Wylie Lawhead, International Association of Marble, Slate and Stone Polishers, Rubbers and Sawyers, Tile Helpers and Finishers, Marble Setters Helpers, Marble Mosaic and Terrazzo Workers Helpers, 9,000 members.

In a joint statement, the nine union chiefs cited President Nixon's foreign policy, including his efforts to bring "an honorable end to the war in Vietnam," among the reasons for their endorsement.

"Moreover," they said, "the President's belief in the dignity of honest work and his opposition to policies which would sap and undermine the fundamental strength of American character, coincides with our view that it is only by honoring those who work that America can remain the kind of nation we wish to pass on to our children and grandchildren."

These union leaders are understood to be happy with the Construction Industry Stabilization Committee, which has imposed wage restraints in their industry but not so strenuously or arbitrarily as has the Pay Board in other industries.

Earlier today the union leaders were received by President Nixon at the White House. They were accompanied by Frank Bonadio, president of the Building and Construction Trades Department of the A.F.L.-C.I.O., even though the department has declared itself neutral in keeping with the policy of the federation's Executive Council.

The presidents of the two largest construction unions, Charles Pillard of the International Brotherhood of Electrical Workers and William Sidell of the Carpenters Union, did not endorse the President, Frank Raftery, president of the Painters Union, and Edward Carlough of the Sheetmetal Workers, head two other large unions that withheld their endorsement.

SENATE—*Friday, September 29, 1972*

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

PRAYER

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

O God, we lift our hearts to Thee in gratitude for life and health, for work to do and strength with which to do it, for love and friendship, for the goodness and mercy that daily follows us, for the beauty and wonder of Thy creation, and for all things just and pure and true. We thank Thee for this Nation, its history, and its place in the present age. Assist us ever to live in the spirit of thanksgiving and to serve Thee and our fellow citizens gladly all our days.

We commit the Members of this body and all who assist them to Thy keeping. Guide them to consummate the legislation most beneficial to the Nation and its people at this time. Watch over them until the coming of the perfect order of Thy kingdom. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, September 28, 1972, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Armed Services and the Committee on Foreign Relations may be authorized to meet during the session of the Senate today.

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

The Senator from Montana is recognized.

(The remarks of Mr. MANSFIELD at this point when he introduced S. 4046 are printed in the Routine Morning Business section of the RECORD under Statements on Introduced Bills and Joint Resolutions.)

ORDER OF BUSINESS

The PRESIDENT pro tempore. Does the distinguished minority leader desire recognition?

Mr. SCOTT. Mr. President, I reserve my time.

EXECUTIVE SESSION

Mr. SCOTT. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the calendar.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Pennsylvania?

There being no objection, the Senate proceeded to the consideration of the nominations on the calendar.

DISTRICT OF COLUMBIA COUNCIL

The second assistant legislative clerk proceeded to read sundry nominations on the District of Columbia Council.

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

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

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

The PRESIDENT pro tempore. Without objection, the President will be notified.

LEGISLATIVE SESSION

Mr. SCOTT. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

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

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the Senator from New Jersey (Mr. WILLIAMS) is recognized for not to exceed 15 minutes.

THE NIXON ADMINISTRATION—A FORM OF URBAN BLIGHT

Mr. WILLIAMS. Mr. President, during this period I shall address myself to urban problems and the response of this administration to those problems. My short statement is entitled "The Nixon Administration—A Form of Urban Blight."

Mr. President, more than 70 percent of our Nation's citizens now live in urban areas, and the multitude of problems which beset our cities must of necessity be of concern to any principled candidate for high public office.

I mention this because the Republican candidate for President, who also happens to be the incumbent, has over the past several years demonstrated not only a lack of concern, but, in fact, a callous disregard for the needs of our urban areas.

The incumbent, despite the enormous positive powers of the office he has held for the past several years, has used his position instead to strangle the most vitally important of urban programs.

Let me cite a few examples.

Recognizing that the disposal of waste products has become one of the most critical urban problems, Congress authorized and appropriated $1.65 billion in fiscal year 1972 for the construction of sewage treatment facilities.

Members of both parties endorsed this measure as a positive step toward abating water pollution.

Richard Nixon, however, took it upon himself to withhold 65 percent of the funds he was directed to allocate for this purpose.

Of the $1.65 billion that should have gone into the construction of sewage treatment facilities, a full $1.073 billion was not spent.

Mr. Nixon's parsimony will cost us all dearly in the long run. Unless their sewage treatment facilities are improved, our cities and suburbs will be left to stagnate.

We will pay for Mr. Nixon's ill-conceived economy not in dollars but in foul-smelling rivers unfit for urban recreation needs, and reservoirs with undrinkable water.

We will pay in lakes which are filled with scum unfit to swim in, and ultimately we will pay in oceans that cannot support any form of life.

This is supposed to be fiscal responsibility.

Richard Nixon's record on mass transportation in our urban areas is equally deplorable.

Over the last 2 years $500 million in funds authorized and appropriated by Congress under the Urban Mass Transit Assistance Act of 1970 have been frozen by Mr. Nixon.

On November 7, 1971, 35 Senators, including both the distinguished minority leader (Mr. SCOTT) and the distinguished minority whip (Mr. GRIFFIN), joined me in urging Mr. Nixon to allocate speedily

the money Congress provided for urban mass transit.

Mr. President, I should have said that 37 Members of the Senate joined in that effort, and obviously there were many Members from either side of the aisle. I mentioned the distinguished minority leader and the distinguished minority whip. Antedating that, another plea was made by many of the same Senators, including the minority leader and minority whip, and that came on March 21, 1971. A similar plea was made to the President to allocate and to spend for this purpose the money that Congress had so laboriously authorized and even more laboriously appropriated for this purpose, to get us out of those monumental traffic jams.

At that time the incumbent apparently was only interested in bringing us together in monumental traffic jams.

Over the past several years Richard Nixon has also mounted an intensive foot-dragging campaign against a program of operating subsidies for urban mass transit companies.

While refusing to allow any member of his administration to testify publicly, Mr. Nixon repeatedly unleashed his lobbyists to slip a knife in the back of any bill which would provide operating subsidies for mass transportation.

Meanwhile, more and more commuter lines are teetering on the brink of bankruptcy.

Bus systems in cities of all sizes are staggering under ever-increasing deficits and must either raise their fares or curtail services. A vicious cycle of decline has come to urban mass transit.

In the last 10 years the number of municipalities forced to initiate programs of operating assistance to transit systems has increased by nearly 400 percent.

Our cities, States, and municipalities can no longer be forced to carry the burden of transit's financial deterioration by themselves.

Richard Nixon has also attempted to sabotage urban mass transit programs by intentionally disregarding the provisions of the Urban Mass Transit Assistance Act.

This law required the administration to submit its request for contract authority for fiscal years 1976 and 1977 by February 1, 1972.

Despite repeated pleas from the distinguished chairman of the Committee on Banking, Housing and Urban Affairs (Mr. SPARKMAN), and from me, Mr. Nixon's indifference lasted until 2 weeks ago, when the tune of the approaching election finally induced him to shuffle in with his request.

The consequences of President Nixon's policy of negligence and procrastination in regard to mass transit for our cities are not only predictable, but inevitable.

Our air is fouled with fumes; automobile accidents take more than 55,000 lives a year; in areas where land is at a premium it is devoured by streets, garages, and parking lots.

Today almost 66 percent of the land in urban areas belongs to the car.

Of equal importance is the failure of the Nixon administration to provide an adequate response to the housing needs of senior citizens.

The magnitude of these problems is well known:

Housing is the No. 1 cost for older Americans, with more than a third of their incomes going for shelter.

Almost one-third of all elderly persons are estimated to live in dilapidated, deteriorated, or substandard housing.

The 6.5 million elderly with incomes below or very near the poverty line cannot afford to pay one-third of their income for housing. Nor can they afford the repair and upkeep.

Perhaps most important for the 70 percent of older Americans who own their homes, property taxes have jumped 32 percent since January 1969 and are to the point of becoming confiscatory in some States.

Last, senior citizens are more and more becoming victims of criminals. A recent Gallup poll indicates a dramatic increase in the public's concern about crime and lawlessness: in the Nixon years, three out of four women over 50 years of age now indicate that they are afraid to walk in their neighborhoods at night.

In short, most seniors own their homes—homes which once represented comfort and security in earlier life—which now have become expensive, difficult to maintain, and burdened with increasing property taxes which may consume 10 or 15 or even more than 25 percent of the elderly's gross incomes.

Many would gladly trade their homes for smaller quarters if suitable alternatives could be found.

But there are no alternatives.

There is only shortage, unmet needs, and unkept promises.

Clearly the administration has been unresponsive to the housing needs of older Americans.

In spite of the high cost of housing in the average budget of individuals 65 and over the Nixon administration opposition to the recent 20 percent social security increase is well known.

The administration has failed to deal with the shortcomings of Federal programs in helping senior citizens repair and rehabilitate their own housing.

The administration has not felt the need to help older Americans purchase new or alternative residences.

Because of their relatively short life expectancies, seniors are denied loans in the conventional marketplace.

Aside from those few seniors who have made use of the section 235 program, the Federal Government's assistance is limited to providing FHA insurance in the purchase of mobile homes.

The administration's performance in providing a suitable number of rental units is equally anemic.

The White House Conference on Aging determined that a bare minimum of 120,000 new units for the elderly would be needed yearly.

Only 41,000 units were built for the elderly in 1970, however, and the administration promises only 66,000 units this year.

The Nixon administration bears the responsibility for phasing out the one housing program designed exclusively for the elderly.

The section 202 provided direct loans to nonprofit sponsors desiring to build housing for the elderly.

The sponsor could borrow 100 percent of project cost at 3-percent interest from the Federal Government if the project met strict design criteria written with the special needs of older Americans in mind.

Section 202, which never suffered a failure in its 10 years of operation, was phased out in 1969 by the Nixon administration's arbitrary interpretation of the 1968 Housing Act.

Despite repeated efforts from the Congress, HUD has continued to insist that the 1968 Housing Act required the phaseout of section 202 in favor of the scandal-ridden FHA section 236.

Section 236 requires the sponsor to go to the private money market for a conventional loan with the Federal Government assuming all but 1 percent of the interest on the loan at a staggering cost to the Federal Government.

In fact, witnesses before my Subcommittee on Housing for the Elderly last year testified that a $3 million project will cost the Government $8 million in interest alone over the 40-year term of the mortgage.

The fact that section 236 is substantially more costly than section 202 has been confirmed by a recent General Accounting Office audit.

The Nixon administration's record on property tax relief for older Americans is marked by similar disregard for generally recognized needs.

With property taxes increasing by 32 percent since President Nixon assumed the White House, it is logical that the President should speak to the need for reform.

But words have not been followed by deeds.

In fact, the administration mounted resistance to the one measure under consideration during this Congress which would have provided such relief.

The Eagleton bill, S. 1960, would have provided an income tax credit of up to $300 for elderly homeowners and tenants but was shot down by the administration.

Other proposals for property tax relief have been ignored while Nixon speaks of a regressive national sales tax to take the place of equally regressive and oppressive property taxes.

Another issue which my Subcommittee on Housing for the Elderly has brought to public attention relates to the increasing victimization of elderly citizens.

Witnesses at recent hearings described elderly residents of federally assisted public housing units as "sitting ducks."

We were told of one elderly woman who had been "mugged" 21 times in her apartment.

Witnesses spoke of being afraid to venture out at night and fearing even to empty the mailbox on the third of the month when social security checks arrive.

The elderly apparently suffer a disproportionate share of certain crimes.

The Federal Government, by bringing large numbers of individuals together in a single area or high rise, should be concerned about the safety of these individuals.

The solution to the problem is money and commitment.

At the present time we are beginning to see some movement within the Department of Housing and Urban Development Law Enforcement Assistance Administration.

There appears to be the beginning of a genuine effort to arrest this serious problem but the administration has still to set aside a meaningful portion of operating subsidies to allow housing authorities to provide requisite security arrangements.

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

Under the previous order, the Senator from Michigan is recognized for not to exceed 15 minutes.

Mr. HART. Mr. President, I yield such time as he may need to the Senator from New Jersey.

The PRESIDENT pro tempore. The Senator from New Jersey is recognized.

Mr. WILLIAMS. I appreciate the graciousness of the Senator from Michigan.

Mr. President, the Nixon administration's efforts in this facet of the urban problem have been shockingly inadequate.

I find it curious that the administration can laud itself for its so-called achievement.

The repeated recitation of problems without the commitment of resources constitutes a cruel hoax perpetrated on the elderly.

The rising expectations and hope created by the administration will only give way to the disenchantment and disappointment which older Americans have felt again and again during these last 3 years.

Mr. President, in 4 short years the Nixon administration has itself developed into a form of urban blight.

The present administration has come to be synonymous with traffic snarls and exhaust-laden air.

It has come to mean raw sewage in our waterways.

It has come to mean indifference to the most basic needs of our elderly urban dwellers—the need for adequate housing and the need for personal security.

This strain of urban blight is particularly virulent and particularly debilitating.

Another 4 years may be more than our cities can endure.

Mr. HART. Mr. President, the statement I have just heard voiced by the Senator from New Jersey is soundly based. The facts are there. I hope the people of this country will recognize them for what they are.

THE DETERIORATION OF URBAN AREAS

Mr. HART. Mr. President, in 1969 a commission created by President Johnson, following the tragic deaths of our former colleague Robert Kennedy and Dr. Martin Luther King, was charged with reporting on causes and prevention of violence in this country. The chairman of the commission was Dr. Milton Eisenhower, former president of Johns Hopkins University, and a distinguished American. That committee filed a unanimous warning and said that our country was on the way to becoming a society divided between armed, affluent suburbs and decayed, savage cities.

The reverse of that trend should be the very highest priority, for a nation divided such as that cannot for long remain free or strong.

Tragically, it would appear that the present administration did not hear that warning, because 3 years later we are even further down the road toward that divided society of decaying cities and armed suburbs.

The administration's response to that warning has been a Nero-like approach to urban problems while fiddling for suburban votes. That is obviously the product of someone more skilled in the construction of words than I, but I think it is a correct analogy; a Nero-like approach to urban problems while fiddling for suburban votes.

At the same time he has fiddled for votes in the suburbs, saying he will not increase taxes, by talking about property tax reform, by helping to inflame antibusing emotions and by proposing a revenue sharing plan which favored some affluent communities over poorer ones.

Perhaps the Nixon approach is good politics, but the results are bad for the country.

Perhaps political expediency dictates that 1972 is not the time to speak a harsh reminder to voters that they are a part of a larger world, but people should know what they are buying if they buy four more years of this administration.

The fact is that urban blight does not stop at the city's edge.

The fact is that air and water pollution recognize no political boundaries.

And the fact is that those who believe that equal opportunity in housing, and jobs for people to achieve the means to buy housing, is the long-range solution to the busing controversy—a conclusion I agree with—are not being well served by this administration.

After 4 years of the Nixon approach, we are still further down the road toward a society divided between armed, affluent suburbs and decayed, savage cities.

A society so divided cannot long remain free or strong.

The President vetoed the 1971 HUD money bill which included increased funds for urban renewal and water and sewer grants.

The administration refused to spend $215 million of the urban renewal funds approved by Congress in fiscal year 1970.

The administration refused to spend $200 million in water and sewer grants in fiscal year 1971, $500 million in fiscal year 1972 and an estimated $300 million in the current fiscal year.

The administration has impounded $50 million in rehabilitation loans for low-income homeowners in 1972 and another estimated $70 million in this fiscal year.

The administration withheld $165 million in public housing funds in fiscal year 1971, $130 million in fiscal year 1972 and an estimated $100 million in this fiscal year.

The President withheld $200 million in mass transit funds in 1971 and $300 million in the last fiscal year.

The administration cut back HUD personnel levels at the same time the department launched new housing programs in our cities, with the result that speculators were free to make giant profits by selling inferior houses to low- and moderate-income families.

The Nation is now paying the cost of these short-sighted policies.

Because the administration refuses to use available money to pay a share of public housing operating expenses, as many as 40 public housing projects may be bankrupt by the end of next year.

Because the administration refused to provide personnel to enforce regulations, HUD's housing programs have done more to insure that speculators make money than to guarantee sound housing for moderate-income families.

Detroit is chapter and verse in this HUD FHA housing disarray.

In Detroit alone, HUD has had to foreclose on more than 9,000 houses.

What once had been stable neighborhoods are now dotted with HUD-owned empty, dirt-covered lots and boarded-up decaying vacant houses.

Blockbusters have had a field day at Government expense, setting back the cause of open housing by years.

And incredible as it may seem, there are reports of new scandals surrounding these same houses, this time involving Federal payments for repair work not done.

The record is clear.

The Nixon administration has failed the challenge of saving our cities.

Another 4 years of such policies can result only in the spread of blight, and this time across the line of the cities into our suburbs.

Secretary Romney properly has been making the point that the city is both a legal entity and a true entity. Geographic boundaries are one thing; the real city is another thing again. It is the whole metropolitan complex.

Four more years like this will see the blight of the decaying city, which the Eisenhower Commission on Crime and Violence cautioned us about, spread across city lines into the suburbs. To reverse that trend, the trend against a two-part society against which the Eisenhower Commission warned, will require a voice in the White House willing to appeal to our better instincts, even though there may be a political price for doing it. It will take a voice free of strings tied to any special interests, enabling it to institute programs for the good of all, whether or not they contribute to the campaign.

It will take the voice of a man who believes that the national interest will be better served if the efforts now going into destroying cities in Indochina are directed into reconstituting our own urban areas.

The problems that confront the cities of this country, whatever their cause, include, in the cure, money—not just praying, not just good work, but money. That is unpleasant music to the ears of citizens who feel themselves already unfairly burdened by taxes. They are unfairly

burdened in most cases because only a few benefit from the windfalls that we have structured into our Internal Revenue Code. If we could convince the country that the tax formulas are as equitable as humans can devise, if we had a voice that would get up and say the hard truth is that there is not any shortcut to reversing the decay of our cities, that the restructuring and the revitalization of cities cannot be obtained in anybody's bargain basement sale, that it will cost big money—perhaps not as big as destroying cities 10,000 miles away, but substantial—until we get that voice and understanding, this country is in trouble.

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

Mr. ROBERT C. BYRD. Mr. President, I have some time. I shall be glad to yield some time to the Senator.

Mr. HART. I thank the Senator. I have completed my statement.

Mr. ROBERT C. BYRD. Mr. President, I relinquish my time under the order.

REBUTTAL

Mr. SCOTT. Mr. President, I do not want us to get into a logomachy. I would rather get on with the business of the Senate than to indulge invigoratingly in political issues, but the mimeograph machines downtown are whirring visibly, turning out material, material for Senators to put into the RECORD, about how terribly bad everything is in the country and has been in the last 4 years.

One would think that we live in a crepuscular zone where the shadows of night are creeping over the Nation, and the pictures cast by Senators in the diligent pursuit of their daily rounds in the premorning hour would lead the gullible to believe that there may be something to these charges.

Well, I wonder. They do have to be answered. Reference has been made to urban blight. There I would reply: Whose program for housing have resulted in instant slums? Whose programs, introduced, advocated, and passed by Congresses 90 percent of the time in control of the opposition party for the last 40 years, have dotted our cities with high-rise apartments built by their friends, financed by other friends, and allowed to fall into rot and in some cases into disuse by their friends, the mayors, and the city councils of those cities?

And now they rush to us and say, "The cities are in trouble." Well, almost all the cities of this country are administered by representatives of the majority party, and I might add that about half of those mayors are not supporting the candidate of the majority party because of the problems that have been engendered for them; but it ill becomes my friends here to grieve over urban blight when they were the authors of the San Jose scale which defoliated those areas.

And they are still at it. They are still at it because recently, in the other body, the Rules Committee killed a $10.6 billion omnibus housing bill, contained in a 315-page document representing 6 months of work by the Banking and Currency Committee.

It is their Congress. It is their committee. It is their decision. And it is the administration's request which they have turned down; and they have the nerve to come in here and talk about urban blight when they killed the housing bill.

We have waited 15 months for action over here on welfare reform, and it is brought up at the last minute, well knowing the difficulties of late action, well knowing the difficulties facing the attempt to get action late. Yet efforts will be made to show that the failure of Congress to act earlier is somehow the fault of the administration, which has been pressing for action.

So, for legislation not passed, for good things not done, for desires and objectives legislatively not achieved, whose fault? Senators who criticize the administration should, on the contrary, be humbly pleading "mea culpa," because it is their fault and it is the fault of their party that these things have not been done.

Then we hear complaints about rapid transit. Well, I agree with some of the objectives which these Senators have favored. I have joined with them. But it is their Congress, and they have not gotten them through. The things they have gotten through have included certain important measures recommended by the administration. But to hear them talk, one would not know that this administration recommended the Amtrak legislation, and that we do have rapid rail transit along the Northeast Corridor; that this administration recommended the Transportation Act, that Congress complied, and that we do have in process better transportation and a better highway system.

Then there is complaint about foul streams and dirty waters. But the President has asked for 32 environmental bills, and has only gotten six of them. Whose fault? Well, this administration, by its insistence on its programs, has indeed spent more money for rapid transit than before, and has spent more money for mass transit than before, and has spent more money for housing than before; but it is still not enough. The reason it is not enough is, of course, the fact that the majority has not approved that legislation.

It is true that many bus systems are inadequate, but the cities and counties run the bus systems. The United States does not run the bus systems. Is any Senator advocating a nationalized, socialized U.S. Bus Company? If he is, let him say so. If not, why blame the bus difficulties on the administration? Why blame the fact that the buses are overheated or undercooled on the administration?

After awhile they will be blaming the administration for thin bumpers on some cars. I notice that one line in one Senator's speech appears to blame the auto accidents which people get into on the administration. Well, Mr. President, you can only go so far before you so seriously impinge on credibility that you tread on the borders of hysteria. These things, these charges, are an attempt to plead one's own default as an excuse; and none better.

Actually, on housing the President pointed out in June of 1971, as to the increasing supply of housing, particularly of low- and moderate-income housing, that federally assisted low- and moderate-income housing starts in 1972 will be four times what they were as recently as 1968, and that is up to 650,000.

The Nixon administration has done more for housing than any previous administration in history, and wants to do more, except that in this Congress the other body has refused it the opportunity. In 18 months, more than 1 million units of subsidized housing units have been started, compared with a yearly average of 35,000 for the 1960's. There has been a change of emphasis and direction. Public housing in the past has torn down more housing than it has created. Now that direction has been changed.

House building techniques have been modernized. The use of modular components, assembled at the factory, speeds up the building of housing. Contracts setting wages at factory levels have been signed and shipping costs cut back.

