harbors in its report dated August 30, 1972, at an estimated cost of $11,539,000, except that no funds shall be appropriated for this project until it is approved by the Secretary of the Army and the President.

DELAWARE RIVER BASIN

The project for Tamaqua Local Protection Project on Wabash Creek, Pennsylvania, Delaware River Basin, for flood protection, and other purposes, is hereby authorized substantially in accordance with the recommendations of the Secretary of the Army in his report on the Development of Water Resources in Appalachia, dated April 1971, at an estimated cost of $2,355,000, except that no funds shall be appropriated for this project until it is approved by the Appalachian Regional Commission and the President.

YADKIN RIVER BASIN

The project for flood protection and other purposes on the Roaring River, Yadkin River Basin, in the area of Winston-Salem, North Carolina, is hereby authorized substantially in accordance with the recommendations of the Secretary of the Army in his report on the Development of Water Resources in Appalachia, dated April 1971, at an estimated cost of $10,758,000, except that no funds shall be appropriated for this project until it is approved by the Appalachian Regional Commission and the President.

POCATALICO RIVER BASIN

The project for flood control, water supply, and related purposes, in the Pocatalico River Basin, West Virginia, is hereby authorized substantially in accordance with the recommendations contained in the Pocatalico River Basin Joint Study Interim Report prepared by the Corps of Engineers and the Soil Conservation Service, at an estimated cost of $7,545,400, except that no funds shall be appropriated for this project until it is approved by the President.

SALT RIVER BASIN

The project for Camp Ground Lake on Beech Fork in the Salt River Basin, Kentucky, for flood protection and other purposes, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in his report dated September 25, 1972, at an estimated cost of $50,800,000, except that no funds shall be appropriated for this project until it is approved by the Secretary of the Army and the President.

LICKING RIVER BASIN

The project for flood protection on the Licking River, Falmouth, Kentucky, is hereby authorized substantially in accordance with the levee plan considered during the 1971 studies (directed by House of Representatives Report Numbered 91-697) as contained in the Special Report of the Corps of Engineers (Senate Committee on Public Works print numbered 92-26).

That the Midland Local Protection Project, in Kentucky, for flood protection and other purposes, is hereby authorized substantially in accordance with the recommendations of the Secretary of the Army in his report on the Development of Water Resources in Appalachia, dated April 1971, at an estimated cost of $8,230,000, except that no funds shall be appropriated to carry out this section until the project is approved by the Appalachian Regional Commission and the President. Planning and construction shall also be coordinated and compatible with the Midland New Community plans recognized in preapplication approval by the Office of New Communities, Department of Housing and Urban Development.

LOWER MISSISSIPPI RIVER

The West Tennessee Tributaries Feature, Mississippi River and Tributaries project (Obion and Forked Deer Rivers), Tennessee, authorized by the Flood Control Acts approved June 30, 1948 and November 7, 1966, as amended and modified, is hereby further modified and expanded to provide for the acquisition and development of approximately fourteen thousand and four hundred acres of land for fish and wildlife management purposes, development of the Gooch and Tigrett Wildlife Management Areas, and minor channel modifications substantially in accordance with the recommendations of the Chief of Engineers in his report dated March 28, 1972, at an estimated cost of $6,600,000.

The project for flood control for Perry County Drainage and Levee Districts Numbered 1, 2, and 3, Missouri, authorized by the Flood Control Act approved July 24, 1946, is hereby modified and expanded to provide for interior flood control substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 92-360, at an estimated cost of $2,698,000.

The Cache River Basin Feature, Mississippi River and Tributaries project, Arkansas, authorized by the Flood Control Act approved October 27, 1965, is hereby modified and expanded to provide for acquisition by fee or by environmental easement of not less than 70,000 acres for mitigation lands for fish and wildlife management purposes at an estimated cost of $5,232,000. Local interests shall contribute 50 per centum of any costs incurred in excess of $4,740,000 in acquiring such property rights. An environmental easement shall prevent clearing of the subject land for commercial agricultural purposes or any other purpose inconsistent with wildlife habitat and shall allow any landowner to manage the subject lands to provide a perpetual, regularly harvested hardwood forest, which may be harvested in such a manner as to provide food and habitat for a variety of wildlife. No action may be initiated for any other taking of prospective mitigation lands until an offer has been made to the land owner thereof to take an environmental easement, provided that no less than 30,000 acres shall be open for public access. If any landowner commences the clearing of prospective mitigation land, condemnation proceedings may be commenced at any time after an offer to take an environmental easement has been made but not accepted. No more than $25 per acre shall be paid for environmental easements. Easement-taking offers shall allow the landowner the choice of keeping access subject to private control or allowing public access. The price paid for easements not allowing public access shall take account of the value of hunting and fishing rights not included in the taking and be reduced accordingly.

PASCAGOULA RIVER BASIN

The project for flood protection and other purposes on Bowie Creek, Mississippi, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 92-359, at an estimated cost of $32,410,000.

PEARL RIVER BASIN

The project for flood control and other purposes on the Pearl River, Mississippi, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 92-282, at an estimated cost of $38,146,000.

UPPER MISSISSIPPI RIVER BASIN

The project for reducing flood damage at Prairie du Chien, Wisconsin, by floodproof-

ing or evacuation and relocation of structures in the flood plain, and management of the evacuated flood plain in accordance with applicable State laws and adopted city codes is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in his report dated February 9, 1972, at an estimated cost of $2,300,000, except that no funds shall be appropriated for this project until it is approved by the Secretary of the Army and the President.

DES MOINES RIVER

The improvements to the local flood control project at Ottumwa, Iowa, on the Des Moines River to increase the discharge efficiency of the city's North Side interceptor serves to reduce flood damage are hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 92–197, at an estimated cost of $76,000.

SPRING RIVER BASIN

The project for flood control and other purposes on Center Creek near Joplin, Missouri, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 92–361, at an estimated cost of $14,600,000.

GRAND RIVER BASIN

The project for Pattonsburg Dam and Lake on the Grand River, Missouri, for flood protection and other purposes authorized by the Flood Control Act, approved August 13, 1968, is hereby modified to include hydroelectric power generating facilities during initial construction of the project, substantially in accordance with the recommendations of the Board of Engineers for Rivers and Harbors in their report dated August 30, 1972, at an estimated additional cost of $28,620,000; except that no funds shall be appropriated until the modification is approved by the Secretary of the Army and the President.

GREAT LAKES BASIN

The project for flood protection at Point Place, Toledo, Ohio, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 92–363, at an estimated cost of $960,000.

COLORADO RIVER BASIN

The project for flood control on Beals Creek, Texas, in the Colorado River Basin is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 92–115, at an estimated cost of $2,526,000.

PEYTON CREEK

The project for the improvement of Peyton Creek and tributaries, Texas, for flood control and major drainage is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 92–341, at an estimated cost of $8,490,000.

GUADALUPE RIVER BASIN

The project for flood control and other purposes on the Blanco River in the Edwards underground reservoir area, Guadalupe River Basin, Texas, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 92–364, at an estimated cost of $42,271,000.

UMPQUA RIVER BASIN

The project for Days Creek Dam, on the South Umpqua River, Oregon, for flood protection and other purposes, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in his report dated September 15, 1972, at an estimated cost of $113,000,000, except that no funds shall be appropriated to carry out this section until the project is approved by the Secretary of the Army and the President.

SEC. 202. (a) The comprehensive plan for flood control and other purposes in the White River Basin, as authorized by the Act of June 28, 1938 (52 Stat. 1215), and as modified and amended by subsequent Acts, is further modified to provide for a free highway bridge built to modern standards over the Norfolk Lake at an appropriate location in the area where United States Highway 62 and Arkansas State Highway 101 were inundated as a result of the construction of the Norfork Dam and Lake. Such bridge shall be constructed, maintained, and operated by the Chief of Engineers, Department of the Army, in accordance with such plans as are determined to be satisfactory by the Secretary of the Army in order to provide adequate crossing facilities over such lake for highway traffic in the area.

(b) The cost of constructing the bridge authorized in this section shall be borne by the United States except that the State of Arkansas shall be required to pay as its share of the cost of constructing such bridge the sum of $1,342,000 plus interest for the period from May 29, 1943, to the date of the enactment of this Act. Such interest shall be computed at a rate determined by the Secretary of the Treasury to be equal to the average annual rate on all interest-bearing obligations of the United States forming a part of the public debt on May 29, 1943, and adjusted to the nearest one-eighth of 1 per centum. The share to be paid by the State of Arkansas represents the amount paid by the United States to the State of Arkansas as insufficient compensation for the highways inundated as a result of the construction of the Norfork Dam and Lake plus interest from the date of payment.

SEC. 203. (a) The project for flood control below Chatfield Dam on the South Platte River, Colorado, authorized by the Flood Control Act of 1950 (64 Stat. 175), is hereby modified to authorize the Secretary of the Army, in his discretion, to participate with non-Federal interests in the acquisition of lands and interests therein and in the development of recreational facilities immediately downstream of the Chatfield Dam, in lieu of a portion of the authorized channel improvements, for the purpose of flood control and recreation.

(b) Such participation shall (1) consist of the amount of savings realized by the United States, as determined by the Secretary of the Army, in not constructing that portion of the authorized channel improvement below the dam, together with such share of any land acquisition and recreation development costs, over and above that amount, that is comparable to the share available under similar Federal programs providing financial assistance for recreation and open spaces; (2) in the instance of the aforementioned land acquisition, be restricted to those lands deemed necessary by the Secretary of the Army for flood control purposes, and (3) not otherwise reduce the local cooperation required under the project.

(c) Prior to the furnishing of the participation authorized by this Act, non-Federal interests shall agree to prevent any encroachments in needed flood plain detention areas which would reduce their capability for flood detention and recreation.

SEC. 204. (a) Subject to the provisions of subsection (b) of this section, the Secretary of the Army is authorized and directed to convey to the Mountrail County Park Commission of Mountrail County, North Dakota, all rights, title and interest of the United States in and to the following described tracts of land:

TRACT NUMBER 1

All of the land which lies landward of a line, which line is 300 feet above and measured horizontally from contour elevation 1850 mean sea level of old Van Hook Village in the northwest quarter of section 32, township 152, range 91 west of the fifth guide meridian.

TRACT NUMBER 2

All of the land which lies landward of a line, which line is 300 feet above and measured horizontally from contour elevation 1850 mean sea level of Olson's first addition, part of the southwest quarter of section 29, township 152, range 91 west of the fifth guide meridian.