In housing management, past experience has shown that poor management has contributed to the decay of public housing. The Office of Housing Management trains personnel. It is expected that by 1980, 60,000 managers will be needed.

That was one of the complaints on urban blight by the distinguished Senator from New Jersey, that housing was going to pot. As a matter of fact, there is truth in that. That is why this administration—and only this administration—moved toward the training of better managers of public housing.

All community development programs at HUD are now under a single assistant secretary. State and local governments play a major part in the Model Cities program. The President's community development revenue-sharing plan would consolidate present plans into a $2.3 million program to fund programs under control of localities, would cut redtape and speed up projects; and this Congress has refused to give to him.

HUD has encouraged areawide planning for urban areas. Half of the Nation's 3,100 counties, containing three-fourths of the Nation's population, now have areawide planning agencies, aided by HUD.

Roughly 90,000 policies are now in force covering $1.4 billion in flood insurance; 500,000 mobile homes were made available in 1972; and FHA is now moving into financing purchases.

The distinguished Senator from Michigan (Mr. HART) has complained about the revenue-sharing plan, which he says favors some affluent communities over poorer ones. He will have a chance to correct that when the conference report comes to the Senate if it is true, and we will see how the vote goes.

As a matter of fact, the mayors in Michigan will disagree with him on that, I am sure. The mayors in New Jersey will disagree with statements made here today about revenue sharing. That is why mayors have supported the President's

revenue-sharing program. The revenue-sharing program is not geared to penalize the poor areas or favor the affluent ones. It is geared to work throughout the whole country in an adjustment of the competing needs of all the communities, be they rural or urban, large or small, relatively poor or relatively affluent. Revenue sharing, which Congress adopted—and it took 3 years to do it—was advocated by the President about the time he came into office.

That conference report will come to the Senate. If there is anything wrong in it, then I suggest to my friend from Michigan that he make proposals as to what should be done about it. I think it is pretty good. It did not give Pennsylvania as much as it should, but it is pretty good. It gives them more than it originally did, and in each State that happened as a result of compromises reached in the two Houses.

I think it is unfortunate that we have to go through this exercise every morning, because, as I have said each time, nobody is really listening. I am afraid that we do not even have the distinction of boring the public, because we cannot bore anybody until we first get their attention. We have not even gotten their attention. We have not even reached the fringe of boredom, much less the plateau of interest or the mountains of enthusiasm. So I would say that this exercise is no climbing of Everest. It is, rather, a trudging across the sands of the desert, in search of some sort of waterhole where nourishment may be encountered.

Again, one more time, I plead for an end of this waste of time. In order to conserve a small amount of it, I yield back what remains of mine.

THE CONSUMER PROTECTION ORGANIZATION ACT OF 1972

The PRESIDENT pro tempore. Under the previous order, the Chair lays before the Senate the unfinished business, S. 3970, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 3970) to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

The PRESIDENT pro tempore. Under the previous unanimous-consent agreement, the 1 hour allotted before the Senate proceeds to vote on invoking cloture will be equally divided and controlled by the Senator from Connecticut (Mr. RIBICOFF) and the Senator from North Carolina (Mr. ERVIN).

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the proviso that the quorum call be terminated at 1 minute before 10 a.m.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR ADJOURNMENT FROM TOMORROW UNTIL 10 A.M. MONDAY, OCTOBER 2, 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand in adjournment until 10 a.m. on Monday next.

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

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. ROBERT C. BYRD. Mr. President, does the 1 hour of controlled time under rule XXII begin at 10 a.m. today?

The PRESIDENT pro tempore. It does.

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

The PRESIDENT pro tempore. The hour of 10 a.m. having arrived, the time is now under control.

Who yields time?

Mr. RIBICOFF. Mr. President, I yield to the distinguished Senator from Florida (Mr. CHILES).

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

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. RIBICOFF. Mr. President, the issue before the Senate is very simple: Should we have an opportunity to vote on the merits of this bill, or should it be killed through dilatory tactics? I believe we should meet our responsibility and vote on the bill.

This legislation has been debated for an entire week. The issues have been fully discussed. Now is the time to begin voting.

This legislation is the product of long and careful consideration. It has wide bipartisan support. In 1970, we approved a similar bill 74 to 4. In 1971 the House passed a slightly different version 344 to 44. The Senate Government Operations Committee reported S. 3970 by a vote of 15 to 2, including four proxies in support, after examining it closely in seven executive sessions lasting more than 16 hours.

This is not a new or radical proposal. The establishment of a consumer protection agency was endorsed in the Democratic and Republican platforms this year. The American Bar Association and the Administrative Conference of the United States, the Agency which oversees Federal administrative procedure, support CPA intervention in Agency proceedings. The Agricultural Adjustment Act has provided for just such intervention by the Department of Agriculture for nearly 35 years.

Mr. President, the sponsors of this bill are not asking that the Senate approve it without changes. Some amendments have already been adopted. Other pending amendments further refine and improve it. I am sure they, too, will be accepted. Of course, we will oppose weakening amendments, such as the amicus. But the Senate should have an opportunity to consider and vote on all amendments.

Much has been said about this bill the past week, but in the end it all comes down to simply this: Should the Senate have an opportunity to vote on a bill which establishes a consumer protection agency to represent consumers within the Federal Government just as business, labor, and agriculture are? I believe that we should and I urge a yes vote on the cloture motion.

The PRESIDING OFFICER (Mr. CHILES). Who yields time?

Mr. JAVITS. Mr. President, how is the time divided?

The PRESIDING OFFICER. The time is divided equally between the Senator from Connecticut and the Senator from North Carolina, 30 minutes each.

Who yields time?

Mr. ERVIN. Mr. President, I agree with the distinguished Senator from Connecticut (Mr. RIBICOFF). The Senate should have a right to vote on this issue, but the Senate should refrain from voting on this issue until it has been thoroughly debated. There has been virtually no debate on this proposal. A couple hours have been allocated in the afternoon on a few days.

It is also time, as the distinguished Senator from Connecticut said, that in 1970 a somewhat similar bill was before the Senate.

I think the Senator from Alabama (Mr. ALLEN) and the Senator from North Carolina were the only two Senators, except those who were proponents of the bill, who had read it. As a consequence, we spoke against the bill, and Senators Ellender and Holland joined us in voting against it.

Since that time the people of the Nation have found out what is in the bill. And many Senators have read it, and they have had their intellectual eyes opened.

I predict with confidence that when this bill is put on final passage, there will be far more than four votes recorded against it.

I studied this bill very closely. The first time I read it, I discovered that it was incompatible with the theory that the United States should have a government of laws, rather than a government of men.

I found that it created a government of one man in the economic life of one nation. The more I studied it, the worse I found it to be. It reminds me of George, who married and lived with his wife a few months and found her to be somewhat unsatisfactory. George went to the preacher who had solemnized the marriage and told him that he had found his wife somewhat unsatisfactory and wanted to know whether it would be all right,

in the preacher's opinion, for him to sue her for divorce.

The preacher said, "No, George. Don't you remember, you took her for better or worse?"

He said, "Yes, but she is worse than I took her to be."

The truth is that this bill is as full of unwise provisions as a mangy hound dog is of fleas. We talk about cloture at this stage of the debate. Why, it would take hours just to point out a few of the unwise provisions of this bill. Then the half would be untold after that had been done.

This bill, if enacted into law, would make the administrator the kind of Humpty-Dumpty which Alice met in Wonderland.

Why do I say that? I say that because the definition of consumer interest which the administrator is to protect means nothing except what the consumer administrator considers it to mean.

Mr. President, I read that definition from page 41 and 42 of the bill:

(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;

That language covers the whole face of the economic earth. It covers everything that people use—land, goods, credit, laws—everything. Despite the magnitude of words in which the definition of consumer interests is couched, the meaning is as nebulous as the Milky Way. No human being can tell what those words mean. The bill leaves the meaning of these vague words to the unreviewable determination of the consumer administrator.

Time after time in the bill there is a provision to the effect that the consumer administrator can interject himself into virtually all the activities of every executive department and agency, into every ad hoc committee operating in any Federal department or agency, indeed, into any activity of any Federal agency. In addition to that, he can call on any man or business, whether that man or business sells shoestrings on the streets or superintends the operation of the United States Steel Corp., to give him access to information on any subject which he, the administrator, thinks affects consumer interests.

I said the bill would make the administrator similar to the Humpty Dumpty that Alice met in Wonderland.

Alice got in conversation with Humpty Dumpty, and she could not understand him. He used the same words as she used, but she could not understand what he meant by those words because they meant different things to her than they apparently meant to him. Alice asked him about it. I call attention to Humpty Dumpty's reply because it enables one to understand the bill and to understand why the bill should not be passed until Senators study it further.

"When I use a word," said Humpty Dumpty to Alice in a scornful manner, "it means just what I choose it to mean, neither more nor less."

"The question is," replied Alice, "whether you can make words mean so many different things."

If Congress enacts this bill, Congress will not be saying what the bill means. It will be leaving that matter to the unbridled, arbitrary discretion, if he has any, of the Consumer Administrator.

I stated in debate the other day that there is only one being in the entire universe who could exercise wisely all of the powers which this bill gives to the Administrator. The Administrator is given the oversight and supervision of all of the activities of the Federal Government except its legislative and judicial activities.

Notwithstanding this omission, however, it also gives the Administrator the express power to tell Congress how it should legislate, and the power to appear before the courts and tell the courts how they should adjudicate. Yet when I offered an amendment to the bill which would give those who produce goods or furnish credit, or render services an opportunity to protect themselves against unlawful conduct on the part of the Administrator, the advocates of the bill overwhelmingly rejected my amendment. They said, in effect, that if the Administrator has to be just, or if he has to be kept within the bounds of his almost unlimited authority, it would impede his operations. That is the reason we have courts—to impede unlawful acts. Yet this bill would give to the consumer agency the power to agitate and litigate but would deny any remedy or any relief to any person who is injured or threatened with injury by his unlawful execution of his vast powers.

I do not think anybody can conceive without a great deal of concentration how vast the powers are that this bill undertakes to give to the Administrator.

A few days ago it was announced by the Department of Agriculture that the United States had agreed to let wheat dealers sell enormous quantities of wheat to Russia. It was also announced that these sales by the wheat dealers to Russia would be financed in part by loans or by guarantees of the Export-Import Bank of the United States.

If this bill were now law, the Administrator could go into the meetings of the grain dealers and the officers of the Export-Import Bank and undertake to tell them exactly what audit or guarantee arrangements should be made. This would be so because these wheat deals are certainly going to affect the consumer. Since the deals were announced wheat has taken a tremendous jump in price, and as a result bread is going to cost every consumer in the United States more than it has in the immediate past.

Let us see if the Administrator would have had the power to interject himself into this transaction if this bill had been in effect. I invite the attention of the Senate to section 203 (a) and (b) of the bill, found on pages 14 and 15. Section 203(a) gives the Administrator the absolute right—to interject himself into the regulatory proceedings of every executive department and agency whose decisions are reviewable under the Administrative Procedure Act. And he could appeal those decisions to the courts even though the department or agency and all other parties deemed them to be in compliance with law, and could compel the courts to let him argue the appeals even though his own pleadings disclosed to the court beyond all doubt that his claim that a consumer interest was involved is totally without foundation.

The drafters of the bill were not satisfied with giving the Administrator the vast powers set out in subsection (a). So they put in section (b). I will read subsection (b) to the Senate:

(b) Whenever the Administrator determines that the result of any Federal agency activity to which subsection (a) does not apply and of which the Administrator has knowledge or receives notice pursuant to section 205 may substantially affect the interests of consumers, he may as of right participate for the purpose of representing the interests of consumers in such activity. In exercising such right, he may in an orderly manner.

I am glad to note this restriction on the Administrator. It is virtually the only one to be found in the bill.

And without causing undue delay—

(1) present orally or in writing to responsible agency officials relevant information, briefs, and arguments; and

(2) have an opportunity equal to that of any person outside the agency to participate in such activity.

If this bill were now law, the Administrator would have exactly the same right to go into the meetings of the Export-Import Bank that the grain dealers have when they are trying to obtain from it credit for the sale of wheat to Russia. He would have the right to present information; and not only would he have that right, but he would also have the right to argue, file briefs, and otherwise participate in the negotiation as the grain dealers have.

I say this because the statute which creates the Export-Import Bank of the United States expressly states:

There is created a corporation with the name Export-Import Bank of the United States, which shall be an agency of the United States of America.

What I have just read appears in section 635(a) of title 12 of the United States Code.

This illustrates that if the consumer agency is going to discharge the vast powers of overseeing the operation of the entire executive branch of the Federal

Government, as the bill would authorize him to do, he will have to have a department several times the size of HEW. He will have so many additional officials employed to enforce the provisions of the bill that they will eat up the substance of the taxpayers who are the consumers.

The consumer agency would have to be staffed by bankers who could advise the Export-Import Bank and other banks in which the United States has capital investments, as to how they should bank in order to serve the interests of the consumers. The agency would have to have physicians, pharmacists, and chemists who are capable of analyzing medicine and determining the side effects of medicines, and the effectiveness of medicine, just as the Food and Drug Administration now has. The agency would have to have experts in weapons systems because under the bill the Administrator would have the power to interject himself into every activity of the Department of Defense, the Department of the Army, the Department of the Air Force, and the Department of the Navy which involves, in his judgment, a consumer interest. Since the development and acquisition of new weapons systems require steel and other material, and for that reason lessen the supply of steel and other materials on the market, they necessarily affect the interest of consumers, and the Administrator would undoubtedly have authority to interject himself and his evidence and argument into the activities of every department and ad hoc committee dealing with that matter.

It is unwise to vest anybody with the arbitrary and virtually unlimited power that will be vested in the Administrator by this bill. As I said in argument the other day, the bill is based upon these premises: First, that the Federal regulatory agencies are either unintelligent or corrupt and are not regulating the matters committed to their charge correctly; second, that producers sit up all night to study new ways to cheat and defraud the customers on whose good will their prosperity depends; and third, that consumers are so unintelligent when they come to decide what they should eat and what they should drink and what they should wear and what kind of house they should build or rent they must be put under bureaucratic guardianship. For these reasons, Congress is urged to pile on top of numerous existing agencies and bureaus in Washington another agency which will operate like a fifth wheel on an automobile or a fifth wheel on a wagon.

I respectfully suggest that if the regulatory agencies are not regulating the matters committed to their charge in a satisfactory manner, Congress should study the question whether that deficiency is due to the lack of character or intelligence of the regulators or to the sufficiency of the laws under which they do their regulating.

If Congress finds the unsatisfactory regulation is due to the lack of character or intelligence on the part of the regulators, it ought to provide that the regulators be removed from office, and that honorable and intelligent men should be placed in the jobs they now occupy and given the job of regulating the matters committed to them.

On the contrary, if it is found by Congress that the regulatory agencies do not operate in a satisfactory manner because of the insufficiency of the laws under which they operate, then Congress should amend the laws and specify exactly what they must do in order to regulate satisfactorily.

Instead of changing any of these laws, or removing any of the regulators, it is proposed by the bill that we keep the existing laws and regulators and superimpose and pile on existing departments and agencies another Federal agency with unprecedented and largely undefined powers, all at the expenses of the consumers who are the only taxpayers our Nation has.

As the Senator from Georgia (Mr. TALMADGE) and I pointed out the other day on the floor of the Senate, this bill would set up a system in which the consumers would have to pay the lawyers and the costs on both sides of the controversy. All this is to be done in the name of benefiting the consumers, who have to pay all governmental freight in the final analysis as well as the increased cost of goods and services which further regulation makes inevitable.

Mr. President, may I inquire how much more time I have?

The PRESIDING OFFICER. The Senator from North Carolina has 6 minutes remaining.

Mr. ERVIN. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. Mr. President, I yield 5 minutes to the distinguished Senator from Illinois (Mr. PERCY).

Mr. PERCY. Mr. President, I believe that we have reached a stage in the current discussion of the Consumer Protection Organization Act of 1972 (S. 3970) where the marginal utility of continuing on with unlimited debate is far outweighed by the terrible injustice that will be done to the Amercan consumer in jeopardizing passage of this critical legislation.

Whether we call it "talking at length" or "filibuster," the clear fact is that the Senate of the United States is being prevented from working its will on the merits of legislation aimed at assuring American consumers an effective voice in the deliberations of government. The House has already passed comparable legislation by an overwhelming vote of 344 to 44 in this session of Congress. The Senate itself resoundingly approved substantially this same legislation in December of 1970 by a margin of 74 to 4, but the measure got tied up in the House Rules Committee by an impasse not dissimilar to that we are experiencing on the floor of the Senate. The only two remaining Senators in the Senate who voted against the bill in 1970, Senators ALLEN and ERVIN, have had more than ample opportunity within the Government Operations Committee, on which Senator ERVIN serves as chairman, and here on the Senate floor over the past week to express their thoughts and views on this legislation.

Time is of the essence in these closing days of the 92d Congress. If other vital legislation is to also have sufficient time for discussion and debate, we must act now to cut off an impending stall on the consumer bill, which threatens not only its chances but imperils any opportunity for the Senate to act with dispatch on its other important business.

In truth, Mr. President, I find it difficult to understand why all the fuss. Everyone seems to admit that the consumers need a fairer shake in the decisionmaking process of Federal agencies and courts. Let us face it, there are just too many situations where a few manufacturers of goods and suppliers of services are just oblivious to the interests of their customers and, in turn, are permitted by the regulatory agencies we have set up to guard consumer interests to instead sneer at those interests.

I am not sure what the percentage or proportion would be, but, just based on general experience, I would say that certainly over 95 percent—perhaps 97 percent—of the business community is utterly responsible and recognizes that the only way to build up its business is through satisfied customers. But we know that there is a small segment of American businessmen, the so-called "fast-buck artists," who get in and get out, who count on the fact that if there is injury as a result of slip-shod design or manufacture of a product, or if it causes injury to health as a result of an error of one kind or another, the consumer is not organized, and that he would probaby not have any serious challenge if sued by an individual consumer.

That represents a very minuscule proportion of American business, but it is widespread enough that there are now grand juries that have been convened because of conspiracies, because of fraud in the homebuilding field itself, because of those who have defrauded the American public—particularly low-income families eligible for subsidy existence—and the Federal Government of the United States, a number of whose agents openly and brazenly engaged in such fraud and bilked the consumer out of millions and millions of dollars. Yet the consumer, small, uninformed, lacking in resources, simply was unable to pursue that case, and we had no agency that was able to show a pattern of this kind occurring across the country, until it was too late. And now, after the fact, we are required to move in with remedial measures that will never altogether repair the original harm done.

At present, too many regulatory agencies are literally a revolving door of frustration for consumers. In petitioning his government, the consumer is often made to run around in circles or is otherwise tied up in a maze of redtape. Where the consumer even bothers to complain about a rate increase, or shoddy merchandise, or a hazard to his health and safety, too, these letters are too frequently ignored or receive a mimeographed reply that says nothing. If a consumer telephones an agency, he often gets transferred from office to office, getting cut off in the process. If he finally learns which regulatory agency has responsibility and appears in person, he is greeted by a receptionist,

referred to a clerk, and then told to wait for an assistant department head who ultimately says he has not the authority to act or do anything.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PERCY. May I have 3 minutes?

Mr. RIBICOFF. Mr. President, I yield 3 minutes to the Senator from Illinois.

Mr. PERCY. Mr. President, the real question before us is whether the Senate of the United States will be permitted to act on the merits of the legislation before it or is to be frustrated by the procedural delays of a small minority of its members, who, while they may oppose the legislation for a multitude of reasons, have already had a fair opportunity to let their views be known. And perhaps underlying that, in view of the diehard lobbying campaign of certain segments of the business community—a campaign unparalleled in my experience, and I must say as a former member of that community, which deeply concerns me because of its distortions—is the Senate of the United States to permit itself to be intimidated by what the record will show to be just so many wild, irresponsible statements and untruths about this measure?

I shall not take the time of the Senate to repeat them, but in committee and on the floor of the Senate I have on many occasions pointed out specifically the wild, irresponsible charges that have been made by certain segments of the business community.

Seventy-four Senators approved this legislation not 2 years ago. What we have before us is in major detail essentially the same, except for the fact that the Subcommittee on Executive Reorganization and the full Government Operations Committee after months of hearings and deliberations, have refined the bill to incorporate added safeguards against abuse for legitimate interests of responsible business and orderly government.

This is a better bill than the one we passed in 1970, and the concept is now thoroughly endorsed by a wide spectrum of the political community. The Nixon administration is on record as supporting an independent advocacy agency for consumers with the right of full party participation in the proceedings of other Federal agencies and the courts. Both the Republican and Democratic Party platforms, just adopted, endorse this concept. The American Bar Association, so concerned about due process and fair procedures, endorsed the principle of an independent advocacy agency at its recent meeting in San Francisco. Indeed, the recommendations of the ABA Committee on Administrative Practice and Procedure more closely parallel the actual provisions of the Senate bill than they do the House bill, which was before the ABA committee at the time it exhaustively studied this subject.

I take especial pleasure at this time in announcing a message of endorsement. Communicated to me just moments ago, from by the American Trial Lawyers Association. Mr. J. D. Lee, a remarkable Tennessee attorney of nationwide repute and newly elected president of the American Trial Lawyers Association states that:

The time has come for the coalition of an effective consumer advocate to present arguments on behalf of the interests of consumers in Federal agencies and courts. Urging prompt passage of the legislation before us, the association believes, as I do, that S. 3970 will lead to greater public confidence in government.

The public interest efforts of this outstanding organization and the public-spirited projects of individual members are well known nationally, and it is for that reason that the association's support has particular meaning to all of us in the Senate. I am especially reminded of the eloquent and moving testimony back in May of one of its most gifted members, Arnold B. Elkind of New York City, before the Subcommittee on Executive Reorganization, on behalf of comprehensive Federal product safety legislation. That measure has now passed both the Senate and the House and will be in conference next week. I also recall that Leonard Ring, an extraordinarily able and respected member of the legal community in Chicago, was recently elected first vice president of the American Trial Lawyers Association.

The PRESIDING OFFICER. The Senator's 2 minutes have expired. Who yields time?

Mr. PERCY. May I have 1 additional minute?

Mr. RIBICOFF. I yield the Senator from Illinois 1 additional minute.

Mr. PERCY. If I were to pick one agency where I think the proposed Consumer Protection Agency will have its greatest impact, it would have to be the Food and Drug Administration. Yet, Commissioner Charles Edwards, in testifying last week in hearings before the Select Committee on Nutrition and Human Needs, thoroughly endorsed the concept of a voice for consumers and the Senate bill itself, expressing his view that he foresaw no intrusion into or interference with the orderly decision-making process of his agency.

Accordingly, the time has come to act, to act now, to close off superfluous discussion of this measure. By invoking cloture we do not close off debate entirely, but simply set an outer limit within which a reasonable dialog on the merits of the legislation can ensue.

I ask Senators to join me in helping to insure the Senate an opportunity to work its will, to vote up or down on specific amendments that have been proposed on the bill itself, and, in the end, to assure the American consumer that his voice will not be silenced by a very vocal outcry on the part of the lobbyists who have worked so assiduously to kill one of the most important pieces of consumer legislation that the Congress has ever had before it.

Mr. President, I ask unanimous consent that the full text of Mr. J. D. Lee's statement in support of S. 3970 be printed in the RECORD at this point. I also ask to be printed an excellent Washington Post editorial on the subject entitled "Blocking the Consumer," together with just a few excerpts from other endorsements of the concept and the bill which Senators RIBICOFF, JAVITS and myself, as sponsors, have received.

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

STATEMENT ON CONSUMER PROTECTION AGENCY BILL

(By J. D. Lee,)

The American Trial Lawyers Association favors passage by the United States Senate of S. 3970, a bill to establish an independent Consumer Protection Agency. The Association feels that the time has come for the creation of an effective consumer advocate to present arguments on behalf of the interests of consumers in Federal agencies and courts. This legislation has already been under study for 10 years and pending in Congress for over three years. In 1970 a bill similar to S. 3970 was passed by the Senate 74–4. In 1971 the House of Representatives passed a similar measure by a vote of 344–44. In 1972 the Senate ought to pass S. 3970.

The American Trial Lawyers Association believes that many government agencies which should be protecting interests of consumers have been unresponsive to those interests. The Association believes that the best way to make those agencies responsive is by assuring that there is a true adversary system functioning in proceedings before those agencies.

The adversary system is the basic foundation of the common law and of American judicial procedure. The adversary system guarantees the right of all Americans to have their day in court. That right must never be abrogated. It is fundamental in this system that important interests affected by a decision-maker should have the right to have an advocate before that decisionmaker.

For too long consumers have had no such advocate. Because their point of view has not had adequate representation, federal agencies have often failed to consider their interests. Where there is no advocate for important interests, the adversary system cannot function. The Association strongly believes that when a consumer advocate is available to present the consumers' argument, that agency decisions should become more responsive to consumers.

S. 3970 will lead to greater public confidence in government. The greater danger to the orderly processes of government is not from too much representation, but from too little. If people feel that decision-makers are not taking their interests into account, they will have less and less respect for the decisions that result. By establishing a consumer advocate, the Senate should be giving the American people some assurance that the agencies of their government would at least consider the interests of consumers.

The American Trial Lawyers Association believes that establishing a fair system is in the interest not only of consumers, but of good government.

[From the Washington Post, Sept. 24, 1972]

BLOCKING THE CONSUMER

The Senate leadership, realizing that the marketplace still contains many products and services that are unsafe or unhealthy, acted responsibly in getting to the floor legislation for a Consumer Protection Agency. Whether it will survive on the floor is another question. A concern exists that a few senators opposing the bill will adopt stalling tactics that may kill the bill for this session. If stalling does occur, the Senate leadership either must be strong and cut off excessive debate or else give in and see another chance for consumer protection lost. There is little question of the Senate's sentiment on the proposed agency; in the last session, essentially the same bill was approved 74–4.

The House has already acted, but what is noteworthy now is the intense lobbying against the Senate bill by parts of the busi-

ness community. Sen. Charles Percy, a sponsor along with Senators Abraham Ribicoff and Jacob Javits, cannot recall another piece of legislation that has so brought out the lobbyists. It is puzzling that this section of the business community fears. The proposed agency will have no regulatory power—not that this is always a threat to fear, because many industries know well the techniques to regulate the regulators—but only powers to advocate before federal agencies on behalf of the consumer. This is no more than what the private interest advocates now enjoy; why not the public interest? Are the sellers afraid of a hard look by representatives of the buyers? The Senate has the chance to affirm a House-approved concept of full party participation, instead of a weak amicus curiae amendment which, as sponsors point out, is only a cosmetic.

The debate in the Senate is far removed from the scenes of horror where people are killed and maimed by flawed products. The National Product Safety Commission has reported that 20 million Americans are injured annually in the home as a result of accidents connected with consumer products; 30,000 are killed and 110,000 are permanently disabled. Are the senators who are said to be planning tactics of stalling prepared to accept the consequences of a filibuster—the possibility that unknowing citizens will be killed, injured or cheated because there is no advocate to argue on their behalf?

ENDORSEMENTS OF THE CONSUMER PROTECTION AGENCY

Memo to: all Senators.

From: Senators RIBICOFF, JAVITS, and PERCY.

The executive branch must use its powers to expand consumer intervention and protection:

(We) Support the development of an independent consumer agency providing a focal point on consumer matters with the right to intervene, before all agencies and regulatory bodies."—Democratic Party Platform.

"We support the establishment of an independent Consumer Protection Agency to present the consumers' case in proceedings before Federal agencies."—Republican Party Platform.

"May I emphasize, Mr. Chairman, there is an urgent need for a permanent agency to serve as the consumers' advocate. For government to act effectively on behalf of all our Nation's actions, it must listen to all those who may be affected by a new rule, a new regulation, a new policy."—Virginia Knauer, Special Assistant to the President for consumer affairs. Senate hearings.

"I very thoroughly support the concept. I support the bill. I think it is badly needed to organize our consumer protection activities within the federal government."—Dr. Charles C. Edwards, Commissioner of the Food and Drug Administration.

"The administration of government undoubtedly suffers when important interests, such as those of consumers, cannot make their voices heard on actions that affect them. More effective consumer participation in the administrative process will lead to wiser and more informed decisions."—Roger C. Cramton, Chairman, Administrative Conference of the United States, Senate hearings.

"We therefore conclude (a) that no new problems, either doctrinal or practical, are presented by the proposal to give the Consumer Protection Agency the right to initiate or intervene in proceedings for judicial review of other agencies' actions, and (b) that the feasibility and desirability of interagency litigation should accordingly be recognized in this context as readily as elsewhere."—American Bar Association, Endorsement of Consumer Protection Agency intervention.

"Let there be no mistake about one fundamental point: the bill we have drafted, which the House passed by an overwhelming majority, guarantees that the customers' voice will be heard in the councils on government."—Congressman Holifield, Chairman, House Government Operations.

"We also believe that it is important to pass into law the Consumer Protection Agency bill this year as to strengthen protection for consumers and public confidence in business now. We are pleased to announce our support for Senate passage of S. 3970. What's good for the consumer is not only good for business, it's the best for business. Only when the consumer believes his rights are adequately protected will public confidence in, and the health and vigor of, the competitive free enterprise system be fully restored."—Leo H. Schoenhofen, Chairman and Chief Executive Officer, Marcor Corp.

"The enactment of this bill, reported out by the Senate Government Operations Committee, would represent an extremely important step forward in the efforts of our government to meet the serious problems facing our nation's consumers."—John W. Gardner, Chairman, Common Cause.

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. 520) to authorize the construction, operation, and maintenance of the closed basin division, San Luis Valley project, Colorado, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had passed a bill (H.R. 13694) to amend the joint resolution establishing the American Revolution Bicentennial Commission, as amended, in which it requested the concurrence of the Senate.

CONSUMER PROTECTION ORGANIZATION ACT OF 1972

The Senate continued with the consideration of the bill (S. 3970) to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. Mr. President, I yield myself 2 minutes.

I should like to read a statement from Esther Peterson, consumer adviser to Giant Foods, and formerly consumer adviser to the President of the United States. The statement has just been received by the Senator from Utah (Mr. Moss), who has asked me to read it in his behalf. It is as follows:

The bill to establish a Consumer Protection Agency offers the American consumer a chance for an equal voice in our society. Today there is a general realization that the consumer movement has become a permanent part, and even a beneficial part of American life. Most people would agree that the function of consumer representation in our federal government ought to be given statutory recognition.

Furthermore, it is essential that the consumer agency be able to intervene in behalf of consumers. It must have co-equal opportunities with business and government in any proceeding in which it intervenes.

I strongly support passage of this bill. We need such mechanisms whereby the consumer, industry and government can come together and where each group can make its voice heard. This bill will provide the balancing of power we need in our society. It is a constructive step toward insuring the consumer an equal voice.

Citizens are looking to Congress to get on with the business. A support for the cloture vote whether you are for or against the bill is a mark of willingness to act on the issues.

This confirms the contention of the distinguished Senator from Illinois, who has had vast business experience. Once the bill has been explained to the business community and they fully understand what the bill actually contains. All legitimate businesses then realize they have nothing to fear from this type of legislation.

We have all had the experience, over the last 3 years, of finding business leaders coming to talk to us as a result of scare tactics; but these scare tactics have disappeared and been dissipated once the business leaders read and understood what the bill was all about.

So here we have further evidence of business support.

Mr. President, what is the situation as to time?

The PRESIDING OFFICER. The Senator from Connecticut has 8 minutes remaining. The Senator from North Carolina has 6 minutes remaining.

Mr. RIBICOFF. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, 4 minutes will be adequate.

Mr. President, we are finally coming to grips with this situation. It has been clear for a little while, I think, to those of us who were actively sponsoring this bill, that it will ultimately have to be decided on a cloture motion. The extent to which the Senate has supported such legislation on a previous occasion—and this bill is a much more congenial bill to American business than the bill which the Senate cast only four votes against—would lead one to think, under those circumstances, that cloture should be almost a matter of routine.

But, Mr. President, a great deal of dust has been thrown into the air, which needs to be dispelled. I repeat. This bill has been worked over most carefully by people with a very keen eye for business practices. I think, with all respect to other Senators, one could find few Members of the Senate who had been through the business mill as thoroughly as the Senator from Illinois (Mr. PERCY), who was President of a great company; myself, who have earned very large fees from many American corporations for years and years for just such advice; the Senator from Connecticut (Mr. RIBICOFF), himself an extremely active practicing lawyer in Connecticut; the Senator from North Carolina (Mr. ERVIN), with his very critical review, who is himself an outstanding lawyer; the Senator from Alabama (Mr. ALLEN); the Senator from Florida (Mr. GURNEY); the Senator from Delaware (Mr. ROTH); and the other members of our committee.

Many of their amendments were ac-

cepted, Mr. President, and are ground into this bill. It is not for naught, therefore, that Montgomery Ward and Giant Food have said that they support the bill, for this very important reason: With consumerism and environmentalism becoming the great new issues of our time, unless there is some regularization to the consumer intervention in government which the government itself has organized, in an effective methodology, the corporations of the country which deal with consumption are going to be bedeviled, really bedeviled, with litigation—State actions and local actions—without any guidelines whatever, and they will be in a much more anarchic state than they would be with a central agency which has no operations powers, but only the power to intervene and bespeak the views of the consumers, which is now at least theoretically in the hands of every government agency, the proposal being to consolidate them in this agency.

A great portion of American business, if it had not been confused by the dust thrown in the air that the bill would jeopardize its interests, should be for this bill precisely for that reason, because it gives them, at long last, regularization and a basic set of guidelines which will gradually be developed, that they can adhere to—as it were, a public defender for decent business practices—instead of their being thrown into every court of every jurisdiction of whatever State it may be, on the basis of consumer issues, which are more and more on the public's mind today, and which will be the subject of more and more litigation and more and more efforts in the 50 State legislatures.

So, Mr. President, I make the plea, on the ground of the best interests of American business, which would be most highly served.

The PRESIDING OFFICER. The four minutes of the Senator has expired.

Mr. RIBICOFF. Mr. President, before yielding time, I ask unanimous consent to be able to proceed for an additional 15 minutes. The distinguished Senator from Florida has not had an opportunity to make a speech on this issue. I ask unanimous consent that the time be divided between the Senator from North Carolina and myself, each having an additional 7 minutes.

Mr. ROBERT C. BYRD. Does the Senator mean beyond the hour of 11 a.m.?

Mr. RIBICOFF. Beyond the hour of 11 a.m. I ask for an additional 15 minutes, to be divided equally between the distinguished Senator from North Carolina and myself.

Mr. ERVIN. Mr. President, I have no objection, if the rules of the Senate would permit that to be done.

The PRESIDING OFFICER. It can be done by unanimous consent.

Mr. RIBICOFF. I ask unanimous consent to proceed for an additional 15 minutes beyond 11 o'clock, the time to be equally divided between the distinguished Senator from North Carolina and myself.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Who yields time?

Mr. RIBICOFF. I yield 1 minute to the Senator from New York.

Mr. JAVITS. Mr. President, just to complete the argument I am making: Senators who are interested in the health and operational efficiency of American business—I will yield to no one in that regard, notwithstanding what is very well known to be my liberalism, of which I am very proud, insofar as labor and the poor and other oppressed and disadvantaged groups and minorities in this country are concerned, and it is a business I know something about—believe that this bill will help and facilitate the operations of American business. It will be a blessing to those who pursue ethical and fair practices and to the consumer, and, naturally, will be a scourge to those who do not, as we wish it to be.

By giving regulation to the proceedings, by centralizing the guidelines which people are expected to follow, by giving an agency to which to repair when consumers become unreasonable—and they often do; I have had enough experience with business to know that, too—it will be a boon to business rather than a harm to business.

Therefore, I urge American business and those interested to support this measure and to vote for cloture.

Mr. RIBICOFF. Mr. President, how much time remains on each side?

The PRESIDING OFFICER. The Senator has 9 minutes remaining, including the additional 10 minutes.

Mr. RIBICOFF. I yield myself 3 minutes.

May I ask my distinguished colleague whether it is not true that during the proceedings of these 3 years, all of us have been most zealous in trying to develop what we consider to be a fair and well balanced bill?

Mr. JAVITS. There is no question about that. Not only have we tried, but each of us—and I vouch for that from personal knowledge—has gone to consumer-oriented businesses, supermarkets, the grocery field, general merchandising organizations of every kind—and I know many—and the managing executives, in an effort to give as much counsel as we possibly could. I have gone to the banks in New York with the same mission.

This bill reflects what in all reasonableness is a fair allocation of responsibility, work, and authority so far as they are concerned, in my best judgment.

Mr. RIBICOFF. Is it not also true that during the last 3 years—I know it has been so in my case, and I have been so told by the distinguished Senator from Illinois, and I am sure it is so in the case of the Senator from New York—business groups, large business and small business counsel, have come to our office to discuss various facets of this bill and have expressed their concern?

Not only have we given them our time, but also, we have had the members of our respective staffs meet, hour after hour, with the general counsel of many of the large business firms, to work out details, to assure that we would have a fair and well balanced bill.

Mr. JAVITS. There is no question about that.

May I add that a whole group of amendments were adopted which we specially proposed, precisely in response to the expertise we got from American business.

Mr. RIBICOFF. Is it not also true—which I think is not quite understood—that when we sat in the markup period, which took many hours, many members of our committee who had doubts about this bill, who were skeptical about this bill, submitted amendment after amendment; that the distinguished Senator from New York, the distinguished Senator from Illinois, and I, after reviewing these amendments, considering them, realized that they were amendments of merit and would be helpful to make this a fairer bill; and that the three of us, in committee, agreed, time and time again, to accept these amendments?

Mr. JAVITS. Again, the Senator is entirely accurate.

May I add that in some individual cases, one or the other of us actually formulated means by which Senators—

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Who yields time?

Mr. ERVIN. I yield myself such of my remaining time as I may require.

Mr. President, I was very much impressed by the argument of the distinguished Senator from Illinois. We have a department in the Government called Housing and Urban Development, a department headed by a very brilliant man, former Governor Romney. The Department has thousands of employees. They inspected all those homes where the housing scandals developed. They financed the purchase of them. If a smart man like Secretary Romney and all his hundreds and hundreds of lawyers and investigators could not see those scandals developing and could not prevent those scandals, why in the world would my good friend from Illinois be so sanguine as to think that a consumer administrator could see them?

We talk much about the consumers being powerless. The consumers elect every Member of the Senate and the House. They elect every member of State legislatures. They elect State judges. They elect the President. It is really ridiculous for a good lady like Mrs. Peterson to talk about the necessity of giving the consumers a voice in government. They are the ones who run the government.

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "The Consumer Advocate Versus the Consumer," written by Ralph K. Winter, Jr., a distinguished professor of law at Yale University.

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

THE CONSUMER ADVOCATE VERSUS THE CONSUMER

(By Ralph K. Winter, Jr.)

During the last century, recurrent waves of anti-corporate fervor have swept the United States. Although the particular issues debated vary with each era, much of the agitation has focused on allegations of corporate abuse of consumers. Once again, we are riding such a wave, and once again the

problem of protecting consumers intrigues us, this time in the movement known as "consumerism."

There can be little doubt that consumerism is an idea of considerable force. For the media, it attracts audiences; for publishers, it is the source of sales; for some manufacturers, it provides a profitable blessing for their wares; and for politicians, it wins votes. That legislators who cast their vote against bills carrying the stamp of consumerism do so at their peril is reflected in the fact that such legislation generally clears Congress by a wide margin. Thus, a bill establishing a Consumer Protection Agency (CPA) passed the Senate in 1970 by a vote of 74 to 4, and a similar bill gained House approval in the current Congress by 300 votes.

One of the distinctive developments during this era's agitation over the consumer has been the birth of the consumer advocate, the self-appointed vigilante of the economic system. Although he is to a large degree indistinguishable from the muckraker of the past, his concept of his role encompasses more than the exposure of corporate malfeasance and extends to active representation—in courts, agencies and legislatures—of his view of the consumer interest.

The central role the consumer advocate plays in consumerism is demonstrated by the proposals for governmental action which have emanated from the movements, in particular the call for the creation of a consumer protection agency empowered to intervene in the proceedings—formal and informal—of virtually all other federal agencies [1] in order to "represent the interests of consumer." [2] This proposal seeks, in short, to institutionalize the consumer advocate as a federal agency and to put the force of government behind the ideology of the movement known as consumerism. As a result, a judgment as to the merits of the proposal must turn on the validity of the concept of consumer advocacy and of the ideology that spawned it.

1. THE IDEOLOGY OF CONSUMERISM

Defense of the consumer interest is an attractive cause, for all of us are consumers. Indeed, it has long been the creed of those who believe generally in *laissez-faire* that consumer interests should not be subordinated to producer interests, which, when recognized and protected by government, generally lead to monopoly and restriction of output. It is also the case that in an economy heavily dependent on technology and media advertising, problems of the accuracy and availability of information and the safety of products are inevitable. What distinguishes the consumer advocate is his bleak view of the dimensions of those problems and the reasons we face them.

Expositions of consumerism generally begin with a description of the plight of the consumer in the United States today. According to the consumer advocate, the American consumer is in the grip of corporations "able to divert scarce resources to uses that have little human benefit or are positively harmful." [3] Beset on the one hand by products of apparent and advertised safety which in fact endanger his life and limb,[4] the consumer finds on the other than many products are also of considerably less utility than advertising had led him to anticipate.[5] That very same advertising induces him, moreover, through the sophisticated use of applied psychology, to waste his limited funds on items he really does not need.[6]

The consumer's plight is of comparatively recent origin, and stems largely from the complicated technology of today's products. Senator Gaylord Nelson tells us: "Once, the consumer was the final arbitrator in marketplace decisions, but with our society becoming more and more complex, due to increased industrialization and specialization, economic power has shifted gradually away from the American consumer." [7] In other words, the consumer can no longer rely on his sense for adequate information about the safety and usefulness of his purchases, and is at the mercy of Madison Avenue. Manufacturers, moreover, are not generally likely to make the information he desires available lest it hurt their sales.[8]

The list of unsafe, shoddy or unneeded products seems endless. Unsafe automobiles, tires with no durability, flammable fabrics, dangerous or worthless drugs, fraudulent repairs, worthless warranties, leaky pens, adulterated food, bread without nutrition, beef stroganoff with too little beef, superfluous deodorants, and so on, have all received their share of attention. To the consumer advocate these are not isolated instances of human error. To him they are standard operating procedure in the American economy. His estimates of the dollar value of consumer fraud or consumer abuse suggest a problem of enormous dimensions. Thus, Senator Philip Hart's estimate that $200 billion spent by consumers in 1969 (of total expenditures of $780 billion) purchased nothing of value is part of the consumer advocate's stock in trade.[9]

All of this occurs, we are told, because of the quest for profit.[10] Much, of course, is made of allegations about monopoly and the lack of competition in the economy. But to the consumer advocate it really does not matter whether there is competition or not, because in either case he argues that the consumer is playing a game he cannot win against his corporate adversary. Thus, Mr. Nader tells us there are "thousands of arrangements that make it possible for corporations to avoid competition . . . so that the value of what buyers receive is often outrageously distorted. . . ." [11] On another occasion, however, Nader has found that "company economy . . . is very often . . . the consumer's cost and hazard" and that competition is, "as a result," little more than "racing for the lowest permissible common denominator." [12]

The consumer's plight is not caused by the lack of government agencies. Congressman Benjamin Rosenthal has pointed out that "there are approximately 50 Federal agencies and bureaus performing some 200 or 300 functions affecting the consumer." [13] There are also any number of state and local agencies performing similar consumer protection functions. Thus, it cannot be said that a mindless adherence to *laissez-faire* has left the consumer at the mercy of malevolent producers.

Among the federal agencies directly concerned with consumer affairs, for example, are the following: Federal Trade Commission, Consumer and Marketing Service (Department of Agriculture), Federal Communications Commission, Federal Housing Administration, Federal Power Commission, Food and Drug Administration, Interstate Commerce Commission, National Bureau of Standards, National Commission on Consumer Finance, National Highway Safety Bureau, National Transportation and Safety Board, Office of Consumer Services, the President's Committee on Consumer Interests, and the Securities and Exchange Commission. Indeed, the history of consumerism—consumerism has, after all, been a recurrent theme in American politics for years—is a history of the growth of a large state and federal bureaucracy.

All seem to agree, however, that government regulation has failed. The reasons for this failure are numerous but three recurring ingredients can be identified. The first is sloth, pure and simple. Too many bureaucrats tend not to work a full day or to be as productive as they might. The "Nader Report" on the Federal Trade Commission (FTC) reported one well-paid official literally asleep on the job.[14] Second, appointments to high positions and subsequent policy decisions are all too often based on partisan political considerations rather than on individual merit and in the public interest. Thus, one of the "Nader Reports" indicates that appointments to the Interstate Commerce Commission are generally political plums,[15] and another charges that the location of a Federal Trade Commission office—in Oak Ridge, Tennessee—was solely for political reasons.[16]

The third ingredient is more complicated. Over time an agency will tend to respond most favorably to the organized interests which put the most resources into influencing it. The interest of a single consumer in any particular product is likely to be small and organization with other consumers all but impossible. Producers, on the other hand, tend to be better organized as well as more persistent, and, therefore, more able to influence agency action. Thus, it is alleged, regulatory agencies are all too often "captured" by the very interests they are supposed to regulate.[17] To an unknown extent, similar forces also operate in the legislative process. Licensing regulations at the local level are often enacted in the name of the consumer but are in fact the handiwork of the regulated interests, and one revisionist historian has attributed much of the legislation of the Progressive Era to similar pressure from business groups.[18]

II. THE CURE OFFERED BY THE CONSUMER ADVOCATE

Having completed his description of the sorry plight of the American consumer, the consumer advocate offers a multitude of remedies, of which only the most important can be described here.