TRACT NUMBER 3

Hodge's first addition, part of the northeast quarter of section 32, township 152, range 91, west of the fifth guide meridian.

(b) (1) The conveyance of such portion of the lands described in subsection (a) as is being used by the North Dakota State Game and Fish Department for wildlife management purposes shall not become effective until the termination of the license granted to such department for such use either in accordance with its original terms on October 31, 1980, or at any time prior thereto.

(2) The lands conveyed pursuant to this section shall be used by the Mountrail County Park Commission, Mountrail County, North Dakota, solely for public park and recreational purposes, and if such lands are ever used for any other purpose, title thereto shall revert to, and become the property of, the United States which shall have the right of immediate entry thereon.

(3) The conveyance authorized by this section shall be subject to such other terms and conditions as the Secretary of the Army deems to be in the public interest.

(c) The Mountrail County Park Commission shall pay the costs of such surveys as may be necessary to determine the exact legal description of the lands to be conveyed and such sums as may be fixed by the Secretary of the Army to compensate the United States for its administrative expenses in connection with the conveyance of such lands, which sum shall be covered into the Treasury into miscellaneous expenses.

SEC. 205. Section 208 of the Flood Control Act of 1954 (68 Stat. 1256, 1266) is hereby amended by striking out "$2,000,000" and inserting in lieu thereof "$5,000,000", and by striking out "$100,000" and inserting in lieu thereof "$250,000".

SEC. 206. Section 14 of the Act approved July 24, 1946 (60 Stat. 653) is hereby amended to read as follows:

"SEC. 14. The Secretary of the Army is authorized to allot from any appropriations heretofore or hereafter made for flood control, not to exceed $5,000,000 per year, for the construction of emergency bank protection works to prevent flood damage to highways, bridge approaches, public works, churches, hospitals, schools, and other nonprofit public services, when in the opinion of the Chief of Engineers such work is advisable: *Provided*, That not more than $250,000 shall be allotted for this purpose at any single locality from the appropriations for any one fiscal year."

SEC. 207. The project for flood protection on the Pequonnock River, Connecticut, authorized by section 203 of the Flood Control Act of 1966 (80 Stat. 1405) is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to advance to the town of Trumbull, Connecticut, such sums as may be necessary to provide, prior to construction of the project, municipal sewage disposal service to the Saint Joseph's Manor Nursing Home. Such advance, less the amount determined by the Secretary of the Army as representing increased costs resulting from construction of such service out of the planned sequence, shall be prepaid by the town, with interest, within ten years of the date of enactment of this Act.

SEC. 208. Section 213 of the Flood Control

Act of 1970 (84 Stat. 1824, 1829) is hereby amended to read as follows:

"SEC. 213. The Secretary of the Army, acting through the Chief of Engineers, is authorized to resolve the seepage and drainage problem in the vicinity of the town of Niobrara, Nebraska, that may be related to operation of Gavins Point Dam and Lewis and Clark Lake project, Nebraska and South Dakota, subject to a determination by the Chief of Engineers with the approval of the Secretary of the Army, of the most feasible solution thereto, at an estimated cost of $11,400,000."

SEC. 209. Subsection (f) of section 221 of the Flood Control Act of 1970 is amended by striking out "January 1, 1972" and inserting in lieu thereof "January 1, 1974".

SEC. 210. The portion of the project for flood protection on Chartiers Creek that is within Allegheny County, Pennsylvania, authorized by section 204 of the Flood Control Act of 1965 (Public Law 89-298), shall be designated as the "James G. Fulton Flood Protection Project". Any reference to such project in any law, regulation, map, document, record, or other paper of the United States shall be held to be a reference to the "James G. Fulton Flood Protection Project".

SEC. 211. The Secretary of the Army acting through the Chief of Engineers, is authorized and directed to undertake such emergency bank stabilization measures as are necessary to protect the Sacred Heart Hospital in Yankton, South Dakota, from damages caused by bank erosion downstream of Gavins Point Dam, Missouri River.

SEC. 212. The Beaver Dam in the State of Arkansas shall hereafter be known as the James W. Trimble Dam, and any law, regulation, document, or record of the United States in which such dam is designated or refered to shall be held to refer to such dam under and by the name of "James W. Trimble Dam."

SEC. 213. The Secretary of the Army, acting through the Chief of Engineers, is authorized to amend the contract between the city of Aberdeen, Washington, and the United States for use of storage space in the Wynoochee Dam and Lake on the Wynoochee River, Washington, for municipal and industrial water supply purposes so as to provide that the initial and subsequent payments for the present demand water supply storage under the contract may be deferred for a period of up to ten years.

SEC. 214. The project for Wynoochee Dam and Lake, Wynoochee River, Washington, authorized by the Flood Control Act approved October 23, 1962 (76 Stat. 1193), is hereby modified to provide that the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to transfer to the State of Washington, as a part of project costs, an amount estimated at $664,000 for construction of fish hatchery facilities for mitigation of losses of natural spawning areas for anadromous trout occasioned by project construction.