First, better people must be appointed to responsible positions in the regulatory agencies, for, in the consumer advocate's view, it is the quality of the people appointed, rather than the nature of the regulatory mission, which has led to the failure of government. Thus, the "Nader Report" on the FTC sail: "The real problem of the FTC—and indeed of any faltering agency—can usually be traced to *people*" [19] (original emphasis).

Second, the rhetoric of the consumer advocate leans toward measures which hinder the marketing of any product deemed "unsafe," with little regard to its potential benefit.[20] Although there is considerable ambiguity as to what disposition shall be made of common items like matches and knives, the consumer advocate is prone to subject new products to tests which require that safety be established before marketing, no matter what the potential benefit. The danger of a thalidomide being marketed is to him presumptively greater than the danger of a penicillin being suppressed.[21]

Third, he would outlaw the marketing of products which fail to meet particular quality standards. Stroganoff without a specific percentage of beef is not stroganoff and should not be called such.[22] It is also a loophole in the law to permit a product which appears to be a salad dressing but does not meet salad dressing standards to be sold as a "whip." [23] And he regrets that "in 1970 this gaping loophole in the law is still substantially available to manufacturers, allowing products such as Gatorade, the 'thirst-quencher,' on the market. Since the law has no standards for 'thirst-quenchers,' Gatorade can legally contain whatever the manufacturer chooses, although now he must list the ingredients on the label." [24] The implication of such an approach is that government is to draw up a list of permissible products with requirements as to standardized structure and content. Anything not on the list cannot be legally purchased.

Fourth, the consumer advocate would regulate advertising. It would not do to argue in detail here what has been adequately disposed of elsewhere,[25] but it is

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clear that the consumer advocate would impose restrictions which would cause the amount of advertising in the economy to decline sharply. Advertisements which emphasize particular qualities of a product, for example, would have to state that the advertised product was not unique, if in fact competitive products also had those qualities.[26] Positive aspects of a commodity, moreover, could not be highlighted without detailing whatever negative aspects might also exist.[27]

Finally, to put the force of government behind his ideological position, the consumer advocate would establish an agency empowered to intervene in the proceedings of virtually all other federal agencies—including, under the most extreme proposals, even informal proceedings. The role of this consumer protection agency (CPA) would be to "represent the interests of consumers" before those other agencies in the hope that the presence and advocacy of an official consumer representative will offset the influence of other organized interests on regulatory proceedings. As Senator Abraham Ribicoff has said, its function would be "to police the departments and agencies to make sure they are doing their jobs for the consumer. . . . What we are trying to do is put the 210 million Americans in the same position as the adversary involved who is supplying information to the agency, to have that agency head have the same information from the consumer's advocate."[28] The proposed agency would also have power to receive complaints from consumers and to collect information on consumer matters[29]—and under one version of the proposal it would have subpoena power against "any persons" in the nation.[30]

III. IS THE IDEOLOGY OF CONSUMERISM SOUND?

The initial difficulty with consumerism goes to the validity of its factual premises; namely, that consumers are needlessly and willfully abused. Of course there are accidents, difficulties about product information and false advertising in a developed economy. But what is the norm for "too many" accidents, "too little" information or "too much" fraud, and how is that norm derived? Elimination of such evils entails costs, and those costs must be weighed against the anticipated benefits. At common law, for example, the calculus of an "unreasonable risk" entails balancing the likelihood of injury, the seriousness of that injury and the cost of avoidance.[31] So too, the value of information to the consumer must be balanced against the cost of collection and transmittal just as the damage caused by deceptive advertising must be weighed against the cost of suppression. These costs, after all, can be substantial. Outlawing the wheel would no doubt save thousands and thousands of lives but no one seems prepared to take the plunge. Similarly, a penicillin unused because of doubts as to its complete safety imposes costs in the form of opportunities foregone.

Very little of the literature of consumerism even hints that a balancing process is involved, but until consumer advocates face that question directly, the allegations of consumer abuse will remain unproven. However the norm is established—and it probably must be on a product by product, case by case, basis—it *cannot be* no risk of accidents, absolutely total information and completely accurate advertising. To measure performance against such norms is utterly unfair and wholly misleading.

Beyond the tendency of consumer advocates to measure performance against unrealistic norms is the fact that much of the evidence supporting the claims of widespread consumer abuse seems anecdotal and unsystematic. The abuse is assumed to exist and the burden of proving otherwise is put upon those who would dare to deny it, with the strong implication that a denial is evidence of one's indifference to the ills of society. Consumer advocates tend to toss off a lot of quotations and statistics but when one culls "estimates" and polemical arguments from verifiable facts, their work product seems far too thin to be taken seriously as an assessment of a trillion dollar economy.

Skepticism as to the scientific basis of consumerism's factual premises, for example, is not discouraged by the liberality with which Mr. Nader[32] and lesser movers of the cause[33] employ Senator Hart's estimate of $200 billion of consumer abuse. But $200 billion seems substantially in excess of total profits for all business and is almost four times total after-tax corporate profits.[34]

Skepticism further increases in the face of consumer advocates' failure to fashion a theoretical explanation for the phenomena they describe. Mr. Nader is quite revealing when he says "economists for the most part have failed to . . . show how corporations . . . have been able to divert scarce resources to uses that have little human benefit or are positively harmful."[35] One might as well muse over the failure of scientists to explain why the earth is flat. Will economists ever be able to show that businessmen make money by deliberately failing to satisfy consumers? If consumers desire more safety, more quality and the like, greedy businessmen will find it in their interest to fill those desires and very much to their detriment to willfully ignore them. This is so even in the case of the absolute monopolist. He may have a greater margin to work with than his competitors but he still has little reason to take his "profit" in inefficiency and injuries to others rather than in money. If his product leads to accidents, for example, he will lose both customers and lawsuits. And what about competition? If industries are willfully failing to satisfy consumer tastes, there are vast fortunes to be made simply by producing what consumers actually desire. Consumerism seems to assume, therefore, not that businessmen are greedy, but that they are relatively indifferent to profits.

The lack of a theory to explain the phenomena consumer advocates observe is further demonstrated in the ambiguity they foster as to whether their function is to enlarge the consumer's opportunity to satisfy his tastes or to impose their own tastes on him. When Mr. Nader criticizes the food industry for taking steps to "sharpen and meet superficially consumer tastes at the cost of other critical consumer needs,"[36] one may fairly ask whose judgment it is that a taste is "superficial" and whose judgment it is that a "need" is critical." In the circumstances mentioned it seems rather evident that the judgment in question is solely Mr. Nader's.

This ambiguity as to how the consumer is to be "protected" pervades consumerism. No doubt some consumers are misinformed about the safety of a product and no doubt some products appear to be far safer than they are. No doubt also—as I shall argue later—a considerable amount of government regulation can be justified. But there also should be no doubt that most products are less safe than they might be simply because consumers do not want to cover the necessary extra costs. Both knives and matches can be very dangerous and can be made "safer," but it is rather clear that consumers believe the benefits of greater safety do not outweigh the extra costs. Similarly, there can be little doubt that many consumers fully aware of the risk of, say, convertibles, are quite prepared to bear those risks in exchange for what they regard as countervailing pleasures.

As stated above, a judgment about the reasonableness of a risk entails balancing three factors: the likelihood of harm, the seriousness of that harm, and the value of the interests to be sacrificed to avoid that harm. When a consumer advocate labels a product "unsafe," it is he who is making that balancing judgment, not the consumer.

Of course, such judgments depend on the information available, but even here the consumer advocate exaggerates the potentials for improving present performance and substitutes his own views for those of consumers. The ease with which the consumer advocate calls for more "information" belies the complexity of the issue he raises. Much of what is called "information" involves questions of judgment, style and taste. Once we pass matters such as weights and measures, product "information" becomes increasingly subjective. "Experts" frequently disagree as to the validity of particular testing standards and methods, a fact which has made the businessman rather vulnerable to attack. When test results are not released, he can be accused of suppressing information; when they are, the charge of misleading tests can be raised. The gross judgments in which the consumer is most interested, moreover, are anything but objective. Which of a number of items is the "best" is not, after all, what is known in ordinary language as a scientific judgment.

Beyond these problems is a conflict between the goal of accuracy and the goal of communication with the consumer. Accuracy pushes toward highly technical language not easily comprehended by a layman (and, if recent reports are correct, lawyers at the FTC),[37] while the need to communicate calls for ordinary words which often cannot accurately portray the intended meaning. Again the businessman is vulnerable to the attacks of consumer advocates because either choice leaves him open to a charge of misleading the consumer.

Information is also anything but costless and the costs of collection and transmittal must be borne like added cost. The reliability of product testing depends on the size of the sample and the sophistication of the tests. And, if government regulation is involved, legal advice must generally be purchased. Like safety, then, "adequate" information involves costs as well as benefits and is a relative rather than absolute concept.

It is not at all clear, moreover, that the consumer advocate's craving for unlimited information is shared by the consumer, who must sooner or later bear the cost of collection and transmittal. He must also bear the cost to him in time and effort to absorbing the information, a cost which many consumers may regard as outweighing any potential benefits. Consumers do in fact frequently forego opportunities to learn more about their purchases even when the information is free—reading ingredients, for example—and it seems evident that many prefer lower prices to paying for information. Were this not the case, Consumers Union would be one of the largest organizations in the country and a large number of firms would have entered the field of product testing and information collection. Where there is a demand for information—as on motor vehicles, for example—a glance at a newsstand tends to indicate that it can be purchased. Indeed, if consumers were that anxious for more information, competition would—as it often does—compel manufacturers to supply it in most cases, the most obvious exception being where all competing products have the same negative aspect, such as cigarettes.[38] Even there, however, a demand for information would call forth independent testing agencies. Again, therefore, as in the case of safety, the consumer advocate is seeking to impose something on the consumer that he has chosen not to purchase.

The willingness of the consumer advocate to override the tastes of consumers has been demonstrated time and time again. For example, the "Nader Report" on the Food and Drug Administration attacks the producers of

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white bread in the United States for not making their bread more nutritious. Yet the report also says:

"At one time the battle between makers of white breads and makers of whole wheat and other more nutritious breads was carried into the marketplace. The Ward Baking Company in 1921 . . . produced a highly nutritious nonwhite bread and conducted a vigorous campaign to promote it. However, in 1925 the company ran into economic difficulty and was reorganized. The new owners decided to discontinue the production of the more nutritious bread; white bread meant easier and greater profits." [39]

There is simply no way to analyze cases such as this except as instances in which consumers do not have the "right" tastes, although the consumer advocate continues to direct his fire at the manufacturers for not forcing items on the consumer that he does not want.

Similarly, the standardization of products will prevent consumers from buying items they might desire when such items do not comply with the government's list. Those who like Gatorade, for example, would not, if the "Nader Report" had its way, be permitted to purchase it because it presumably does not meet the standard for a "juice," just as those who would take a risk in order to satisfy some other taste will be prevented from satisfying it by rules which prevent the marketing of goods which seem somehow "unsafe."

The late Frank Knight put it well half a century ago when he wrote,

"A large part of the critic's strictures on the existing system come down to protests against the individual wanting what he wants instead of what is good for him, of which the critic is to be the judge; and the critic does not feel himself called upon even to outline any standards other than his own preferences upon a basis of which judgment is to be passed." [40]

When pressed on this question, the modern consumer advocate turns to a favorite target, advertising, and argues that, after all most consumer tastes have been created by the deceptive techniques of advertising and are not really to be viewed as the true will of consumers. Even accepting that objection at face value, one may, nevertheless, ask in what area of human activity are judgments free of influence by advertising techniques.

It is all very well for consumer advocates to attack advertising but they themselves merchandise consumerism in a way that puts Madison Avenue to shame. Their activities seem very much geared to media impact and involve a great deal of sensationalism. Consider also the example of how the typical "Nadar Report" is merchandised.[41] On the cover, the name Ralph Nader appears twice and in large print. The name of the actual author appears once and in small print. On the back in large red letters is emblazoned: Nader's Raiders Strike Again! Nevertheless, except for the use of his name, there is little indication in these books as to what Mr. Nader had to do with their preparation. Furthermore, during congressional hearings in 1969, a Mr. Fellmeth, who has authored two "Nader Reports," was asked whether the reference "Nader's Raiders" was a fair statement. He answered,

"I don't think so. I think it is very inaccurate for several reasons.

"First of all, it is inaccurate because Mr. Nader's involvement is crucial, but is not as extensive as that name would imply. At least we are not investigating for him alone in a direct sense.

"Secondly, we are not raiders. That is a very inaccurate name, with an inaccurate connotation." [42]

Maybe so, but when they ran it up the flagpole . . .

Footnotes at end of article.

My colleague, Professor Arthur Leff, has quite rightly noted that the purpose of this kind of merchandising is to sell consumerism the way Colonel Sanders sells fried chicken.[43]

The point is simply that one cannot reject the market on the grounds that businessmen are too reliant on advertising, since that is also true of consumer advocates. If we are deceived by advertising, there is no way to judge whether it is business, the consumer advocates, or both, that are deceiving us.

In any event, many of the attacks on advertising are exaggerated because the attackers read every ad literally and needlessly reject any resort to imagery or symbols. For example, splashing Mr. Nader's name over the "reports" is in fact informative to the consumer, both as to the ideological slant and the quality of the books, but it is the very form of merchandising technique the consumer advocate likes to condemn.

Of course advertising is not the source of divine revelation or absolute truth. It is advocacy and well understood to be such by the consumer. Advocacy cannot, however, be suppressed in the name of accuracy without reducing the incentive to advertise and thus depriving society of the valuable functions advertising performs. It enlarges the consumer's choice by enlarging his knowledge and it reduces transaction costs by efficiently bringing buyers and sellers together. It is also a critically important weapon of competition. Thus it has been found that heavy advertising tends to be associated with highly competitive rather than concentrated markets [44] and that those who seek to repress advertising are often seeking to repress competition.[45] Product advocacy, therefore, can be suppressed only at a high cost to the consumer.

That consumerism will likely impose costs is not readily admitted by consumer advocates, who for the most part prefer to let the consumer believe that he can get something for nothing. Too often he is left with the view that increasing product testing by 1000 percent, making cars "safe," keeping all drugs off the market until they are absolutely "safe," forcing companies to spend large sums litigating and clearing things with a government bureaucracy and paying for that bureaucracy itself will cost nothing in out-of-pocket cash, increased taxes or foregone benefits. It is hard to think of a claim of commercial advertising more misleading than that proposition.

On one issue, however, few disagree with the consumer advocates. Government regulation has failed, and the inefficiency and "capture" by regulated interests alleged by the "Nader Reports" is generally conceded. Some agencies, like the Federal Trade Commission, have been just generally slothful. The American Bar Association's commission to study the FTC, for example, found one senior staff member who openly admitted that he preferred to hire older men because they have been out in the world and had come to appreciate that they were not going to make much of a mark.[46] Regulatory failure, however, involves more than sins of omission. Even the FTC has approached "effectiveness" in enforcing statutes within its jurisdiction which are designed to protect producers rather than consumers,[47] and the work of the Interstate Commerce Commission (ICC) is a clear instance of government regulation protecting monopoly interests in the economy. Professor George Stigler may thus well say, "It is of regulation that the consumer must beware." [48]

IV. IS THE CURE OF CONSUMER ADVOCACY WORSE THAN THE DISEASE?

The priority areas for Government regulation

It is not my purpose here to define with precision the proper role of government in consumer protection. Rather, it is to identify those areas in which market failure seems most likely and the case for government regulation most powerful. One of the harmful effects of consumerism has been to divert attention from the real issues of locating market failure—consumer advocates really say it is everywhere—and of determining in what areas the government ought to cease regulation entirely. But for one or two exceptions they always call for more and more regulation.

First, the government ought to impose safety regulations where parties other than the buyer or seller may reasonably be expected to suffer injury. There is no reason why I as a pedestrian must bear the risk undertaken by a car owner who purchases low quality brakes, and it is certainly arguable that my son need not bear the risk of my poor judgment as to the safety of his toys.

Second, government must play a role in suppressing false advertising. It ought to enforce legal actions by consumers and product competitors [49]—the latter have a more substantial incentive to bear the costs of litigation—against false advertisers. Some have also argued that it is appropriate for government to establish an agency like the FTC to seek out and suppress false advertising. Professor Yale Brozen has contended that false advertisers are in effect "free riders" profiting from the reputation of advertisers who are truthful.[50] Because a consumer cannot determine truth or falsity from the face of an ad, the existence of some false advertising casts a cloud over all advertising. For this reason, Brozen argues that affirmative government intervention can be justified. This intervention is to be distinguished, however, from the kind of regulation which in effect requires that advertising give up the function of advocacy of the product, for example, by disclaiming uniqueness or publicizing negative aspects. That kind of regulation dscourages advertising generally ar d thus reduces the amount of information available to the consumer as well as the amount of product competition.

Third, the government ought to establish uniform standards where objective rules can be imposed, for instance, weights and measures. Without such standards, information cannot be easily transmitted. Competition here, moreover, may lead to the creation of confusing and deceptive standards which the consumer cannot interpret and competitors cannot combat effectively. Government may similarly compel sellers to inform the buyer through labelling as to matters such as quantity and ingredients according to uniform definitions. Providing such information is relatively costless and, in the absence of government intervention, definitions of measures and ingredients may not be matters of uniform agreement and understanding. Similarly, certain contract language can be given a fixed legal meaning. A seller surely ought to be free to make disclaimers, but there is no reason to permit him to label them a warranty. Establishing uniform measures and definitions is a far cry from standardizing products, an act which is necessarily anti-consumer and anti-innovative.

Fourth, where there is a high risk of serious harm, the government can seek out and provide information to consumers if that information is unlikely to be available to competitors or independent testing organizations. The sanitary conditions in which food is processed are of great importance to the consumer and really cannot be accurately discovered other than through governmental action. As the frequency and seriousness of the risk decline and the availability of information to competitors or testing organizations increases, however, the justification for governmental intervention diminishes.

Fifth, when a product is by its nature either dangerous or addictive and there are no close substitutes—cigarettes are an ex-

ample—some role of government may be justified in bringing relevant matters to consumers' attention because there is less expectation that competitors will inform consumers about safer alternatives.[51] A limitation to dangerous or addictive products and a strict definition of "close substitutes" seems appropriate because, in all other cases, either competitors or independent consumer information organizations will supply the information desired in timely fashion.

The scope of the regulatory areas sketched above can be debated. Some no doubt have more faith in regulation than others. Skepticism as to government's ability to regulate effectively will vary from individual to individual and many will not accept some of the arguments outlined above or believe in some not mentioned.

Several are clear, however. First, the presumption ought to be against governmental intervention in view of its failure in the past. Regulation has been a failure of such dimensions that it should be undertaken only in clear cases of market failure. Second, market failure does not automatically call for regulation. Markets fail in varying degrees and government intervention cannot be justified unless the benefits exceed the costs. Careful scouting of regulatory proposals is particularly necessary since many of the alleged causes of market "imperfections" seem inherent characteristics of government regulation. Critics of the market remind us of the relative lack of power of the individual consumer over market decisions and his difficulty in acquiring information. Less readily do they point out that this is even more the case when the individual faces the regulatory machinery of government. A harmful ICC ruling is usually less well-known and always less avoidable than a poorly made appliance. The clamor for regulation ignores this because it is based on the naive view that "the people" exercise continuing control over government. This is, of course, contrary both to the theory and practice of representative democracy, which provides only for periodic and very general accountability. The device of the independent agency, moreover—the mainstay of regulation—reduces even this limited accountability to the vanishing point. Identification of market failure, alone, therefore, is not justification for governmental intervention; there must be a further showing that regulation will work and that its cost will be less than its benefits. Third, it is clear that we now have too much regulation, a good deal of which harms consumers by protecting monopolistic interests. How can we truly say we care about consumer protection while we permit the ICC to continue to exist?

Consumer protection entails identifying areas of market failure and carefully tailoring the role of government to them. The scattergun, anti-everything approach of the consumer advocates contributes nothing to this difficult task but merely diverts attention from the important issues, including the critical need to eliminate superfluous or harmful regulation.

The cure for the failure of regulation is not more regulation

The entire case for the creation of an independent consumer protection agency "to represent the interests of consumers" in proceedings before federal agencies rests on the proposition that the agencies have failed to fulfill their responsibilities. Calling for the creation of the CPA is an astonishing admission of the egregious failure of consumer protection regulation. But surely the mind boggles at the argument that the failure of regulation in the past calls for imposing yet another bureaucratic overlay. If this proposed agency arises from a need, as Senator Ribicoff put it, "to police the departments and agencies," one may justifiably inquire who or what is to "police" *it*. How soon will it to be hiring only older men who realize that they are not going to make a mark in the world? Why is this agency not as susceptible to "capture" by organized interest groups as other agencies? It is surely as tempting a target and it cannot be divorced from political pressure any more than, say, the Interstate Commerce Commission. Are we, in a generation, to hear a call for yet another agency, this time to "police" the CPA?

The CPA also has the potential of creating a bureaucratic nightmare—particularly if, as is proposed, the CPA must be notified of and have a right to intervene in every action of other agencies, formal or informal, affecting consumers. As the chairman of the Administrative Conference of the United States has stated, every act of every bureaucrat affecting consumers cannot be written down and sent to the CPA without crippling government.[52] Even if such extreme suggestions are rejected, the proposed CPA would still serve to delay and increase the costs of government action.

All of the arguments used to support the creation of a CPA suggest not a new agency but the elimination or reform of an old agency. If the FTC is moribund, a CPA—whose director and deputy director would be appointed in the same manner as the FTC commissioners—is unlikely to bring it to life. It will merely double the cost. Why should the citizens of this country have to pay taxes for a consumer agency to appear before the Interstate Commerce Commission to urge that commission to reach the results a competitive market would reach—that is to say, the very results that would occur if there were neither an ICC nor a consumer agency?

There cannot be a single consumer representative

The model on which proposals for a CPA are based is the adversary system of our courts. That model, however, is totally inapplicable to the purposes urged by consumer advocates. The lawyer-client relationship is one of principal and agent in which the principal has continuing power to direct the actions of the agent. A lawyer representing a client also has the duty of absolute and single-minded loyalty to that client and an obligation to make whatever arguments are in his interest. Where the interests of two persons conflict, the lawyer may not seek to represent both in one action.

The proposed CPA is in no way analogous to representation by legal counsel. It is the principal, not the agent. It, and it alone, would decide when and for what reasons to intervene in the proceedings of other agencies. There is, moreover, no single client or interest for the CPA to represent. It is a fundamental principal of economics that individual consumers put different values on particular commodities. People may differ as to how much beef they like in their stroganoff and as to how much they are willing to pay for it. Safety and information are also not costless, and different consumers will have differing tastes as to how much of each of those they wish to purchase. Intervention against a product which the CPA believes to be "unsafe," for example, is solely in the interest of those consumers preferring to purchase more safely and to the detriment of those preferring a cheaper product, albeit one of greater risk. There is no way around the dilemma created by empowering the CPA to "represent" persons with conflicting interests.

One bill pending in Congress defines "the interests of consumers" in part as "the cost, quality, purity, safety, durability, performance, effectiveness, dependability and availability and adequacy of choice of goods and services offered or furnished to consumers; and the adequacy and accuracy of information relating to consumers goods and services. . . ."[53] Such a definition, however, ignores the fact that all of these things can be traded off against each other. There can be more safety and quality for a higher cost and vice versa, and different consumers will prefer different mixes. The proposed consumer protection agency simply cannot "represent" all consumers on these matters.

The very idea that there is such a thing as a consumer advocate is, therefore, little more than a public relations gimmick. It has, however, fed the erroneous and misleading notion that a government agency can be established to "represent" the interests of consumers. All those consumers who prefer a trade-off between cost, quality, safety, information, and so on, different from that determined as "correct" by the agency will remain unrepresented in all of the proceedings. This is a grave danger because the very existence of the CPA will conceal the fact that large numbers of people—perhaps in most cases the vast majority of consumers—are in effect unrepresented and are actually being injured by an agency acting in their name.

Consumer advocates against the consumer

Even if the CPA does not fall prey to sloth and bureaucratic lassitude, even if it is "effective," that effectiveness will consist in imposing a particular ideology of consumerism upon consumers. To be sure, some consumers may be helped but many others will be hurt.

It should be recognized, moreover, that the ideology of consumerism does not provide protection against "capture" of regulatory agencies by special organized interests or inhibit coalitions with those interests, particularly if consumer advocates seek and obtain further restrictive legislation. Emphasis on safety, the suppression of advertising, and the standardization products all tend to dampen competition between firms and are frequently anti-innovative and restrictive influences. Standardization, although the least restrictive, is all too close to the ICC's determination of adequacy of service in deciding whether to permit new entrants into the transportation industry. Firms already in the market with established names and established products will have an enormous advantage. They will, moreover, quite likely see the opportunity to take advantage of the work of the CPA in order to suppress competitors by blocking innovations. Just as the FTC has been more vigorous in enforcing "protectionist" statutes than any other statutes in its purview, a CPA will find that a coalition with organized interests is the path of least resistance. The very existence of the CPA, moreover, will tend to legitimate action by other agencies which is monopolistic.

Consider the case of the compact car. Had consumerism been an active governmental force in the 1950s, it is quite plausible to imagine that measures would have been taken to prevent the introduction of such cars into the American market on the grounds that they were not safe. All of the steps necessary could have been accomplished by a CPA in the name of the consumer, with the automobile industry working silently in the background. This is by no means an imaginary horrible, for allegations about small cars continue. Such a step would, of course, bring about the very results deplored by consumer advocates in other circumstances. But the very fact that the CPA had helped to bring about the exclusion of the car would serve to legitimate what was in effect governmental creation of a monopoly.

Finally, the existence of the CPA will unquestionably make consumers relatively poorer. There will of course be the deprivation of income and benefits which will occur because of the massive bureaucratic delays caused by the CPA and because of the tax revenues needed to cover these delays and the cost of the CPA itself. Consumers would almost surely be better off without such regulation and with the money they pay in taxes to buy more safety and information.

Footnotes at end of article.

Beyond that, the delays in putting products on the market and forcing firms to expend resources on clearing new products with the bureaucracy, the heavy governmental burden on products which do not meet some norm of perfection will inevitably increase the cost of commodities. And this increase in costs—dictated principally by the political views of the consuming middle class—is likely to have its most detrimental impact on the poor, who will get more quality only when they can pay the higher price.

FOOTNOTES

[1] See generally, U.S. Congress, Senate, *To Establish a Consumer Protection Agency*, Hearings on S. 1177 and H.R. 10835 before the Subcommittee on Executive Reorganization and Government Research of the Committee on Government Operations, 92d Cong., 1st Sess., November 4 & 5, 1971. (Hereafter cited as *Hearings on S. 1177 and H.R. 10835.*)

[2] S. 1177, Sec. 202(1); H.R. 10835, Sec. 203 (b)(1).

[3] Ralph Nader, "A Citizen's Guide to the American Economy," *New York Review of Books*, September 2, 1971, p. 14.

[4] *Hearings on S. 1177 and H.R. 10835*, p. 29.

[5] Edward F. Cox et al., *The Nader Report on the Federal Trade Commission* (New York: Grove Press, 1969), pp. 13–33.

[6] Ibid., pp. 18–19.

[7] U.S. Congress, Senate, *Establish a Department of Consumer Affairs*, Hearings on S. 860 and S. 2045 before the Subcommittee on Executive Reorganization of the Committee on Government Operations, 91st Cong., 1st Sess., March 17, 18, 19, 20, 21; April 17, 24; July 15, 1969, p. 4. (Hereafter cited as *Hearings on S. 860 and S. 2045.*)

Why exponents of consumerism insist on attributing the plight of the consumer to recent events in unclear, for the complaints they urge are a cyclical feature of the political landscape.

[8] Cox, *The Nader Report on the Federal Trade Commission*, p. 18.

[9] Nader, "A Citizen's Guide to the American Economy," p. 18.

[10] James S. Turner, *The Chemical Feast (New York: Grossman Publishers, Inc., 1970)*, pp. 111, 165.

[11] Nader, "A Citizen's Guide to the American Economy," p. 15.

[12] Turner, *The Chemical Feast*, p. vi (Foreword by Ralph Nader). See also Cox, *The Nader Report on the Federal Trade Commission*, pp. 15, 17.

[13] *Hearings on S. 1177 and H.R. 10835*, p. 19.

[14] Cox, *The Nader Report on the Federal Trade Commission*, p. 148.

[15] Robert Fellmeth, *The Interstate Commerce Commission* (New York: Grossman Publishers, Inc., 1970), pp. 1–4.

[16] Cox, *The Nader Report on the Federal Trade Commission*, pp. 137–139.

[17] Fellmeth, *The Interstate Commerce Commission*, pp. 15–22.

[18] Gabriel Kolko, *The Triumph of Conservatism* (Cleveland, Ohio: Quadrangle Books, Inc., 1963).

[19] Cox, *The Nader Report on the Federal Trade Commission*, p. 130.

[20] Turner, *The Chemical Feast*, pp. 98–103.

[21] Ibid., p. 225.

[22] Ibid., p. 64.

[23] Ibid., p. 129.

[24] Ibid., p. 130.

[25] See generally, Yale Brozen, "The FTC Attack on Advertising," speech before the Indiana Broadcasters Association, March 14, 1972.

[26] *Hearings on S. 850 and S. 2045*, pp. 103–105

[27] Ibid.

[28] *Hearings on S. 1177 and H.R. 10835*, pp. 2, 43.

[29] S. 1177, Secs. 204, 205; H.R. 10835, Secs. 205, 206, 207.

[30] S. 1177, as introduced, Sec. 205(d)(1).

[31] Fowler V. Harper and James Fleming, Jr., *The Law of Torts* (Boston: Little, Brown & Co., 1956), pp. 928–936.

[32] Nader, "A Citizen's Guide to the American Economy."

[33] Morton Mintz and Jerry S. Cohen, *America, Inc.: Who Owns and Operates the United States* (New York: Dial Press, Inc., 1971), p. 138.

[34] *Statistical Abstract of the United States*, 1971 (Washington: U.S. Government Printing Office, 1971), pp. 459, 472.

[35] Nader, "A Citizen's Guide to the American Economy."

[36] Turner, *The Chemical Feast*, p. v (Foreword by Ralph Nader).

[37] *The National Observer*, May 6, 1972, p. 12; *The New York Times*, May 17, 1972, p. 23.

[38] See *Report of the American Bar Association Commission to Study the Federal Trade Commission* (1969) pp. 107–108. (Separate statement of Richard Posner.)

[39] Turner, *The Chemical Feast*, pp. 111–112.

[40] Frank H. Knight, *Risk, Uncertainty, and Profit* (Boston: Houghton, Mifflin Co., 1921), p. 182.

[41] Fellmeth, *The Interstate Commerce Omission*.

[42] *Hearings on S. 860 and S. 2045*, pp. 119–120.

[43] Arthur Allen Leff, Book Review of Green, "The Closed Enterprise System," in *The New York Times Book Review*, April 30, 1972, p. 22.

[44] Lester G. Telser, "Advertising and Competition," *Journal of Political Economy*, vol. 72, no. 6 (1964), p. 537.

[45] Brozen, "The FTC Attack on Advertising."

[46] *Report of the ABA Commission to Study the Federal Trade Commission*, p. 33.

[47] Ibid., p. 45.

[48] George J. Stigler and Manuel F. Cohen, *Can Regulatory Agencies Protect the Consumer?* (Washington, D.C.: American Enterprise Institute for Public Policy Research, 1971), p. 17.

[49] See particularly Professor Richard Posner's analysis on this point in *Report of the ABA Commission to Study the Federal Trade Commission*, pp. 104–106.

[50] Brozen, "The FTC Attacks on Advertising."

[51] Again see the analysis of Professor Posner in *Report of the ABA Commission to Study the Federal Trade Commission* (1969), pp. 107–108.

[52] See *Hearings on S. 1177 and H.R. 10835*, pp. 186, 193.

[53] H.R. 10835, Sec. 304(5).

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

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Connecticut has 6 minutes.

Mr. RIBICOFF. And the Senator from North Carolina?

The PRESIDING OFFICER. The Senator from North Carolina has yielded back the remainder of his time.

The Senator from Connecticut now has 5 minutes remaining.

Mr. RIBICOFF. In view of the fact that the name of the Senator from Illinois has been used by the Senator from North Carolina, may I ask that when the distinguished Senator from Florida is through, we have the remaining time of the Senator from North Carolina for the Senator from Illinois?

Mr. ERVIN. I do not like to object, but I have been appealed to by some Senators who have to leave here, and if this argument continues, they will not be able to vote. With great reluctance, I have to object.

The PRESIDING OFFICER. Objection is heard.

Mr. RIBICOFF. Mr. President, I yield 4 minutes to the Senator from Florida.

Mr. CHILES. Mr. President, I support the Consumer Protection Agency bill as reported from the Committee on Government Operations. The bill is the product of careful scrutiny by the committee. We considered it in seven executive sessions extending over more than 16 hours. We examined the bill section-by-section and adopted 58 substantive and technical amendments to it. As a result, it is a tightly drafted bill, granting the Agency the authority and funds it needs to do an effective job, but no more.

The bill is broad in scope, but moderate in application. This is appropriate, for the consumer interest extends to many aspects of our daily lives. At the same time the committee limited the powers of the Agency to assure that it would neither interfere with the legitimate operations of American business, nor disrupt the smooth functioning of existing agencies.

Mr. President, other members of the committee have described and summarized the provisions of the bill, so I shall not repeat what they have said. Rather, I want to point out some of the important changes the committee made in the bill.

Early in our consideration, we significantly amended section 207(b), the Administrator's interrogatory authority. I believe the Agency should have the authority to obtain necessary information to represent the consumer interest effectively. Almost every Federal agency has this power. But as reported from the Subcommittee on Executive Reorganization and Government Research, the bill authorized the CPA to submit interrogatories to any business enterprise whose activities he determines may substantially affect the interests of consumers. I urged, along with other members of the committee that this provision be narrowed to three basic interests of consumers—health, safety, and the discovery of fraud. This amendment was adopted and improved the bill.

The committee also strengthened the powers of the courts over the interrogatories by authorizing them to grant the Administrator's request on conditions and with such apportionment of costs as it deems just. The Administrator also must prove to the satisfaction of the court that the information sought first, substantially affects the health or safety of consumers or is necessary for the discovery of consumer fraud, second is not unnecessarily or excessively burdensome, and third is relevant to the purposes for which the information is sought.

One of the next sections we turned to was consumer complaints, section 206. As reported from the subcommittee, the bill required the CPA Administrator to transmit every complaint alleging a violation of Federal law, or a trade practice detrimental to the interests of consumers, to the appropriate Federal, State, or local agency for consideration and possible action. The Administrator was also obligated to send a copy of the complaint to the person complained against and allow him a reasonable opportunity for

comment. His response would then be publicly filed with the complaint.

Most of the complaint letters I have received as a State Senator and as a U.S. Senator, have been meritorious. But frankly, some of them are frivolous. It would serve no useful purpose to have them referred to other agencies and it would only waste the time and money of businesses to require them to respond to such complaints. Accordingly, I proposed an amendment which granted the Administrator authority not to refer the complaint if he determines it is frivolous. The amendment was unanimously accepted by the committee.

Another amendment which I proposed reduced the authority of Federal bureaucrats to withhold funds from the States and localities under the consumer protection grant program. During nearly 2 years in Washington I have often seen Federal officials nit-pick and starve a good program to death for minor infractions of agency rules. I was determined to prevent that from happening under this program, so moved to amend section 308(a) to require that the Administrator must first find that the program no longer substantially complies with applicable law before cutting off funds for it. Again, the committee accepted the amendment unanimously.

Mr. President, after participating in the committee executive sessions and thoroughly studying the bill I have concluded that it is fair and reasonable. It assures the American consumer that his interests will be as well represented within the Federal Government as are other interests, such as labor, commerce and agriculture.

Throughout our long consideration of the bill, one of the paramount objectives of the committee was to prevent unnecessary instrusions into lawful business affairs and needless intervention in the Federal administrative process. These are appropriate concerns of the Committee on Government Operations, which rightfully focuses on the efficiency and economy of the Federal Government. The committee achieved its objective, I believe, by incorporating many safeguards against interference with responsible business practices and the orderly processes of Government.

After the bill was ordered reported, I asked the committee staff to prepare a list of these safeguards for me. They have done so and I would ask unanimous consent to have them printed in the RECORD at this point.

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

SAFEGUARD IN S. 3970 AGAINST UNDUE INTERFERENCE BY THE CONSUMER PROTECTION AGENCY WITH RESPONSIBLE BUSINESS PRACTICES AND THE ORDERLY PROCESSES OF GOVERNMENT

1. The CPA will have no regulatory authority. It will not be able to overrule, veto or impair any Federal agency's final determinations. The participation rights granted to the CPA are procedural only, not substantive, such that no authority granted to the CPA shall be construed as superceding, supplanting, or replacing the jurisdiction of any agency over any subject matter, nor deprive any agency of its responsibility to exercise its authority under law. Section 3(3) Declaration of Purpose.

2. Limitation on CPA interventions: Authority to intervene as of right as a party is granted to the CPA in formal agency proceedings, but the Administrator must exercise discretion and avoid unnecessary involvement. He is to refrain from intervening as a party unless he determines that such extent of involvement is necessary to represent adequately the interests of consumers. Where submission of written briefs or other material is sufficient, or presentation of oral argument is sufficient, he is to exercise self-restraint and limit his involvement accordingly. Section 203(a).

3. Protection against disruption and delay of agency proceedings and activities: Upon intervening, or participating in formal agency proceedings, the Administrator must comply with the host agency's statutes and rules of procedure governing the timing of his participation and the conduct of such proceeding (Section 203(a)). In participating in an informal agency activity, the Administrator must do so in an orderly manner and without undue delay. Section 203(b).

4. Protection against CPA intrusion in the private meetings and discussions between a Federal agency and a particular business firm: While the CPA may present orally or in writing relevant information and arguments (Section 203(b)(1)), it is not granted the right or authority to be present at any particular meeting or discussion, nor to monitor any phone conversations, between an agency and a company. Instead, it need only have an opportunity *equal* to that of the company to present its views. CPA's participation, therefore, need not be simultaneous (and generally will not be) but need only occur within a reasonable time of any prior involvement by such company or at a time when it might reasonably have an input into a contemplated agency action. Section 203(b)(2).

5. Protection against misuse of a host agency's compulsory process: Where the CPA seeks to use an agency's subpoena authority for discovery purposes, the host agency retains discretion and control over such use. CPA's request must be: (i) relevant to the matter at issue; (ii) not unnecessarily burdensome to the person from whom the information is sought; and (iii) not such as would unduly interfere with the conduct of the host agency proceeding—all to be determined by the host agency, not the CPA. Section 203(e).

6. Protection against unfair advantage to CPA in requiring information from businesses: The compulsory information gathering authority of the CPA (Section 207(b)) may not be exercised to obtain information which: (i) is available as a matter of public record; (ii) can be obtained from another Federal agency; or (iii) is for use in connection with his intervention in any pending agency proceeding. (Section 207(b)(2)). The Administrator's request under Section 207 must relate to consumer health or safety or consumer frauds and be specific as to the purpose for which the information is intended. Moreover, the request must be relevant to that purpose and not unnecessarily burdensome to the person from whom the information is sought. The scope of the Section has been limited so as not to require the production of records, books, or documents, the appearance of witnesses, or the disclosure of information which would violate any relationship privileged according to law. Section 207(b)(1).

7. Protection against arbitrary, capricious or vindictive intervention by CPA: The determination by the CPA that a consumer interest may be substantially affected by the result of an agency proceeding will be subject to ultimate judicial review if there was prejudicial error involved. (Section 201(e)(1)(B)). The Administrator is required explicity and concisely to set forth in a public statement the interests of consumers he is representing in a particular agency or court proceeding. Section 402(b).

8. Protection against unwarranted allegations in complaints from consumers against business, its products or services: Upon receipt of consumer complaints, CPA will as a matter of course promptly notify the company named, furnish it a copy of the complaint, and afford it a reasonable time in which to respond to the charge. Both the complaint and the company's response will be placed in the public file simultaneously, together with any comments or report from any Federal agency to which the complaint was referred for action. Frivolous, malicious and unsigned complaints will not be placed in the public file. Sections 206 (b) and (c).

9. Protection against access by CPA to all classified information and restricted data under the Atomic Energy Act. Section 207(c)(1).

10. Protection against CPA access to internal policy recommendations: The CPA will have access to factual material developed by agencies but will have no right to have access to opinions expressed by agency personnel which are not in the nature of factual data. Section 207(c)(2).

11. Protection against CPA access to information concerning routine executive and administrative functions: Most internal agency documents dealing with the management of the agency need not be accessible to the CPA. This will protect the legitimate interests of federal agencies in managing their own affairs without interference. Section 207(c)(3).

12. Protection against CPA access to personnel and medical files and other files access to which would constitute an unwarranted invasion of personnel privacy: The CPA will not have a right to have access to these files, which should properly remain private in order to preserve important interests of confidentiality. Section 207(c)(4).

13. Protection against CPA access to information which any agency is expressly prohibited by law from disclosing to another federal agency: Where a statute of judicial decision has declared that an agency may not disclose information to another agency, this policy applies to the CPA, and denies the CPA the right to access to such information. Section 207(c)(5).

14. Protection against CPA access to income tax records: There is no authorization in this act to any federal agency to disclose the amount or source of income, profits, losses, expenditures, or any particular thereof, from any income return, or to permit CPA access to any such return. This will insure that records which are now treated as confidential by the IRS with respect to access by other federal agencies will be treated in the same manner with respect to the CPA. Section 207(d).

15. Protection against disclosure of confidential information relating to business practices in the files of another agency: The CPA has access to, and can copy agency files, but cannot disclose to the public any information which the host agency has exempted from disclosure or is otherwise exempted by law. Section 208(b).

16. Protection for business trade secrets that may come into CPA's possession: Trade secrets and other confidential business information may not be disclosed under criminal penalty of law, except if necessary to protect public health and safety, or to courts, committees of Congress, and other concerned federal agencies in a manner designed to preserve confidentiality. Section 208(c).

17. Protections against disclosure to the public of false or misleading information regarding a business: CPA disclosures may not be inaccurate, misleading or incomplete. Otherwise, CPA will be required promptly to issue a retraction, to take other appropriate

measures to correct any error, or to release significant additional information affecting the accuracy of information previously released. Section 208(d).

18. Protection against "surprise" disclosures to the public of information likely to injure the reputation or good will of a business: CPA is required, as a matter of course, to give prior notice to such company and afford an opportunity to comment, unless public health and safety would be imperiled by such action. Section 208(d). Injunctive relief to a company which might be damaged is provided for.

19. Protections against unfair comparison of the products or services of a business: In disclosing information, CPA: (i) must make clear that all products of a competitive nature have not been compared, if such is the case; (ii) must make clear that there is no intent or purpose to rate products compared over those not compared, not to imply that those compared are superior or preferable in quality to those not compared; and (iii) must not subjectively indicate that one product is a better buy than another. Section 208 (e).

20. Clarification that substantive criteria applicable to agency decisions remain unaffected: Reference in the predecessor bill, S. 1177, to giving "due consideration" to the interests of consumers in agency decisionmaking might have been construed—and was by some—as meaning that added weight was to be given to the consumer interest in regulatory and other decisions involving, e.g., the grant or denial of a license, route, or rate increase. We did not intend to change the substantive standards now applicable and have therefore taken out the reference to "due consideration" requiring only a concise statement as to how, if at all, the consumer interest was taken into account in reaching a decision. Section 402(a).

FINAL OBSERVATION

The structure and operation of a Consumer Protection Agency need not be hostile to business interests. There are numerous situations where the CPA would, in presenting the case for consumers, find itself advancing or defending a business practice. For example, antitrust law today often frustrates industry self-regulation even where health or safety considerations may be at stake. The television industry, alerted to a potential fire hazard in color TV two years ago, responsibly assembled in Chicago to upgrade flammability standards only at the risk of possible antitrust suit by the Justice Department.

Not untypical, the power lawnmower industry for years has been leery of using collective means to devise an alternative to the rotary blade, which each year is responsible for more than 140,000 injuries, some resulting in death, blinding or severe disfigurement. The CPA might also help to expedite agency action, as for example in the case of a new drug application before the FDA, where more timely response could promote health or save lives. In these circumstances, the consumer interest in maximizing safety would clearly outweigh the consumer interest in seeing that the antitrust laws are enforced to the letter. Thus, the CPA would expectably intervene on behalf of the legitimate business interest which, in not a few cases, coincides with the legitimate consumer interest.