SEC. 215. Section 7 of the River Basin Monetary Authorization and Miscellaneous Civil Works Amendment Act of 1970 (84 Stat. 310) is hereby amended to read as follows:

"SEC. 7. That the project for Libby Dam, Kootenai River, Montana, is hereby modified to provide that funds available for such project, in an amount estimated at $4,000,000, may be used in the construction of fish hatchery facilities and the performance of related services, for mitigation of fish losses occasioned by the project, in a manner deemed appropriate by the Secretary of the Army, acting through the Chief of Engineers."

SEC. 216. (a) The project for Libby Dam, Kootenai River, Montana, authorized by the Flood Control Act approved May 17, 1950 (64 Stat. 170) is hereby modified to provide that the Secretary of the Army, hereinafter designated as the "Secretary", in order to conform with the purposes of the Fish and Wildlife Coordination Act of August 12, 1958 (72 Stat. 563) is authorized to acquire not more than twelve thousand acres of land for the mitigation of wildlife grazing losses caused by the project, and to participate with the State of Montana in the maintenance of such lands for wildlife grazing purposes.

(b) The Secretary is further authorized and directed to convey without monetary consideration, to the State of Montana all right, title, and interest of the United States in the land acquired under subsection (a) above, for use of wildlife grazing purposes, and to execute such other documents and perform such other acts as may be necessary or appropriate in connection with the operation and maintenance of the lands by the State of Montana for wildlife grazing purposes. The deed of conveyance shall provide that the land shall revert to the United States in the event it ever ceases to be used for wildlife grazing purposes.

SEC. 217. The project for Libby Dam (Lake Koocanusa), Montana, authorized by the Flood Control Act approved May 17, 1950 (64 Stat. 170), is hereby modified to provide that the Secretary of the Army, acting through the Chief of Engineers, is authorized to compensate the drainage districts and owners of levied and unlevied tracts, in Kootenai Flats, Boundary County, Idaho, for modification to facilities including gravity drains, structures, pumps, and additional pumping operational costs made necessary by, and crop and other damages resulting from, the duration of higher flows during drawdown operations at Libby Dam.

SEC. 218. The project for Libby Dam (Lake Koocanusa), Montana, authorized by the Flood Control Act approved May 17, 1950 (64 Stat. 170), is hereby modified to provide that the Secretary of the Army, acting through the Chief of Engineers, is authorized to reimburse Boundary County, Idaho, for the cost incurred to elevate, relocate, or reconstruct the bridge, located at the mouth of Deep Creek as it joins the Kootenai River, made necessary by the duration of higher flows during drawdown operations at Libby Dam.

SEC. 219. The project for hurricane-flood control protection from Cape Fear to the North Carolina-South Carolina State line, North Carolina, authorized by the Flood Control Act of 1966 (80 Stat. 1418, 1419) is hereby modified to provide that the Secretary of the Army, acting through the Chief of Engineers, may enter into an agreement with non-Federal public bodies to provide for reimbursement of installation costs incurred by such bodies, or an equivalent reduction in the contributions they are otherwise required to make, or a combination thereof, in an amount not to exceed $2,000,000, for work to be performed in the project, subject to the provisions of subsections (b) through (e) of section 215 of the Flood Control Act of 1968.

SEC. 220. The bridge to be built as a part of Interstate Route 35 in the State of Missouri over the Grand River shall be constructed at an elevation sufficient to allow for a maximum pool elevation of eight hundred and thirty-six feet above mean sea level in the proposed Pattonsburg Dam and Lake project.

SEC. 221. Section 205 of the Flood Control Act of 1948 (62 Stat. 1182), as amended (33 U.S.C. 701s), is amended by deleting "$25,000,000" and inserting in lieu thereof "$50,000,000", and is further amended by deleting "$1,000,000" and inserting in lieu thereof "$2,000,000".

SEC. 222. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to perform channel clean-out operations and snagging and clearing for selected streams where chronic and persistent flood conditions eixst in the lower Guyandot River Basin, West Virginia, for the purpose of improving channel capacities, visual environment, and human well-being all in the interest of flood control. Such operations shall be performed as an interim measure pending completion of the R. D. Bailey Lake project at a total cost not to exceed $2,000,000. Appropriate non-Federal public interests as determined by the Secretary of the Army, acting through the Chief of Engineers, shall, prior to initiation of remedial operations, furnish assurances satisfactory to the Secretary of the Army that they will furnish the necessary lands, disposal areas, easements and rights-of-way, and hold and save the United States free from damages due to the clean-out operations.

SEC. 223. Section 224 of the Flood Control Act of 1970 (84 Stat. 1824, 1832) is hereby amended by deleting the comma following "$10,000,000", inserting a period in lieu thereof, and deleting the remainder of the section.

SEC. 224. (a) The Secretary of the Army, acting through the Chief of Engineers is authorized to perform such work as may be necessary to provide for the repair and conversion to a fixed-type structure of dam numbered 3 on the Big Sandy River, Kentucky and West Virginia.

(b) The work authorized by this section shall have no effect on the condition that local interests shall own, operate, and maintain the structure and related properties as required by the Act of August 6, 1956 (70 Stat. 1062).