Mr. CHILES. Mr. President, I believe these safeguards satisfy the two objections most often voiced by critics of the bill: That the CPA will harass legitimate business activities and hinder the agency decisionmaking.

In connection with the latter argument, it is especially significant that the American Bar Association recently endorsed the concept of CPA intervention in the proceedings of other agencies. In a report supporting the action, the chairman of the section on Administrative Law stated:

We conclude that interagency litigation over the validity of administrative action has been commonplace since the early days of the Administrative process; that no new problems, either doctrinal or practical, are presented by the proposal to give the Consumer Protection Agency the right to initiate or intervene in proceedings for judicial review of other agencies actions; and that the feasibility and desirability of interagency litigation should accordingly be recognized in this statutory context as well.

Mr. President, S. 3970, is a good bill. It is fair and well balanced. In my opinion it is a better bill than the one which the Senate approved 2 years ago. It provides both more effective means to the consumer interest and more assurances that it will not burden the administrative process. I urge the passage of the bill.

The PRESIDING OFFICER (Mr. GAMBRELL). The time of the Senator from Florida has expired.

CLOTURE MOTION

The PRESIDING OFICER (Mr. GAMBRELL). The hour of 11 a.m. having arrived, the Chair, under the unanimous-consent agreement, and pursuant to rule XXII, lays before the Senate the pending cloture motion which the clerk will state

The 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.

CALL OF THE ROLL

The PRESIDING OFFICER. Under rule XXII, the Chair directs the clerk to call the roll to ascertain the presence of a quorum.

The legislative clerk called the roll and the following Senators answered to their names:

[No. 482 Leg.]

Aiken	Bible	Byrd, Robert C.
Allen	Brock	Cannon
Bayh	Brooke	Chiles
Beall	Buckley	Church
Bellmon	Burdick	Cook
Bennett	Byrd, Harry F., Jr.	Cooper
Bentsen		Cotton
Cranston	Hughes	Pell
Curtis	Humphrey	Percy
Dole	Inouye	Proxmire
Eagleton	Jackson	Randolph
Eastland	Javits	Ribicoff
Edwards	Jordan, Idaho	Roth
Ervin	Kennedy	Saxbe
Fannin	Long	Schweiker
Fong	Magnuson	Scott
Fulbright	Mansfield	Smith
Gambrell	Mathias	Stennis
Gravel	McClellan	Stevens
Griffin	Miller	Stevenson
Gurney	Mondale	Talmadge
Harris	Moss	Thurmond
Hart	Muskie	Tunney
Hartke	Nelson	Weicker
Hatfield	Packwood	Williams
Hollings	Pastore	Young
Hruska	Pearson	

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), the Senator from Alabama (Mr. SPARKMAN), the Senator from Virginia (Mr. SPONG), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN) and the Senator from Wyoming (Mr. MCGEE) are absent on official business.

Mr. SCOTT. I announce that the Senators from Colorado (Mr. ALLOTT and Mr. DOMINICK), the Senator from Tennessee (Mr. BAKER), the Senator from Delaware (Mr. BOGGS), the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), 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.

The PRESIDING OFFICER. A quorum is present.

The question is, Is it the sense of the Senate that debate on 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 interests of consumers, and for other purposes, shall be brought to a close? The yeas and nays are mandatory under the rule, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SAXBE. (when his name was called). On this vote the senior Senator from Pennsylvania (Mr. SCOTT) and I have a pair with the senior Senator from Texas (Mr. TOWER). If he were permitted to vote, he would vote "nay." We would vote "yea." We withhold our votes.

Mr. SCOTT (when his name was called). My pair having already been announced, I vote present.

Mr. CANNON (when his name was called). On this vote I have a pair with the Senator from South Dakota (Mr. MCGOVERN) and the Senator from Missouri (Mr. SYMINGTON). If they were present

and voting, they would vote "yea." If I were permitted to vote, I would vote "nay." I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), the Senator from Alabama (Mr. SPARKMAN), the Senator from Virginia (Mr. SPONG), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN) and the Senator from Wyoming (Mr. MCGEE) are absent on official business.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. MCINTYRE) would vote "yea."

I further announce that, if present and voting, the Senator from Virginia (Mr. SPONG) would vote "nay."

Mr. GRIFFIN. I announce that the Senators from Colorado (Mr. ALLOTT and Mr. DOMINICK), the Senator from Tennessee (Mr. BAKER), the Senator from Delaware (Mr. BOGGS), the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), 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 Delaware (Mr. BOGGS) would vote "yea."

If present and voting, the Senator from Colorado (Mr. DOMINICK) would vote "nay."

The Tower pair was previously announced.

The yeas and nays resulted—yeas 47, nays 29, as follows:

[No. 483 Leg.]

YEAS—47

Aiken	Hatfield	Nelson
Bayh	Hollings	Packwood
Beall	Hughes	Pastore
Bentsen	Humphrey	Pearson
Brooke	Inouye	Pell
Burdick	Jackson	Percy
Byrd, Robert C.	Javits	Proxmire
Chiles	Jordan, Idaho	Randolph
Church	Kennedy	Ribicoff
Cranston	Magnuson	Roth
Eagleton	Mansfield	Schweiker
Gravel	Mathias	Smith
Griffin	Miller	Stevenson
Harris	Mondale	Tunney
Hart	Moss	Williams
Hartke	Muskie	

NAYS—29

Allen	Cotton	Gurney
Bellmon	Curtis	Hruska
Bennett	Dole	Long
Bible	Eastland	McClellan
Brock	Edwards	Stennis
Buckley	Ervin	Stevens
Byrd, Harry F., Jr.	Fannin	Talmadge
Cook	Fong	Thurmond
Cooper	Fulbright	Weicker
	Gambrell	Young

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—3

Saxbe, for.
Scott, for.
Cannon, against.

NOT VOTING—21

Allott	Hansen	Montoya
Anderson	Jordan, N.C.	Sparkman
Baker	McGee	Spong
Boggs	McGovern	Stafford
Case	McIntyre	Symington
Dominick	Metcalf	Taft
Goldwater	Mundt	Tower

The PRESIDING OFFICER. On this vote the yeas are 47 and the nays are 29. Two-thirds of the Senators present and voting not having voted in the affirmative, the motion is rejected.

SOCIAL SECURITY AMENDMENTS OF 1972

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate H.R. 1.

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

The PRESIDING OFFICER. The Senate will be in order. Senators will clear the well and take their seats.

Under the previous order, the Chair lays before the Senate H.R. 1, which the clerk will read by title.

The legislative clerk read the bill by title, 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.

The Senate proceeded to consider the bill.

Mr. CRANSTON. Mr. President, I ask unanimous consent that during the consideration of the pending business——

The PRESIDING OFFICER. Will the Senator suspend? The Senate will be in order. Senators will give attention to the Senator from California, who is making a unanimous-consent request.

Mr. CRANSTON. The unanimous-consent request is that Pam Duffy and Jon Steinberg be given the privilege of the floor during the consideration of this bill today.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum until we can get order.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

H.R. 13694—AMERICAN REVOLUTION BICENTENNIAL COMMISSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 13694, to amend the joint resolution establishing the American Revolution Bicentennial Commission, as amended, be held at the desk temporarily.

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

ORDER TO PRINT S. 3939, THE FEDERAL AID HIGHWAY ACT OF 1972, AS PASSED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, on behalf of my senior colleague (Mr. RANDOLPH), that the Federal Aid Highway Act of 1972 (S. 3939) be printed as it passed the Senate.

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

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States, submitting nominations, were communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. GAMBRELL) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

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. ROBERT C. BYRD. Mr. President, what is the pending matter before the Senate?

The PRESIDING OFFICER. The pending business is H.R. 1, to amend the Social Security Act.

Mr. ROBERT C. BYRD. I thank the Presiding Officer.

The PRESIDING OFFICER. The bill is open to amendment.

Mr. CRANSTON. Mr. President, I call up my amendment No. 1619, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

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

The PRESIDING OFFICER. The Senate will be in order. The aisles will be cleared.

Will the Senator from California send a copy of his amendment to the desk?

The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. CRANSTON. 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. CRANSTON's amendment (No. 1619) is as follows:

On page 615, after line 5, insert the following new section:

SEC. 306. Title XI of the Social Security Act is amended by adding at the end thereof the following new section:

"AUTOMATIC INCREASE IN STANDARDS OF NEED UNDER PUBLIC ASSISTANCE PROGRAMS

"SEC. 1311. (a)(1) In addition to the requirements imposed by other provisions of law as a condition of approval of a State plan of any State (other than the Commonwealth of Puerto Rico, Guam, or the Virgin Islands) to provide aid or assistance to individuals under title I, X, XIV, or XVI, there is hereby imposed the requirement (and the plan shall be deemed to require), for the period beginning October 1, 1972, and ending December 31, 1973, that the standard of need (as defined in paragraph (2)) applicable under any such plan shall be increased by the amounts certified in the certifications of the Secretary made pursuant to subsection (b).

"(2) For purposes of this section, the term 'standard of need', when used in connection with any approved plan referred to in paragraph (1), means the income amount (not otherwise disregarded under the plan) used to determine (in the case of each category of applicants for and recipients of aid or assistance under the plan) eligibility of such applicants and recipients for aid or assistance under such plan.

"(b)(1) Whenever there is enacted any provision of law providing a general increase in monthly benefits payable to individuals under title II, the Secretary shall (at the earliest practicable date after the enactment of such provision) determine the average rate of such increase and shall certify to each State agency administering or supervising the administration of any State plan approved under title I, X, XIV, or XVI, the average so determined.

"(2) Any such certification shall be effective, in the case of the standard of need applicable under any approved State plan referred to in subsection (a), for months beginning more than 30 days after such certification is made to the State agency administering or supervising the administration of such State plan, or, if the general increase (referred to in paragraph (1)), on the basis of which such certification is made, will not be effective by such date, then it shall be effective on the first month for which such general increase will be effective."

SEC. 2. (a) Subject to subsection (b), the amendment made by the first section of this Act shall be effective in the case of general increases in monthly benefits payable to individuals under title II of the Social Security Act resulting from the enactment of provisions of law enacted after January 1972.

(b) For purposes of section 1131 of the Social Security Act (as added by the first section of this Act), any certification under subsection (b) of such section on account of any general increase in monthly benefits payable to individuals under title II of the Social Security Act resulting from the enactment, prior to the enactment of this Act but after January 1972, shall be made at the earliest practicable date after the enactment of this Act and shall be effective with respect to months beginning two months after the month of enactment of this Act.

Mr. CRANSTON. Mr. President, I yield to my colleague from California.

Mr. TUNNEY. Mr President, I ask unanimous consent that, during the consideration and the debate on H.R. 1, two members of my staff, Tony Davis and Jesus Melendez, be permitted to be present in the Chamber.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. Mr. President, reserving the right to object, who and how many people?

Mr. TUNNEY. Tony Davis and Jesus Melendez, two of my assistants.

Mr. LONG. How many does the Senator wish to bring in?

Mr. TUNNEY. Two legislative assistants.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. CRANSTON. Mr. President, this measure was originally introduced by myself and my colleague from California (Mr. TUNNEY) as S. 3328.

Also, I would like to note that my distinguished colleague from the California congressional delegation, Representative PHILLIP BURTON, has long been a leader in the effort to assure equitable treatment of social security beneficiaries and aged, blind and disabled assistance recipients as embodied in S. 3328, and I would like to commend Congressman BURTON for his continued efforts on behalf of the elderly and express my appreciation or his invaluable assistance and support.

Following the introduction of S. 3328 by Senator TUNNEY and myself, it was referred to the Senate Finance Committee for consideration during deliberations on H.R. 1. Although I applaud the many progressive and important changes in the present law which have been adopted by the committee, and extend my deep appreciation for the committee's inclusion of an amendment I offered with Senator GURNEY to extend medicare benefits to persons under 65 who elect to "buy in" to medicare—I was dismayed to note that the committee did not incorporate S. 3328 into H.R. 1.

Consequently, Senator TUNNEY and I are offering this amendment to enable those needy individuals who are aged, blind, or disabled to receive an increase in their assistance payments commensurate with increases in social security benefits.

This would be achieved by requiring States to increase by a rate corresponding to the rate of the social security increase, the standard of need used to determine eligibility for assistance under these programs.

This provision would take effect in October of 1972 and continue through December of 1973—when the aged, blind, and disabled assistance program would be federalized under the Senate Finance Committee proposal.

This concept, in a somewhat different form, was recommended in 1970 by the Senate Finance Committee in its consideration of H.R. 17550, the proposed Social Security Amendments of 1970. The committee report—No. 91-1431, page 43—said:

PASS ALONG OF SOCIAL SECURITY INCREASES TO WELFARE RECIPIENTS

Under other provisions of the bill, social security benefits would be increased by 10 percent, with the minimum basic social security benefit increased to $100 from its present $64 level. If no modification were made in the present welfare law, however, many needy aged, blind and disabled persons would get no benefit from these substantial increases in social security since offsetting reductions would be made in their welfare grants. To assure that such individuals would enjoy at least some benefit from the social security increases, the Committee bill requires States to raise their standards of need for those in the aged, blind, and disabled categories by $10 per month for a single individual and $15 per month for a couple. As a result of this provision, recipients of aid to the aged, blind, or disabled, who are also social security beneficiaries would enjoy an increase in total monthly income of at least $10 ($15 in the case of a couple).

The method I am proposing to assure that the aged, blind, or disabled enjoy the benefits from social security increases eliminates the discriminatory effect of the so-called pass-along provision, which results in the granting of cost-of-living increases only to those public assistance recipients who are also beneficiaries of social security or railroad retirement benefits.

The original pass-along provisions, included in the 1965 and 1967 social security amendments permitted States, in determining an individual's need for public assistance payments, to exclude $5 and $7.50 per month, respectively, from any source—although these provisions were designed with the 1965 and 1967 social security increases in mind. Later pass-along provisions, however, limited their applicability to social security and railroad retirement beneficiaries.

The amendment now offered by Senator TUNNEY and myself would rectify this situation by substituting the increase in the standard of need concept for the pass-along concept.

It is important to note that the Finance Committee has included a $50 disregard of outside income in H.R. 1, and the committee is to be commended for this very excellent provision. This provision would not take effect, however, until the federalization of aged, blind, and disabled assistance programs in January of 1974. Thus, the 20-percent increase in benefits would not be received by assistance recipients—unless we adopt a measure to deal with this interim period. The amendment I have offered would assure that every aged, blind, and disabled person receiving social security will receive the increase in benefits intended by the Congress, and that those who have no other source of income other than their assistance payments—surely the most needy individuals—will also receive an increase in benefits.

Throughout the spring and summer I have received thousands of letters from elderly persons—persons who rely on old age assistance grants and social security for their very existence—relating to their despair upon receiving from the California State Department of Public Social Services a notice that their public assistance check would be reduced by the amount of their social security increase. It is a cruel blow to deal to so many of the more than 2 million recipients of old age assistance in the United States, 60 percent of whom are also recipients of social security benefits. In California 362,000 recipients of aid to the aged blind and disabled also receive social security benefits, and thus will not benefit at all by the 1972 social security increase. An additional 159,000 individuals in California received no other income than the assistance payments under the aged, blind, and disabled category.

Mr. President, I urge my colleagues to join with me in support of this amendment to assure that all social security

recipients receive the full benefit enacted by Congress—and which mandates an increase in equal proportion to the improvements Congress has made in social security benefits for recipients of aged, blind, and disabled payments.

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

Mr. CRANSTON. Yes, I am delighted to yield to the distinguished Senator from Minnesota.

Mr. HUMPHREY. First, I want to commend the two Senators from California (Mr. CRANSTON and Mr. TUNNEY).

I had offered a similar amendment. I was checking my amendment No. 1618, and I believe it would perform the same purpose—in other words, to simplify it—so that the 20-percent increase we legislated here recently on social security benefits would not be obligated or would not be checked off by the denial of other benefits under old age assistance, medical care, housing, food stamps and so forth. Is that correct?

Mr. CRANSTON. That is correct.

Mr. HUMPHREY. So the purpose of the amendment of the Senators from California is to make realistic, meaningful, and practical the 20-percent increase.

Mr. CRANSTON. Exactly. And it is totally consistent with the objectives and purposes of the Finance Committee.

Mr. HUMPHREY. And it would not remove the $50 provision in the Finance Committee bill?

Mr. CRANSTON. No, it would not.

Mr. HUMPHREY. There is no sense in my thinking about calling up my amendment. I would like to be associated with the distinguished Senators of California in this matter, because I am confident that Congress would want to do what the Senators propose.

I just say this: Nothing has caused more consternation among the senior citizens of our country and among people who are concerned about the plight of our senior citizens than this giving with one hand and taking away with another. Congress gave a 20-percent increase and took away, under administrative action, more than the increase.

I go home to my State of Minnesota, and people come to me by the dozens and say, "What happened down there?" I recall going back and addressing a group of senior citizens, and I was proudly proclaiming that we had just passed a 20-percent social security increase. Immediately, a little delegation called on me and said, "Thanks for nothing," because the 20-percent increase was eaten up by an increase in rents, in housing, loss of food stamps, and loss of old age assistance benefits that were coming to some of the beneficiaries of social security.

I want to join the Senator, if he will permit me, in support of his amendment, and I hope I can be a cosponsor of his amendment, because I think this is something that needs to be done. I am pleased that the Senators from California have taken the initiative on this important matter of social and economic justice.

Mr. CRANSTON. I thank the Senator very much for his stanch, eloquent, and direct support.

Mr. President, I ask unanimous consent that the names of the distinguished Senators from Minnesota (Mr. HUMPHREY and Mr. MONDALE) be added as cosponsors of the amendment.

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

Mr. CRANSTON. I think the point should be clearly understood that no direct expense to the Federal Government is involved in this amendment. What it does is to prevent State governments from taking, as a windfall, aid that we intended to go to the aged, the blind, and the disabled.

Mr. President, I yield to my distinguished colleague and good friend, Senator TUNNEY.

Mr. TUNNEY. I thank the Senator.

Mr. President, I am most pleased to be able to join my senior colleague from California in this most important amendment.

The subject has been debated on the floor in the past few weeks with the chairman of the Committee on Finance in a rather fulsome manner. As a matter of fact, I have appreciated very deeply the statements of concern by the distinguished Senator from Louisiana, the chairman of the Finance Committee, with respect to the need of these senior citizens who happen to be on old-age assistance programs as well as receiving social security.

I think this is the kind of amendment that anybody who has looked at the subject matter would have to support overwhelmingly. We have more than 1,250,000 senior citizens in this country receiving old age assistance as well as social security benefits.

I am deeply concerned about the problem that exists in some States, as has been stated, where, when we increase social security old-age assistance benefits, welfare benefits go down by an equal amount of the increase in social security, so the senior citizen is left with nothing by way of an increase. This is a gross injustice.

After the colloquy I had a couple of weeks ago with the distinguished chairman of the Finance Committee, which was publicized in California, I received 40 or 50 letters from senior citizens who pleaded that at the nearest point in time possible this amendment be offered to some other legislation, in the hope that the distingiushed chairman of the Finance Committee would accept it.

I am pleased that Senator CRANSTON and I and Senator HUMPHREY were able to join in offering this amendment today.

Mr. CRANSTON. I thank my colleague for his support and for the effort he has made in this regard. I think the three Senators who have spoken have made an ironclad case for this amendment. I discussed it with the chairman of the committee before proceeding at this time, and I hope it can be accepted.

Mr. LONG. Mr. President, starting January 1, 1974, the provisions of H.R. 1 would be far more generous than what is being suggested by the Senators from California and the Senator from Minnesota. On that date, there would be a disregard of $50 of social security or other income and an additional disregard of $85 of earned income, plus a disregard of one-half of any earned income beyond that. So the committee bill is far more generous than what the Senators from California are seeking, starting on January 1, 1974.

It was the effort of the Senator from Louisiana to try to have that program begin as soon as possible, hopefully soon enough so that this amendment would not be needed. Unfortunately, the Department contends that they need until January 1, 1974, to institute the ambitious program that appears in title III of this bill, which has the supplemental security income program, a program that would go far beyond what the Senators are suggesting.

I realize that the Senators have a good point; that while it is nice to talk about what we are going to do for the aged, blind, and disabled in 1974, something should be done to help them in the meantime. I think that something should be done along this line. I am not sure that this is the best way to work it out, but it is better than nothing; and unless we can work out a better way to meet the problem, I am persuaded that something should be in the bill to help this situation.

For that reason, Mr. President, I do not find any objection to the amendment, so far as the Senator from Louisiana is concerned. There may be Senators who might find it objectionable. I have not had an opportunity to take up this problem with the committee, although I have discussed it with some Members, and I would simply trust this to the conscience of the Senate. Personally, I will vote for it.

Mr. CRANSTON. I thank the Senator very much. His understanding of the need and his desire to fill this gap is understood and appreciated.

Mr. LONG. If this amendment were offered 12 years ago, it would have been the Long amendment rather than the Cranston amendment, because I have offered proposals along this line in the past.

Mr. CRANSTON. Perhaps the Senator would like his name added as a cosponsor.

Mr. LONG. There is no point in diluting credit for the amendment. The Senators from California and the Senator from Minnesota can take credit for it. I am aware of the problem, and I have offered similar proposals in the past.

Mr. CRANSTON. Now that we can loosely call this amendment the Long-Cranston——

Mr. LONG. I insist that it be the Cranston-Tunney-Humphrey amendment, for the Senators who offered it and raised the point. I will vote for it.

Mr. CRANSTON. The amendment is rather long; and for that reason, anyhow, I think it should be referred to as the Long amendment.

I yield to my colleague from California.

Mr. TUNNEY. Madam President, I should like to extend my personal thanks to the distinguished chairman of the Finance Committee for accepting this amendment. I recall in the colloquy we had a few weeks ago, he indicated deep concern to help those who would be adversely affected, but at that time he could not say whether he would be able

to accept this specific language. I completey understood that. I, therefore, deeply appreciate his consideration today.

The PRESIDING OFFICER (Mrs. EDWARDS). The question is on agreeing to the amendment of the Senator from California (Mr. CRANSTON).

The amendment was agreed to.

Mr. LONG. Madam President, I believe that Senators would like to record themselves on the very important matter which is contained in title III of the pending bill. I say that because with differing opinions with regard to other things in the bill, some will want to vote for the bill as a whole and some will want to vote against it because of other items in the bill; but one of the most ambitious things in this measure is the proposal of the Finance Committee for a program that would provide $3.1 billion additional income for the aged, the blind, and the disabled. This is a program which undertakes to provide a Federal program for the aged, blind, and disabled which I think will, in large measure, replace present State programs for the same people.