SEC. 225. (a) The Secretary of the Army (hereinafter the "Secretary") through the Chief of the Corps of Engineers and in accordance with the national recreation area concept included in the interagency report prepared pursuant to section 218 of the Flood Control Act of 1968 (Public Law 90-483) by the United States Army Corps of Engineers, the Department of the Interior, and the Department of Agriculture as modified by this Act, is authorized and directed to establish on the Big South Fork of the Cumberland River in Kentucky and Tennessee the Big South Fork National River and Recreation Area for the purposes of conserving and interpreting an area containing unique cultural, historic, geologic, fish and wildlife, archaelogic, scenic, and recreational values, preserving as a natural, free-flowing stream the Big South Fork of the Cumberland River, major portions of its Clear Fork and New River stems, and portions of their various tributaries for the benefit and enjoyment of present and future generations, the preservation of the natural integrity of the scenic gorges and valleys, and the development of the area's potential for healthful outdoor recreation. The boundaries shall be as generally depicted on the drawing entitled "Big South Fork National River and Recreation Area" numbered BSF-1 and dated September 26, 1972, which shall be on file and available for public inspection in the offices of the United States Army Corps of Engineers.

(b) The Secretary shall establish the Big South Fork National River and Recreation Area by publication of notice thereof in the Federal Register when he determines that the United States has acquired an acreage within the boundaries of the national river and recreation area that is efficiently administrable for the purposes of this Act. The Secretary may revise the boundaries from time to time, but the total acreage within such boundaries shall not exceed one hundred and twenty-five thousand.

(c) (1) Within the boundaries of the Big South Fork National River and Recreation Area, the Secretary may acquire lands and waters or interests therein by donation, purchase with donated or appropriated funds, or exchange or otherwise except that lands owned by the States of Kentucky and Tennessee or any political subdivisions thereof

may be acquired only by donation and may exercise the power of eminent domain when necessary. When an individual tract of land is only partly within the boundaries of the national river, the Secretary may acquire all of the tract by any of the above methods in order to avoid the payment of severance costs. Land so acquired outside of the boundaries of the national river and recreation area may be exchanged by the Secretary for non-Federal lands within the national river and recreation area boundaries, and any portion of the land not utilized for such exchanges may be disposed of in accordance with the provisions of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377; 40 U.S.C. 471 et seq.), as amended. Notwithstanding any other provision of law, any Federal property within the boundaries of the national river and recreation area shall be transferred without consideration to the administrative jurisdiction of the Secretary for the purposes of this Act.

(2) With the exception of property or any interest in property that the Secretary determines is necessary for purposes of administration, preservation, or public use, any owner or owners (hereinafter in this section referred to as "owner") of improved property used solely for noncommercial residential purposes on the date of its acquisition by the Secretary may retain the right of use and occupancy of such property for such purposes for a term, as the owner may elect, ending either (A) upon the death of the owner or his spouse, whichever occurs later, or (B) not more than twenty-five years from the date of acquisition. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value on such date of the term retained by the owner. Such right (i) shall be subject to such terms and conditions as the Secretary deems appropriate to assure that the property is used in accordance with the purposes of this Act, (ii) may be transferred or assigned, and (iii) may be terminated with respect to the entire property by the Secretary upon his determination that the property or any portion thereof has ceased to be used for noncommercial residential purposes, and upon tender to the holder of the right an amount equal to the fair market value, as of the date of the tender, of that portion of the right which remains unexpired on the date of termination.

Any person residing upon improved property, subject to the right of acquisition by the Secretary, as a tenant or by the sufferance of the owner or owners of the property may be allowed to continue in said residence for the lifetime of said person or his spouse, whichever occurs later, subject to the same restrictions as applicable to owners residing upon such property, and provided that any obligation or rental incurred as consideration for said tenancy shall accrue during said term to the Department of the Army to be used in the administration of this Act.

(3) As used in this subsection the term "improved property" means a detached year-round one-family dwelling which serves as the owner's permanent place of abode at the time of acquisition, and construction of which was begun before January 1, 1972, together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use: *Provided,* That the Secretary may exclude from any improved property any waters or land fronting thereon together with so much of the land adjoining such waters or land as he deems necessary for public access thereto.

(4) In any case where the Secretary determines that underlying minerals are removable consistent with the provisions of subsection (e)(3) of this Act, the owner of the minerals underlying property acquired for the purposes of this Act may retain said interest. The Secretary shall reserve the right to inspect and relegate the extraction of said minerals to insure that the values enumerated in subsection (a) are not reduced and that the purposes declared in subsection (e)(1) are not interfered with.

(d) The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the boundaries of the Big South Fork National River and Recreation Area in accordance with applicable Federal and State laws, except that he may designate zones where and establish periods when no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any rules and regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State agency responsible for hunting, fishing, and trapping activities.

(e)(1) It is the intent of Congress that the establishment and management of the Big South Fork River and Recreation Area shall be for the purposes of preserving and interpreting the scenic, biological, archeological, and historical resources of the river gorge areas and developing the natural recreational potential of the area for the enjoyment of the public and for the benefit of the economy of the region. The area within the boundary of the river and recreation area shall be divided into two categories; namely, the gorge areas and adjacent areas as hereinafter defined.

(2)(A) Within the gorge area, no extraction of or prospecting for minerals, petroleum products, or gas shall be permitted. No timber shall be cut within the gorge area except for limited clearing necessary for establishment of day-use facilities, historical sites, primitive camp-grounds, and access roads. No structures shall be constructed within the gorge, except for reconstruction and improvement of the historical sites specified in subsections (5) and (6) of this subsection and except for necessary day-use facilities along the primary and secondary access routes specified herein and within five hundred feet of such roads, and except for primitive campgrounds accessible only by water or on foot. No motorized transportation shall be allowed in the gorge area except on designated access routes.

(B) Primary access routes into the gorge area may be constructed or improved upon the general route of the following designated roads: Tennessee Highway Numbered 52, FAS 2451 (Leatherwood Ford Road), the road into the Blue Heron Community, and Kentucky Highway Numbered 92.

(C) Secondary access roads in the gorge area may be constructed or improved upon the following routes: the roads from Smith Town, Kentucky to Worley, Kentucky, the road crossing the Clear Fork at Burnt Mill Bridge, the road from Goad, Tennessee to Zenith, Tennessee, the road from Co-Operative, Kentucky to Kentucky Highway Numbered 92, the road entering the gorge across from the mouth of Alum Creek in Kentucky, the road crossing the Clear Fork at Peters Bridge.

(D) All other existing roads in the gorge area shall be maintained for nonvehicular traffic only: *Provided,* That nothing in this subsection shall abrogate the right of ingress and egress of those who remain in occupancy under subsection (c)(1) of this section.

(E) Road improvement or maintenance and any construction of roads or facilities in the gorge area as permitted by this subsection shall be accomplished by the Secretary in a manner that will protect the declared values of this unique natural scenic resource.

(3) In adjacent areas: the removal of timber shall be permitted only where required for the development or maintenance of public use and for administrative sites and shall be accomplished with careful regard for scenic and environmental values; prospecting for minerals and the extraction of minerals from the adjacent areas shall be permitted only where the adit to any such mine can be located outside the boundary of the recreation area; no surface mining or strip mining shall be permitted; prospecting and drilling for petroleum products and natural gas shall be permitted in the adjacent area under such regulations as the Secretary may prescribe to minimize detrimental environmental impact, such regulations shall provide among other things for an area limitation for each such operation, zones where operations will not be permitted, safeguards to prevent air and water pollution; no storage facilities for petroleum products or natural gas shall be located within the boundary of the project; the Secretary is authorized to construct two lodges with recreational facilities within the adjacent areas so as to maximize and enhance public use and enjoyment of the entire area; construction of all roads and facilities in the adjacent areas shall be undertaken with careful regard for the maintenance of the scenic and esthetic values of the gorge area and the adjacent areas.

(4) The gorge area as set out in subsections (1) and (2) of this section shall consist of all lands and waters of the Big South Fork and its primary tributaries that lie within the gorge or valley rim on either side, excepting that no lands or waters north of Kentucky Highway Numbered 92 shall be included. Where the rim is not clearly defined by topography, the gorge boundary shall be established at an elevation no lower than that of the nearest clearly demarked rim on the same side of the valley. The designated adjacent areas shall consist of the balance of the project area.

(5) The Secretary shall consult and cooperate with the Tennessee Historical Commission and the Rugby Restoration Association and with other involved agencies and associations, both public and private, concerning the development and management of the Big South Fork River and Recreation Area in the area adjacent to Rugby, Tennessee. Development within this area shall be designed toward preserving and enhancing the historical integrity of the community and any historical sites within the boundary of the project.

(6) The Secretary shall provide for the restoration of the Blue Heron Mine community in a manner which will preserve and enhance the historical integrity of the area and will contribute to the public's understanding and enjoyment of its historical value. To that end the Secretary may construct and improve structures within and may construct and improve a road into this community notwithstanding any other provision of this Act.

(7) The Secretary shall study the desirability and feasibility of reestablishing rail transpotration on the abandoned O&W railroad or an alternative mode of transportation within the national river and recreation area upon the O&W roadbed, and shall report his recommendation with regard to development of this facility.

(8) The Secretary shall consult with the Bureau of Outdoor Recreation in the development of a recreation plan for the Big South Fork National River and Recreation Area.

(f) The Federal Power Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (41 Stat. 1063) as

amended (16 U.S.C. 791a et seq.) on or directly affecting the Big South Fork National River and Recreation Area and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary. Nothing contained in the foregoing sentence however, shall preclude licensing of, or assistance to, developments below or above the Big South Fork National River and Recreation Area or on any stream tributary thereto which will not invade the area or unreasonably diminish the scenic, recreation, and fish and wildlife values present in the area on the date of approval of this Act. No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary, or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Secretary in writing of its intention so to do at least sixty days in advance, and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this Act and would affect the national river and recreation area and the values to be protected by it under this Act.

(g) The Secretary shall study transportation facilities in the region served by the national river and recreation area and shall establish transportation facilities to enhance public access to the national river and recreation area. In this connection the Secretary is authorized and directed to acquire the ownership and custody of all public roads required to serve the public use area other than State highways and to establish, operate, maintain, and control at Federal cost an interior and circulating road system sufficient to meet the purposes of this Act: *Provided, however,* That any existing public road, which at the time of its acquisition continues to be a necessary and essential part of the county highway system at large, may at the discretion of the Secretary, be relocated outside of said area upon mutual arrangements with the owning agency or else said road shall remain in place and shall be maintained at Federal expense and kept open at all times for general travel purposes. *Provided further,* That nothing in this section shall abrogate the right of egress and ingress of those persons who may remain in occupancy under section c of this section, nor preclude, notwithstanding section c, the adjustment, relocation, reconstruction, or abandonment of State highways situated in the area, with the concurrence of the agency having the custody thereof upon such arrangements as the Secretary deems appropriate and in the best interest of the general welfare.