We would not call it a welfare program in the future. The benefits this would provide would be so far beyond that which is being provided for these same beneficiaries, and in terms so much more generous, that we think this should be not regarded as a welfare program hereafter, that it should not be called welfare.

It is for that reason that we refer to it as supplemental security income for the aged, blind, and disabled.

UNANIMOUS-CONSENT AGREEMENT

Mr. LONG. Madam President, I ask unanimous consent, notwithstanding the fact that the Senate has agreed by unanimous consent to agree to the committee amendments en bloc, that the provisions of title III, beginning on page 568, line 12 through page 615, line 5, may be considered as an amendment and voted on in its own right separately, and that having been agreed to by the Senate, the amendment remain subject to amendment.

The title III amendment reads as follows:

TITLE III—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

ESTABLISHMENT OF PROGRAM

SEC. 301. Effective January 1, 1974, title XVI of the Social Security Act is amended to read as follows:

"TITLE XVI—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

"PURPOSE; APPROPRIATIONS

"SEC. 1601. For the purpose of establishing a national program to provide supplemental security income to individuals who have attained age 65 or are blind or disabled, there are authorized to be appropriated sums sufficient to carry out this title.

"BASIC ELIGIBILITY FOR BENEFITS

"SEC. 1602. Every aged, blind, or disabled individual who is determined under part A to be eligible on the basis of his income and resources shall, in accordance with and subject to the provisions of this title, be paid benefits by the Secretary of Health, Education, and Welfare.

"PART A—DETERMINATION OF BENEFITS

"ELIGIBILITY FOR AND AMOUNT OF BENEFITS

"Definition of Eligible Individual

"SEC. 1611. (a) (1) Each aged, blind, or disabled individual who does not have an eligible spouse and—

"(A) whose income, other than income excluded pursuant to section 1612(b), is at a rate of not more than $1,560 for the calendar year 1974 or any calendar year thereafter, and

"(B) whose resources, other than resources excluded pursuant to section 1613(a), are not more than $2,500.

shall be an eligible individual for purposes of this title.

"(2) Each aged, blind, or disabled individual who has an eligible spouse and—

"(A) whose income (together with the income of such spouse), other than income excluded pursuant to section 1612(b), is at a rate of not more than $2,340 for the calendar year 1974, or any calendar year thereafter, and

"(B) whose resources (together with the resources of such spouse), other than resources excluded pursuant to section 1613(a), are not more than $2,500,

shall be an eligible individual for purposes of this title.

"Amounts of Benefits

"(b) (1) The benefit under this title for an individual who does not have an eligible spouse shall be payable at the rate of $1,560 for the calendar year 1974 and any calendar year thereafter, reduced by the amount of income, not excluded pursuant to section 1612(b), of such individual.

"(2) The benefit under this title for an individual who has an eligible spouse shall be payable at the rate of $2,340 for the calendar year 1974 and any calendar year thereafter, reduced by the amount of income, not excluded pursuant to section 1612(b), of such individual and spouse.

"Period for Determination of Benefits

"(c) (1) An individual's eligibility for benefits under this title and the amount of such benefits shall be determined for each quarter of a calendar year except that, if the initial application for benefits is filed in the second or third month of a calendar quarter, such determinations shall be made for each month in such quarter. Eligibility for and the amount of such benefits for any quarter shall be redetermined at such time or times as may be provided by the Secretary.

"(2) For purposes of this subsection an application shall be considered to be effective as of the first day of the month in which it was actually filed.

"Special Limits on Gross Income

"(d) The Secretary may prescribe the circumstances under which, consistently with the purposes of this title, the gross income from a trade or business (including farming) will be considered sufficiently large to make an individual ineligible for benefits under this title. For purposes of this subsection, the term 'gross income' has the same meaning as when used in chapter 1 of the Internal Revenue Code of 1954.

"Limitation on Eligibility of Certain Individuals

"(e) (1) (A) Except as provided in subparagraph (B), no person shall be an eligible individual or eligible spouse for purposes of this title with respect to any month if throughout such month he is an inmate of a public institution.

"(B) In any case where an eligible individual or his eligible spouse (if any) is, throughout any month, in a hospital, extended care facility, nursing home, or intermediate care facility receiving payments (with respect to such individual or spouse) under a State plan approved under title XIX, the benefit under this title for such individual for such month shall be payable—

"(i) at a rate not in excess of $300 per year (reduced by the amount of any income not excluded pursuant to section 1612(b)) in the case of an individual who does not have an eligible spouse;

"(ii) at a rate not in excess of the sum of the applicable rate specified in subsection (b) (1) and the rate of $300 per year (reduced by the amount of any income not excluded pursuant to section 1612(b)) in the case of an individual who has an eligible spouse, if only one of them is in such a hospital, home, or facility throughout such month; and

"(iii) at a rate not in excess of $600 per year (reduced by the amount of any income not excluded pursuant to section 1612(b)) in the case of an individual who has an eligible spouse, if both of them are in such a hospital, home, or facility throughout such month.

"(2) No person shall be an eligible individual or eligible spouse for purposes of this title if, after notice to such person by the Secretary that it is likely that such person is eligible for any payments of the type enumerated in section 1612(a) (2) (B), such person fails within 30 days to take all appropriate steps to apply for and (if eligible) obtain any such payments.

"(3) (A) No person who is under the age of 65, is not blind, and is medically determined to be a drug addict or an alcoholic shall be an eligible individual or eligible spouse for purposes of this title.

"(B) The Secretary shall refer to the State or appropriate local agency administering the plan of such State approved under title XV any individual described in subparagraph (A) who—

"(i) is applying for or receiving benefits under this title, and

"(ii) would be eligible for such benefits but for the provisions of such subparagraph (A).

"(4) No person shall be an eligible individual or an eligible spouse for purposes of this title if, within one year immediately preceding his application for benefits under this title, he disposed of property (of any type) to a relative for less than fair market value, if the retention by him of such property would have caused him to be found ineligible for benefits under this title.

"Suspension of Payments to Individuals Who Are Outside the United States

"(f) Notwithstanding any other provision of this title, no individual shall be considered an eligible individual for purposes of this title for any month during all of which such individual is outside the United States (and no person shall be considered the eligible spouse of an individual for purposes of this title with respect to any month during all of which such person is outside the United States). For purposes of the preceding sentence, after an individual has been outside the United States for any period of 30 consecutive days, he shall be treated as remaining outside the United States until he has been in the United States for a period of 30 consecutive days.

"INCOME

"Meaning of Income

"SEC. 1612. (a) For purposes of this title, income means both earned income and unearned income; and—

"(1) earned income means only—

"(A) wages as determined under section 203(f) (5) (C); and

"(B) net earnings from self-employment, as defined in section 211 (without the application of the second and third sentences following subsection (a) (10), and the last paragraph of subsection (a)), including earnings for services described in para-

graphs (4), (5), and (6) of subsection (c); and

"(2) unearned income means all other income, including—

"(A) support and maintenance furnished in cash or kind; except that in the case of any individual (and his eligible spouse, if any) living in another person's household and receiving support and maintenance in kind from such person, the dollar amounts otherwise applicable to such individual (and spouse) as specified in subsections (a) and (b) of section 1611 shall be reduced by 33⅓ percent in lieu of including such support and maintenance in the unearned income of such individual (and spouse) as otherwise required by this subparagraph;

"(B) any payments received as an annuity, pension, retirement, or disability benefit, including veterans' compensation and pensions, workmen's compensation payments, old-age survivors, and disability insurance benefits, railroad retirement annuities and pensions, and unemployment insurance benefits;

"(C) prizes and awards;

"(D) the proceeds of any life insurance policy to the extent that they exceed the amount expended by the beneficiary for purposes of the insured individual's last illness and burial or $1,500, whichever is less;

"(E) gifts (cash or otherwise), support and alimony payments, and inheritances; and

"(F) rents, dividends, interest, and royalties.

"Exclusions From Income

"(b) In determining the income of an individual (and his eligible spouse) there shall be excluded—

"(1) subject to limitations (as to amount or otherwise) prescribed by the Secretary, if such individual is a child who is, as determined by the Secretary, a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment, the earned income of such individual;

"(2) the first $600 per year (or proportionately smaller amounts for shorter periods) of income (whether earned or unearned) other than income which is paid on the basis of the need of the eligible individual;

"(3)(A) the total unearned income of such individual (and such spouse, if any) in a calendar quarter which, as determined in accordance with criteria prescribed by the Secretary, is received too infrequently or irregularly to be included, if such income so received does not exceed $60 in such quarter, and (B) the total earned income of such individual (and such spouse, if any) in a calendar quarter which, as determined in accordance with such criteria, is received too infrequently or irregularly to be included, if such income so received does not exceed $30 in such quarter;

"(4)(A) if such individual (or such spouse) is blind (and has not attained age 65, or received benefits under this title (or aid under a State plan approved under section 1002 or 1602) for the month before the month in which he attained age 65), (i) the first $1,020 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, plus one-half of the remainder thereof, (ii) an amount equal to any expenses reasonably attributable to the earning of any income, and (iii) such additional amounts of other income, where such individual has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan,

"(B) if such individual (or such spouse) is disabled but not blind (and has not attained age 65, or received benefits under this title (or aid under a State plan approved under section 1402 or 1602) for the month before the month in which he attained age 65), (i) the first $1,020 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, plus one-half of the remainder thereof, and (ii) such additional amounts of other income, where such individual has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan, or

"(C) if such individual (or such spouse) has attained age 65 and is not included under subparagraph (A) or (B), the first $1,020 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, plus one-half of the remainder thereof;

"(5) any amount received from any public agency as a return or refund of taxes paid on real property or on food purchased by such individual (or such spouse);

"(6) assistance described in section 1616 (a) which is based on need and furnished by any State or political subdivision of a State;

"(7) any portion of any grant, scholarship, or fellowship received for use in paying the cost of tuition and fees at any educational (including technical or vocational education) institution;

"(8) home produce of such individual (or spouse) utilized by the household for its own consumption;

"(9) if such individual is a child one-third of any payment for his support received from an absent parent; and

"(10) any amounts received for the foster care of a child who is not an eligible individual but who is living in the same home as such individual and was placed in such home by a public or nonprofit private child-placement or child-care agency.

"RESOURCES

"Exclusions From Resources

"SEC. 1613. (a) In determining the resources of an individual (and his eligible spouse, if any) there shall be excluded—

"(1) the home (including the land that appertains thereto), to the extent that its value does not exceed such amount as the Secretary determines to be reasonable;

"(2) household goods, personal effects, and an automobile, to the extent that their total value does not exceed such amount as the Secretary determines to be reasonable;

"(3) other property which, as determined in accordance with and subject to limitations prescribed by the Secretary, is so essential to the means of self-support of such individual (and such spouse) as to warrant its exclusion; and

"(4) such resources of an individual who is blind or disabled and who has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan.

In determining the resources of an individual (or eligible spouse) an insurance policy shall be taken into account only to the extent of its cash surrender value; except that if the total face value of all life insurance policies on any person is $1,500 or less, no part of the value of any such policy shall be taken into account.

"DISPOSITION OF RESOURCES

"(b) The Secretary shall prescribe the period or periods of time within which, and the manner in which, various kinds of property must be disposed of in order not to be included in determining an individual's eligibility for benefits. Any portion of the individual's benefits paid for any such period shall be conditioned upon such disposal; and any benefits so paid shall (at the time of the disposal) be considered overpayments to the extent they would not have been paid had the disposal occurred at the beginning of the period for which such benefits were paid.

"MEANING OF TERMS

"Aged, Blind, or Disabled Individual

"SEC. 1614. (a)(1) For purposes of this title, the term 'aged, blind, or disabled individual' means an individual who—

"(A) is 65 years of age or older, is blind (as determined under paragraph (2)), or is disabled (as determined under paragraph (3)), and

"(B) is a resident of the United States, and is either (i) a citizen or (ii) an alien lawfully admitted for permanent residence.

"(2) An individual shall be considered to be blind for purposes of this title if he has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of the first sentence of this subsection as having a central visual acuity of 20/200 or less. An individual shall also be considered to be blind for purposes of this title if he is blind as defined under a State plan approved under title X or XVI as in effect for October 1972 and received aid under such plan (on the basis of blindness) for December 1973, so long as he is continuously blind as so defined.

"(3)(A) An individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months. An individual shall also be considered to be disabled for purposes of this title if he is permanently and totally disabled as defined under a State plan approved under title XIV or XVI as in effect for October 1972 and received aid under such plan (on the basis of disability) for December 1973, so long as he is continuously disabled as so defined.

"(B) For purposes of subparagraph (A), an individual shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to any individual), 'work which exists in the national economy' means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.

"(C) For purposes of this paragraph, a physical or mental impairment is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

"(D) The Secretary shall by regulations prescribe the criteria for determining when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity. Notwithstanding the provisions of subparagraph (B), an individual whose services or earnings meet such criteria, except for purposes of paragraph (4), shall be found not to be disabled.

"(4)(A) For purposes of this title, any services rendered during a period of trial work (as defined in subparagraph (B)) by an individual who is an aged, blind, or dis-

abled individual solely by reason of disability (as determined under paragraph (3) of this subsection) shall be deemed not to have been rendered by such individual in determining whether his disability has ceased in a month during such period. As used in this paragraph, the term 'services' means activity which is performed for remuneration or gain or is determined by the Secretary to be of a type normally performed for remuneration or gain.

"(B) The term 'period of trial work', with respect to an individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under paragraph (3) of this subsection), means a period of months beginning and ending as provided in subparagraphs (C) and (D).

"(C) A period of trial work for any individual shall begin with the month in which he becomes eligible for benefits under this title on the basis of his disability; but no such period may begin for an individual who is eligible for benefits under this title on the basis of a disability if he has had a previous period of trial work while eligible for benefits on the basis of the same disability.

"(D) A period of trial work for any individual shall end with the close of whichever of the following months is the earlier:

"(i) the ninth month, beginning on or after the first day of such period, in which the individual renders services (whether or not such nine months are consecutive); or

"(ii) the month in which his disability (as determined under paragraph (3) of this subsection) ceases (as determined after the application of subparagraph (A) of this paragraph).

"Eligible Spouse

"(b) For purposes of this title, the term 'eligible spouse' means an aged, blind, or disabled individual who is the husband or wife of another aged, blind, or disabled individual and who has not been living apart from such other aged, blind, or disabled individual for more than six months. If two aged, blind, or disabled individuals are husband and wife as described in the preceding sentence, only one of them may be an 'eligible individual' within the meaning of section 1611(a).

"Definition of Child

"(c) For purposes of this title, the term 'child' means an individual who is neither married nor (as determined by the Secretary) the head of a household, and who is (1) under the age of eighteen, or (2) under the age of twenty-one and (as determined by the Secretary) a student regularly attending a schol, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment.

"Determination of Marital Relationships

"(d) In determining whether two individuals are husband and wife for purposes of this title, appropriate State law shall be applied; except that—

"(1) if a man and woman have been determined to be husband and wife under section 216(h)(1) for purposes of title II they shall be considered (from and after the date of such determination or the date of their application for benefits under this title, whichever is later) to be husband and wife for purposes of this title, or

"(2) if a man and woman are found to be holding themselves out to the community in which they reside as husband and wife, they shall be so considered for purposes of this title notwithstanding any other provision of this section.

"United States

"(e) For purposes of this title, the term 'United States', when used in a geographical sense, means the 50 States and the District of Columbia.

"Income and Resources of Individuals Other Than Eligible Individuals and Eligible Spouses

"(f)(1) For purposes of determining eligibility for and the amount of benefits for any individual who is married and whose spouse is living with him in the same household but is not an eligible spouse, such individual's income and resources shall be deemed to include any income and resources of such spouse, whether or not available to such individual, except to the extent determined by the Secretary to be inequitable under the circumstances.

"(2) For purposes of determining eligibility for and the amount of benefits for any individual who is a child under age 21, such individual's income and resources shall be deemed to include any income and resources of a parent of such individual (or the spouse of such a parent) who is living in the same household as such individual, whether or not available to such individual, except to the extent determined by the Secretary to be inequitable under the circumstances.

"REHABILITATION SERVICES FOR BLIND AND DISABLED INDIVIDUALS

"SEC. 1615. (a) In the case of any blind or disabled individual who—

"(1) has not attained age 65, and

"(2) is receiving benefits (or with respect to whom benefits are paid) under this title, the Secretary shall make provision for referral of such individual to the appropriate State agency administering the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act, and (except in such cases as he may determine) for a review not less often than quarterly of such individual's blindness or disability and his need for and utilization of the rehabilitation services made available to him under such plan.

"(b) Every individual with respect to whom the Secretary is required to make provision for referral under subsection (a) shall accept such rehabilitation services as are made available to him under the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act; and the Secretary is authorized to pay to the State agency administering or supervising the administration of such State plan the costs incurred in the provision of such services to individuals so referred.

"(c) No individual shall be an eligible individual or eligible spouse for purposes of this title if he refuses without good cause to accept vocational rehabilitation services for which he is referred under subsection (a).

"OPTIONAL STATE SUPPLEMENTATION

"SEC. 1616. (a) Any cash payments which are made by a State (or political subdivision thereof) on a regular basis to individuals who are receiving benefits under this title or who would but for their income be eligible to receive benefits under this title, as assistance based on need in supplementation of such benefits (as determined by the Secretary), shall be excluded under section 1612(b)(6) in determining the income of such individuals for purposes of this title and the Secretary and such State may enter into an agreement which satisfies subsection (b) under which the Secretary will, on behalf of such State (or subdivision), make such supplementary payments to all such individuals.

"(b) Any agreement between the Secretary and a State entered into under subsection (a) shall provide—

"(1) that such payments will be made (subject to subsection (c)) to all individuals residing in such State (or subdivision) who are receiving benefits under this title, and

"(2) such other rules with respect to eligibility for or amount of the supplementary payments, and such procedural or other general administrative provisions, as the Secretary finds necessary (subject to subsection (c)) to achieve efficient and effective administration of both the program which he conducts under this title and the optional State supplementation.

"(c) Any State (or political subdivision) making supplementary payments described in subsection (a) may at its option impose as a condition of eligibility for such payments, and include in the State's agreement with the Secretary under such subsection, a residence requirement which excludes individuals who have resided in the State (or political subdivision) for less than a minimum period prior to application for such payments.

"(d) Any State which has entered into an agreement with the Secretary under this section which provides that the Secretary will, on behalf of the State (or political subdivision), make the supplementary payments to individuals who are receiving benefits under this title (or who would but for their income be eligible to receive such benefits), shall, at such times and in such installments as may be agreed upon between the Secretary and such State, pay to the Secretary an amount equal to the expenditures made by the Secretary as such supplementary payments.

"PART B—PROCEDURAL AND GENERAL PROVISIONS

"PAYMENTS AND PROCEDURES

"Payment of Benefits

"SEC. 1631 (a)(1) Benefits under this title shall be paid at such time or times and in such installments as will best effectuate the purposes of this title, as determined under regulations (and may in any case be paid less frequently than monthly where the amount of the monthly benefit would not exceed $10).

"(2) Payments of the benefit of any individual may be made to any such individual or to his eligible spouse (if any) or partly to each, or, if the Secretary deems it appropriate to any other person (including an appropriate public or private agency) who is interested in or concerned with the welfare of such individual (or spouse).

"(3) The Secretary may by regulation establish ranges of incomes within which a single amount of benefits under this title shall apply.

"(4) The Secretary—

"(A) may make to any individual initially applying for benefits under this title who is presumptively eligible for such benefits and who is faced with financial emergency a cash advance against such benefits in an amount not exceeding $100; and

"(B) may pay benefits under this title to an individual applying for such benefits on the basis of disability for a period not exceeding 3 months prior to the determination of such individual's disability, if such individual is presumptively disabled and is determined to be otherwise eligible for such benefits, and any benefits so paid prior to such determination shall in no event be considered overpayments for purposes of subsection (b).

"(5) Payment of the benefit of any individual who is an aged, blind, or disabled individual solely by reason of blindness (as determined under section 1614(a)(2)) or disability) as determined under section 1614(a)(3)), and who ceases to be blind or to be under such disability, shall continue (so long as such individual is otherwise eligible) through the second month following the month in which such blindness or disability ceases.

"Overpayments and Underpayments

"(b) Whenever the Secretary finds that more or less than the correct amount of benefits has been paid with respect to any

individual, proper adjustment or recovery shall, subject to the succeeding provisions of this subsection, be made by appropriate adjustments in future payments to such individual or by recovery from or payment to such individual or his eligible spouse (or by recovery from the estate of either). The Secretary shall make such provision as he finds appropriate in the case of payment of more than the correct amount of benefits with respect to an individual with a view to avoiding penalizing such individual or his eligible spouse who was without fault in connection with the overpayment, if adjustment or recovery on account of such overpayment in such case would defeat the purposes of this title, or be against equity or good conscience, or (because of the small amount involved) impede efficient or effective administration of this title.

"Hearings and Review

"(c)(1) The Secretary shall provide reasonable notice and opportunity for a hearing to any individual who is or claims to be an eligible individual or eligible spouse and is in disagreement with any determination under this title with respect to eligibility of such individual for benefits, or the amount of such individual's benefits, if such individual requests a hearing on the matter in disagreement within thirty days after notice of such determination is received.

"(2) Determination on the basis of such hearing, except to the extent that the matter in disagreement involves the existence of a disability (within the meaning of section 1614(a)(3)), shall be made within ninety days after the individual requests the hearing as provided in paragraph (1).

"(3) The final determination of the Secretary after a hearing under paragraph (1) shall be subject to judicial review as provided in section 205(g) to the same extent as the Secretary's final determinations under section 205; except that the determination of the Secretary after such hearing as to any fact shall be final and conclusive and not subject to review by any court.

"Procedures; Prohibitions of Assignments; Representation of Claimants

"(d)(1) The provisions of section 207 and subsections (a), (d), (e), and (f) of section 205 shall apply with respect to this part to the same extent as they apply in the case of title II.

"(2) To the extent the Secretary finds it will promote the achievement of the objectives of this title, qualified persons may be appointed to serve as hearing examiners in hearings under subsection (c) without meeting the specific standards prescribed for hearing examiners by or under subchapter II of chapter 5 of title 5, United States Code.