(h) In furtherance of the purposes of this Act the Secretary, in cooperation with the Secretary of Agriculture, the heads of other Federal departments and agencies involved, and the State of Tennessee and its political subdivisions, shall formulate a comprehensive plan for that portion of the New River that lies upstream from United States Highway Numbered 27. Such plan shall include, among other things, programs (1) to enhance the environment and conserve and develop natural resources; and (2) to minimize siltation and acid mine drainage. Said plan, with recommendations, including as to costs and administrative responsibilities, shall be completed and transmitted to the Congress within one year from the date of this Act.

(i) The Secretary shall consult and cooperate with other departments and agencies of the United States and the States of Tennessee and Kentucky in the development of measures and programs to assure the highest water quality within the Big South Fork National River and Recreation Area and to insure that such programs for the protection of water quality do not diminish other values that are to be protected under this Act.

(j) (1) For the purpose of financially assisting the States of Tennessee and Kentucky, McCreary County, Kentucky, and Scott, Morgan, Pickett, and Fentress Counties in Tennessee, because of losses which they may sustain by reason of the fact that certain lands and other property within them may be included within the national river and recreation area established by this Act and shall thereafter no longer be subject to real and personal property taxes levied or imposed by them, payments shall be made to them on an annual basis and in an amount equal to that which they would have received from such taxes, at the time of the acquisition of such property, but for the establishment of the national river and recreation area.

(2) For the purpose of enabling the Secretary to make such payments during the fiscal years ending June 30, 1973, June 30, 1974, June 30, 1975, June 30, 1976, and June 30, 1977, there are authorized to be appropriated such sums as may be necessary.

(k) There are authorized to be appropriated $32,850,000 to carry out the provisions of this Act.

SEC. 226. Subsection (b) of the first section of the act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946 (33 U.S.C. 426e(b)), is amended in paragraph (3) to read as follows: "Federal participation in the cost of a project providing significant hurricane protection shall be, for publicly owned property, 70 per centum of the total cost exclusive of land costs".

SEC. 227. The project for flood protection on the North Branch of the Susquehanna River, New York and Pennsylvania, authorized by the Flood Control Act of 1958 (72 Stat. 305, 306) is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to pay the J. P. Ward Foundries, Incorporated of Blossburg, Pennsylvania, such sum as he determines equitable to compensate said foundry for long-term economic injury through increased costs as the result of the abandonment of cessation of rail transportation to the foundry due to the construction of the Tioga-Hammond Lakes project. There is authorized to be appropriated not to exceed $1,100,000 to carry out the purpose of this section.

SEC. 228. The Cave Run Lake Project authorized by the Flood Control Act approved June 22, 1936 and June 28, 1938, is modified to provide that the construction of any proposed road to the Zilpo Recreation Area located in Bath and Menifee Counties, Kentucky, shall not be undertaken until there is full opportunity for public review and comment on the environmental impact statement pertaining to such proposed road.

SEC. 229. In honor of the late Richard B. Russell, and in recognition of his long and outstanding service as a member of the United States Senate, the Trotters Shoals Dam and Lakes, Savannah River, Georgia and South Carolina, shall hereafter be known and designated as the Richard B. Russell Dam and Lake and shall be dedicated as a monument to his distinguished public service. Any law, regulation, map, document, or record of the United States in which such project is referred to shall be held and considered to refer to such project by the name of the Richard B. Russell Dam and Lake.

Mr. RANDOLPH. 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. RANDOLPH. The Committee on Public Works has been greatly aided in the development of the bill which has just been passed by the competent support of its staff. Members of the committee staff who were involved in the preparation of this legislation include John Purinton, professional staff member; M. Barry Meyer, chief clerk and chief counsel; Bailey Guard, minority clerk; Philip T. Cummings, assistant counsel; John W. Yago, Paul Chimes, and Richart Herod of the professional staff; and Polly Medlin, Birdie Kyle, Veronica Holland, Ann Brown, and Rose Chandless of the secretarial staff.

CONSUMER PROTECTION ORGANIZATION ACT OF 1972

Mr. ROBERT C. BYRD. Mr. President, I ask that the Senate return to the consideration of the unfinished business.

The PRESIDING OFFICER (Mr. HOLLINGS). Without objection, the Chair 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 consumer protection grants, in order to protect and serve the interests of consumers, and for other purposes.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished majority leader, I present a motion to invoke cloture on the pending measure, S. 3970.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the bill (S. 3970), a bill 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 interest of consumers and for other purposes.

1. Mike Mansfield.
2. Robert C. Byrd.
3. Jennings Randolph.
4. Richard S. Schweiker.
5. Lloyd Bentsen.
6. Clinton P. Anderson.
7. Birch Bayh.
8. Mark Hatfield.
9. Stuart Symington.
10. George D. Aiken.
11. Philip Hart.
12. Walter Mondale.
13. Mike Gravel.
14. Henry Jackson.
15. John V. Tunney.
16. Warren Magnuson.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the 1 hour for debate on the motion to invoke clo-

ture begin running at 10 o'clock a.m. on Friday next, September 29.

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

ORDER REVISING THE ORDER OF RECOGNITION OF SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, to revise the sequence of the orders for the recognition of Senators tomorrow, I ask unanimous consent that the sequence be as follows: Mr. FANNIN, Mr. WILLIAMS, Mr. Moss, Mr. CRANSTON, Mr. MAGNUSON, Mr. HART, Mr. SYMINGTON, Mr. TUNNEY, Mr. ROBERT C. BYRD, and Mr. SCOTT.

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

PRIVILEGE OF THE FLOOR

Mr. ROBERT C. BYRD. Mr. President, at the request of the distinguished Senator from Missouri (Mr. MONDALE), I ask unanimous consent that Ellen Hoffman of the staff of the Committee on Labor and Public Welfare be granted privileges of the floor during the consideration of H.R. 1.

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

Mr. ROBERT C. BYRD. At the request of the distinguished Senator from Wisconsin (Mr. NELSON), I ask unanimous consent that Richard Foley be accorded the privilege of the floor except during votes during the consideration of H.R. 1.

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

NATIONAL COMMISSION ON MULTIPLE SCLEROSIS ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote by which S. 3659 was read the third time and passed yesterday be reconsidered.

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

Mr. ROBERT C. BYRD. I ask unanimous consent that the Committee on Labor and Public Welfare be discharged from further consideration of H.R. 15475, that the Senate proceed to its consideration, and that the text of S. 3659, as passed by the Senate, be substituted therefor.

The PRESIDING OFFICER. Is there objection?

There being no objection the Senate proceeded to consider H.R. 15475, to provide for the establishment of a National Advisory Commission to determine the most effective means of finding the cause of and cures and treatments for multiple sclerosis.

The PRESIDING OFFICER. Without objection, all after the enacting clause will be stricken, and the language of S. 3659 as passed yesterday will be inserted in lieu thereof.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 15475) was read the third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 3659 lie on the table.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 8:30 a.m.

The following Senators will be recognized, each for not to exceed the time stated and in the order stated: Mr. FANNIN, 15 minutes; Mr. WILLIAMS, 15 minutes; Mr. Moss, 15 minutes; Mr. CRANSTON, 15 minutes; Mr. MAGNUSON, 15 minutes; Mr. HART, 15 minutes; Mr. SYMINGTON, 15 minutes; Mr. TUNNEY, 15 minutes; Mr. ROBERT C. BYRD, 10 minutes; and Mr. SCOTT, 15 minutes.

At the conclusion of the orders for the recognition of Senators, there will be a period for the transaction of routine morning business, for not to exceed 15 minutes, with statements therein limited to 3 minutes.

At the conclusion of routine morning business, the Senate will return to the consideration of H.R. 1, the welfare bill.

At an appropriate time during the afternoon, to be determined by the distinguished majority leader or his designee, the Senate will resume consideration of the unfinished business, S. 3970, the consumer protection bill.

Conference reports may be called up at any time. Amendments may be called up at any time. Yea-and-nay votes may occur thereon. Tabling motions can occur at any time. Hence, yea-and-nay votes may occur during the day tomorrow.

ADJOURNMENT UNTIL 8:30 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 8:30 a.m. tomorrow.

The motion was agreed to; and at 6:52 p.m. the Senate adjourned until tomorrow, Thursday, September 28, 1972, at 8:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 27, 1972:

U.S. POSTAL SERVICE

Frederick Russell Kappel, of New York, to be a Governor of the U.S. Postal Service for the remainder of the term expiring December 8, 1974.

Robert Earl Holding, of Wyoming, to be a Governor of the U.S. Postal Service for the remainder of the term expiring December 8, 1973.

HOUSE OF REPRESENTATIVES—*Wednesday, September 27, 1972*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

I have come that you might have life and have it more abundantly.—John 10: 10.

O God and Father of us all, who art seeking to guide us into the realization of an abundant life, give to us a mind free from prejudice and always open to the light of truth, a heart sensitive to human need and a will ready to work diligently for all that is noble and good. Leave us not standing in the valley of indecision but lead us through high moral choices, ready sympathy, and a dynamic faith to make a genuine contribution to the life of our Nation.

We pray for our country and for our countrymen. During the days ahead may our people be led along wise paths in selecting our leaders for tomorrow's tasks.

God bless America, land that we love, stand beside her and guide her that she may ever be the land of the free and the home of the brave.

In the spirit of Him who humbles us and yet heartens us we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills and a joint resolution of the House of the following titles:

H.R. 6467. An act for the relief of Harold J. Seaborg;

H.R. 7946. An act for the relief of Jerry L. Chancellor;

H.R. 10012. An act for the relief of David J. Foster;

H.R. 10363. An act for the relief of Herbert Improte;

H.R. 12099. An act for the relief of Sara B. Garner;

H.R. 12903. An act for the relief of Anne M. Sack; and

H.J. Res. 1304. Joint resolution authorizing the President to proclaim October 1, 1972, as "National Heritage Day".

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 11047. An act for the relief of Donald W. Wotring;

H.R. 11629 An act for the relief of Cpl. Bobby R. Mullins; and

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