"(3) The Secretary may prescribe rules and regulations governing the recognition of agents or other persons, other than attorneys, as hereinafter provided, representing claimants before the Secretary under this title, and may require of such agents or other persons, before being recognized as representatives of claimants, that they shall show that they are of good character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their cases. An attorney in good standing who is admitted to practice before the highest court of the State, Territory, District, or insular possession of his residence or before the Supreme Court of the United States or the inferior Federal courts, shall be entitled to represent claimants before the Secretary. The Secretary may, after due notice and opportunity for hearing, suspend or prohibit from further practice before him any such person, agent, or attorney who refuses to comply with the Secretary's rules and regulations or who violates any provision of this paragraph for which a penalty is prescribed. The Secretary may, by rule and regulation, prescribe the maximum fees which may be charged for services performed in connection with any claim before the Secretary under this title, and any agreement in violation of such rules and regulations shall be void. Any person who shall, with intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten any claimant or prospective claimant or beneficiary under this title by word, circular, letter, or advertisement, or who shall knowingly charge or collect directly or indirectly any fee in excess of the maximum fee, or make any agreement directly or indirectly to charge or collect any fee in excess of the maximum fee, prescribed by the Secretary, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall for each offense by punished by a fine not exceeding $500 or by imprisonment not exceeding one year, or both.

"Applications and Furnishing of Information

"(e)(1)(A) The Secretary shall, subject to subparagraph (B), prescribed such requirements with respect to the filing of applications, the suspension or termination of assistance, the furnishing of other data and material, and the reporting of events and changes in circumstances, as may be necessary for the effective and efficient administration of this title.

"(B) The requirements prescribed by the Secretary pursuant to subparagraph (A) shall require that eligibility for benefits under this title will not be determined solely on the basis of declarations by the applicant concerning eligibility factors or other relevant facts, and that relevant information will be verified to the maximum extent feasible from independent or collateral sources and additional information obtained as necessary in order to assure that such benefits are only provided to eligible individuals (or eligible spouses) and that the amounts of such benefits are correct.

"(2) In case of the failure by any individual to submit a report of events and changes in circumstances relevant to eligibility for or amount of benefits under this title as required by the Secretary under paragraph (1), or delay by any individual in submitting a report as so required, the Secretary (in addition to taking any other action he may consider appropriate under paragraph (1)) shall reduce any benefits which may subsequently become payable to such individual under this title by—

"(A) $25 in the case of the first such failure or delay,

"(B) $50 in the case of the second such failure or delay, and

"(C) $100 in the case of the third or a subsequent such failure or delay,

except where the individual was without fault or good cause for such failure or delay existed.

"Furnishing of Information by Other Agencies

"(f) The head of any Federal agency shall provide such information as the Secretary needs for purposes of determining eligibility for or amount of benefits, or verifying other information with respect thereto.

"PENALTIES FOR FRAUD

"SEC. 1632. Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit under this title,

"(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to any such benefit,

"(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit, or (B) the initial or continued right to any such benefit of any other individual in whose behalf he has applied for or is receiving such benefit, conceals or fails to disclose such event with an intent fraudulently to secure such benefit either in a greater amount or quantity than is due or when no such benefit is authorized, or

"(4) having made application to receive any such benefit for the use and benefit of another and having received it, knowingly and willfully converts such benefit or any part thereof to a use other than for the use and benefit of such other person,

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

"ADMINISTRATION

"SEC. 1633. The Secretary may make such administrative and other arrangements (including arrangements for the determination of blindness and disability under section 1614(a)(2) and (3) in the same manner and subject to the same conditions as provided with respect to disability determinations under section 221) as may be necessary or appropriate to carry out his functions under this title.

"DETERMINATIONS OF MEDICAID ELIGIBILITY

"SEC. 1634. The Secretary may enter into an agreement with any State which wishes to do so under which he will determine eligibility for medical assistance in the case of aged, blind, or disabled individuals under such State's plan approved under title XIX. Any such agreement shall provide for payments by the State, for use by the Secretary in carrying out the agreement, of an amount equal to one-half of the cost of carrying out the agreement, but in computing such cost with respect to individuals eligible for benefits under this title, the Secretary shall include only those costs which are additional to the costs incurred in carrying out this title."

SEC. 302. The Social Security Act is amended, effective January 1, 1974, by adding after title V the following new title:

"TITLE VI—GRANTS TO STATES FOR SERVICES TO THE AGED, BLIND, OR DISABLED

"APPROPRIATION

"SEC. 601. For the purpose of encouraging each State, as far as practicable under the conditions in such State, to furnish rehabilitation and other services to help needy individuals who are 65 years of age or over, are blind, or are disabled to attain or retain capability for self-support or self-care, there is hereby authorized to be appropriated for each fiscal year, subject to section 1130, a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare, State plans for services to the aged, blind, or disabled.

"STATE PLANS FOR SERVICES TO THE AGED, BLIND, OR DISABLED

"SEC. 602. (a) A State plan for services to the aged, blind, or disabled, must—

"(1) except to the extent permitted by the Secretary, provide that it shall be in effect in all political subdivisions of the State, and if administered by them, be mandatory upon them;

"(2) provide for financial participation by the State;

"(3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan;

"(4) provide (A) such methods of administration (including methods relating to the establishment and maintenance of per-

sonnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan, and (B) for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of persons of low income, as community service aides, in the administration of the plan and for the use of non-paid or partially paid volunteers in a social service volunteer program in providing services under the plan and in assisting any advisory committees established by the State agency;

"(5) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

"(6) provide safeguards which permit the use or disclosure of information concerning applicants or recipients only (A) to public officials who require such information in connection with their official duties, or (B) to other persons for purposes directly connected with the administration of the State plan;

"(7) provide, if the plan includes services to individuals in private or public institutions, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions;

"(8) provide a description of the services which the State agency makes available under the plan including a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services;

"(9) provide that, in determining whether an individual is blind, there shall be an examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select;

"(10) include reasonable standards, consistent with the objectives of this title, for determining eligibility for and the extent of services under the plan;

"(11) if the State plan includes services to individuals 65 years of age or older who are patients in institutions for mental diseases—

"(A) provide for having in effect such agreements or other arrangements with State authorities concerned with mental diseases, and where appropriate, with such institutions, as may be necessary for carrying out the State plan, including arrangements for joint planning and for development of alternate methods of care, arrangements providing assurance of immediate readmittance to institutions where needed for individuals under alternate plans of care, and arrangements providing for access to patients and facilities, for furnishing information, and for making reports;

"(B) provide for an individual plan for each such patient to assure that the institutional care provided to him is in his best interests, including, to that end, assurances that there will be initial and periodic review of his medical and other needs, that he will be given appropriate medical treatment within the institution, and that there will be a periodic determination of his need for continued treatment in the institution; and

"(C) provide for the development of alternate plans of care, making maximum utilization of available resources, for persons receiving services under the State plan who are 65 years of age or older and who would otherwise need care in such institutions; for services referred to in section 603(a)(1)(A)(i) and (ii) which are appropriate for such persons receiving services and for such patients; and for methods of administration necessary to assure that the responsibilities of the State agency under the State plan with respect to such persons receiving services and such patients will be effectively carried out;

"(12) if the State plan includes services to individuals 65 years of age or older who are patients in public institutions for mental diseases, show that the State is making satisfactory progress toward developing and implementing a comprehensive mental health program, including provision for utilization of community mental health centers, nursing homes, and other alternatives to care in public institutions for mental diseases.

Notwithstanding paragraph (3), if on October 1, 1972, the State agency which administered or supervised the administration of the plan of such State approved under title X (or so much of the plan of such State approved under title XVI as applies to the blind) was different from the State agency which administered or supervised the administration of the plan of such State approved under title I and the State agency which administered or supervised the administration of the plan of such State approved under title XIV (or so much of the plan of such State approved under title XVI as applies to the aged and disabled), the State agency which administered or supervised the administration of such plan approved under title X (or so much of the plan of such State approved under title XVI as applies to the blind) may be designated to administer or supervise the administration of the portion of the State plan for services to the aged, blind, or disabled which relates to blind individuals and a separate State agency may be established or designated to administer or supervise the administration of the rest of such plan; and in such case the part of the plan which each such agency administers, or the administration of which each such agency supervises, shall be regarded as a separate plan for purposes of this title.

"(B) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a), except that he shall not approve any plan which imposes, as a condition of eligibility for services under the plan—

"(1) an age requirement of more than sixty-five years; or

"(2) any residence requirement which excludes any individual who resides in the State; or

"(3) any citizenship requirement which excludes any citizen of the United States.

"PAYMENTS TO STATES

"SEC. 603. (a) From the sums appropriated therefor, the Secretary shall, subject to section 1130, pay to each State which has a plan approved under this title, for each quarter—

"(1) in the case of any State whose State plan approved under section 602 meets the requirements of subsection (c)(1), an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for—

"(i) services which are prescribed pursuant to subsection (c)(1) and are provided (in accordance with the next sentence) to applicants for or recipients of supplementary security income benefits under title XVI to help them attain or retain capability for self-support or self-care, or

"(ii) other services, specified by the Secretary as likely to prevent or reduce dependency, so provided to such applicants or recipients, or

"(iii) any of the services prescribed pursuant to subsection (c)(1), and of the services specified as provided in clause (ii), which the Secretary may specify as appropriate for individuals who, within such period or periods as the Secretary may prescribe, have been or are likely to become applicants for or recipients of supplementary security income benefits under title XVI, if such services are requested by such individuals and are provided to such individuals in accordance with the next sentence, or

"(iv) the training of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

"(B) one-half of so much of such expenditures (not included under subparagraph (A)) as are for services provided (in accordance with the next sentence) to applicants for or recipients of supplementary security income benefits under title XVI, and to individuals requesting such services who (within such period or periods as the Secretary may prescribe) have been or are likely to become applicants for or recipients of such benefits; plus

"(C) one-half of the remainder of such expenditures.

The services referred to in subparagraph (A) and (B) shall, except to the extent specified by the Secretary, include only—

"(D) services provided by the staff of the State agency, or of the local agency administering the State plan in the political subdivision: *Provided*, That no funds authorized under this title shall be available for services defined as vocational rehabilitation services under the Vocational Rehabilitation Act (i) which are available to individuals in need of them under programs for their rehabilitation carried on under a State plan approved under such Act, or (ii) which the State agency or agencies administering or supervising the administration of the State plan approved under such Act are able and willing to provide if reimbursed for the cost thereof pursuant to agreement under subparagraph (E), if provided by such staff, and

"(E) under conditions which shall be prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit private agencies);

except that services described in clause (ii) of subparagraph (D) hereof may be provided only pursuant to agreement with such State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services so approved. The portion of the amount expended for administration of the State plan to which subparagraph (A) applies and the portion thereof to which subparagraphs (B) and (C) apply shall be determined in accordance with such methods and procedures as may be permitted by the Secretary; and

"(2) in the case of any State whose State plan approved under section 602 does not meet the requirements of subsection (c)(1), an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the

State plan, including services referred to in paragraph (1) and provided in accordance with the provisions of such paragraph.

"(b)(1) Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

"(2) The Secretary shall then pay, in such installments as he may determine, to the State the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

"(3) Upon the making of any estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

"(c)(1) In order for a State to qualify for payments under paragraph (1) of subsection (a), its State plan approved under section 602 must provide that the State agency shall make available to applicants for and recipients of supplementary security income benefits under title XVI at least those services to help them attain or retain capability for self-support or self-care which are prescribed by the Secretary.

"(2) In the case of any State whose State plan included a provision meeting the requirements of paragraph (1), but with respect to which the Secretary finds, after reasonable notice and opportunity for hearing to the State agency, administering or supervising the administration of such plan, that—

"(A) the provision has been so changed that it no longer complies with the requirements of paragraph (1), or

"(B) in the administration of the plan there is a failure to comply substantially with such provision,

the Secretary shall notify such State agency that further payments will not be made to the State under paragraph (1) of subsection (a) until he is satisfied that there will no longer be any such failure to comply. Until the Secretary is so satisfied further payments with respect to the administration of such State plan shall not be made under paragraph (1) of subsection (a) but shall instead be made, subject to the other provisions of this title, under paragraph (2) of such subsection.

"(d) Notwithstanding the preceding provisions of this section, the amount determined under such provisions for any State for any quarter which is attributable to expenditures with respect to individuals 65 years of age or older who are patients in institutions for mental diseases shall be paid only to the extent that the State makes a showing satisfactory to the Secretary that total expenditures in the State from Federal, State, and local sources for mental health services (including payments to or in behalf of individuals with mental health problems) under State and local public health and public welfare programs for such quarter exceed the average of the total expenditures in the State from such sources for such services under such programs for each quarter of the fiscal year ending June 30, 1965. For purposes of this subsection, expenditures for such services for each quarter in the fiscal year ending June 30, 1965, in the case of any State shall be determined on the basis of the latest data, satisfactory to the Secretary, available to him at the time of the first determination by him under this subsection for such State; and expenditures for such services for any quarter beginning after December 31, 1965, in the case of any State shall be determined on the basis of the latest data, satisfactory to the Secretary, available to him at the time of the determination under this subsection for such State for such quarter; and determinations so made shall be conclusive for purposes of this subsection.

"OPERATION OF STATE PLANS

"SEC. 604. If the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under this title, finds—

"(1) that the plan no longer complies with the provisions of section 602; or

"(2) that in the administration of the plan there is a failure to comply substantially with any such provision;

the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan affected by such failure), until the Secretary is satisfied that there will no longer be any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

"DEFINITION

"SEC. 605. For purposes of this title, the term 'services to the aged, blind, or disabled' means services (including but not limited to the services referred to in section 603(a)(1)(A) and (B)) provided for or on behalf of needy individuals who are 65 years of age or older are blind, or are disabled."

REPEAL OF TITLES I, X, AND XIV OF THE SOCIAL SECURITY ACT

SEC. 303. (a) Effective January 1, 1974, titles I, X, and XIV of the Social Security Act are repealed.

(b) The amendments made by sections 301 and 302 and the repeals made by subsection (a) shall not be applicable in the case of Puerto Rico, Guam, and the Virgin Islands.

(c) Section 9 of the Act of April 19, 1950 is repealed effective January 1, 1974.

PROVISION FOR DISREGARDING OF CERTAIN INCOME IN DETERMINING NEED FOR AID TO THE AGED, BLIND, OR DISABLED FOR ASSISTANCE

SEC. 304. Effective upon the enactment of this Act, section 1007 of the Social Security Amendments of 1969 is amended by striking out "and before January 1973" and inserting in lieu thereof "and before January 1974."

ADVANCES FROM OASI TRUST FUND FOR ADMINISTRATIVE EXPENSES

SEC. 305. (a) Effective January 1, 1974, sectain 201 (g)(1)(A) of the Social Security Act is amended—

(1) by striking out "this title and title XVIII" wherever it appears and inserting in lieu thereof "this title, title XVI, and title XVIII";

(2) by striking out "costs which should be borne by each of the Trust Funds" and inserting in lieu thereof "costs which should be borne by each of the Trust Funds and (with respect to title XVI) by the general revenues of the United States"; and

(3) by striking out "in order to assure that each of the Trust Funds bears" and inserting in lieu thereof "in order to assure that (after appropriations made pursuant to section 1601, and repayment to the Trust Funds from amounts so appropriated) each of the Trust Funds and the general revenues of the United States bears".

(b)(1) Sums appropriated pursuant to section 1601 of the Social Security Act shall be utilized from time to time, in amounts certified under the second sentence of section 201(g)(1)(A) of such Act, to repay the Trust Funds for expenditures made from such Funds in any fiscal year under section 201(g)(1)(A) of such Act (as amended by subsection (a) of this section) on account of the costs of administration of title XVI of such Act (as added by section 301 of this Act).

(2) If the Trust Funds have not theretofore been repaid for expenditures made in any fiscal year (as described in paragraph (1)) to the extent necessary on account of—

(A) expenditures made from such Funds prior to the end of such fiscal year to the extent that the amount of such expenditures exceeded the amount of the expenditures which would have been made from such Funds if subsection (a) had not been enacted,

(B) the additional administrative expenses, if any, resulting from the excess expenditures described in subparagraph (A), and

(C) any loss in interest to such Funds resulting from such excess expenditures and such administrative expenses,

in order to place each such Fund in the same position (at the end of such fiscal year) as it would have been in if such excess expenditures had not been made, the amendments made by subsection (a) shall cease to be effective at the close of the fiscal year following such fiscal year.

(3) As used in this subsection, the term "Trust Funds" has the meaning given it in section 201(g)(1)(A) of the Social Security Act.

The PRESIDING OFFICER (Mrs. EDWARDS). Is there objection to the request of the Senator from Louisiana? The Chair hears none, and it is so ordered.

Mr. LONG. Madam President, I have before me a thumbnail summary of this provision, which is now being placed on the desk of each Senator.

It reads as follows:

SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND AND DISABLED

H.R. 1, as reported by the Senate Finance Committee, will replace the present State programs of aid to the aged, blind and disabled with a new wholly Federal program of supplemental security income effective January 1, 1974.

Aged, blind and disabled persons with no other income would be guaranteed a monthly income of at least $130 for an individual of $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 supplemental security income payments. 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.

In addition to the disregard of $50 of Social Security or other income, there would be an additional disregard of $85 of earned income plus one-half of any earnings above $85. Any rebate of State or local taxes (such as real property or food taxes) would not be counted as income.

Under the new supplemental security income program, there would be a uniform Federal definition of "disability" and "blindness." These definitions would be similar to those under the social security program.

States wishing to pay an aged, blind or dis-

abled person amounts in addition to the Federal supplemental security income payment would be free to do so. The Committee bill would permit States to enter into agreements for Federal administration of State supplemental benefits. Under these agreements, supplemental payments would have to be made to all persons eligible for Federal supplemental security income payments, except that a State could require a period of residence in the State as a condition of eligibility.

Eligibility for supplemental security income would be open to an aged, blind or disabled individual if his resources were less than $2,5000. In determining the amount of his resources, there would be excluded the value of the home, household goods, personal effects, including an automobile, and property needed for self support.

Madam President, it is estimated that the cost of this proposal on an annual basis would be approximately $3.1 billion beyond the existing cost of Federal assistance for the aged, blind, and disabled.

Mr. HUMPHREY. Madam President, will the Senator from Louisiana yield?

Mr. LONG. I yield.

Mr. HUMPHREY. I have an amendment before me that relates, as I indicated to the Senator yesterday when I proposed the amendment tc him, to food stamp allowances. I have been back in my home State every weekend and I have had several meetings with senior citizens groups who are most interested in H.R. 1 and in the whole revision of social security.

May I commend the distinguished Senator from Louisiana (Mr. LONG) for what he has done on this monumental bill now before the Senate.

The amendment I have here, and which I want to engage the Senator in some conversation, simply provides that where one gets 20 percent in social security benefits and the cost of living increase, this would not act to deny those who are eligible for food stamps in August of this year to have those food stamps on a continuing basis.

The purpose of the amendment is that, since the Senate and Congress felt there should be an increase of 20 percent in social security benefits, we built in a cost of living escalator clause so that it would have a leveling effect. As the cost of living went up, so would the benefits go up. My amendment would say that Congress, having taken those decisions, would not cut back on the food stamp program to which these people would be eligible had they not received the cost-of-living benefit increase.

Frankly, a social security recipient is not going to have too much money anyway, as we have to be careful in terms of the trust fund, and all of us are concerned about that, as well as our resources. So that I wonder whether the Senator has had a chance to look over my amendment. I am going to call it up and I would hope that the Senator might see fit to take it. I am asking for his comments now.

Mr. LONG. Madam President, I am anxious to exchange views with the distinguished chairman of the Agriculture and Forestry Committee, the Senator from Georgia (Mr. TALMADGE), with regard to this matter, because I believe that he has a better understanding of the problem than does the Senator from Louisiana, because of the special competence one would have, serving on the Agriculture and Forestry Committee, in addition to being a member of the committee. So that I would think he would be able to advise the Senator from Louisiana and some of us on the Finance Committee about this problem.

Has the Senator discussed this matter with the chairman of the Committee on Agriculture and Forestry?

Mr. HUMPHREY. I might refresh the Senator's memory by saying that at the time the Committee on Appropriations and the Subcommittee on Agriculture, the Senator from Wyoming (Mr. MCGEE) who handled that appropriation had that bill before us, I brought up an amendment to increase funds for the food stamp plan, and during discussion of that increase of funds, we talked about the possibility of social security increases and what effect it would have on the food stamp program.

It was then told to me by the distinguished Senator from Wyoming that if I would cut back my request—because I cut the request for food stamps appreciably—and that if I would go along with what the committee was doing to make sure when and if there were increases in social security, it would not deny the people who are now recipients of food stamps their chance to continue receiving their food stamps, it would be agreeable. This is not a big item. I put in the RECORD the information that in my State it would affect in Hennepin County—which has a population of about 1 million people—about 2,000. It is not going to be a large or monumental amount of money, just a modest amount of money. But it is sheer justice. I would hope that the chairman of the committee would at least take it with him to the conference and discuss it in any detail he wishes, because I have entered into the RECORD the data that would support it. It is not opening up a whole new category of assistance. It is merely in a sense a kind of grandfather clause.

My amendment says that notwithstanding any other provision of law:

Any individual who is entitled to monthly benefits under the insurance program established under title II, disregard any part of such benefits which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92-336 or any subsequent cost-of-living increase in such benefits occurring pursuant to section 215(1) of this Act. * * * shall not be considered as income or resources or otherwise taken into account for purposes of determining the eligibility of such individual or his or her family or the household in which he or she lives for participation in the food stamp program under the Food Stamp Act of 1964.

Really, all we are simply saying is, "Look, we have given you a cost of living increase, which means we are just holding ground. We have given you a 20-percent increase in social security benefits." For many people that are single, may I say that that benefit, while it is surely very helpful, it is not overly generous. It is generous within what the bill can provide. All this does is give a little extra in terms of food stamps, so these people have enough to eat.

I do not think there is a problem on the Committee on Agriculture and Forestry at all. When we discussed at the time of the appropriations my amendment, which was about half of what I originally proposed, it went through there unanimously. As the Senator knows, there is great support for the food stamps.

Mr. LONG. Madam President, the reason we have a committee system is to try to have a source of knowledge about the many facets of the legislation we consider. We have not had the opportunity to do justice to the Senator's amendment and to check it out. However, we will, I think, between now and Monday.

I am hopeful that I could support the Senator's amendment. I think I will know, perhaps, before the day is out. However, in any event, I would think that by Monday we would be adequately advised so that we could take a position on it. If we know as much as I hope that we do by that time, I hope that I will be able to support the amendment.

Mr. HUMPHREY. Madam President, I do not claim to be an expert on food stamps. However, along with the distinguished Senator from Vermont (Mr. AIKEN), the Senator from Minnesota pioneered the programb ack in the fifties, and then subsequently had it enacted into permanent legislation in the sixties.

I rather think I am one who is able to say and to know something about this. It is one of those areas of legislation on which I put a Humphrey label.

Mr. LONG. If the Senator from Minnesota is not an expert on that subject, he can pass for an expert until one comes along.

Mr. HUMPHREY. Madam President, I will be back on Monday. I appreciate what the Senator has said. If the Senator could look at this, it would be beneficial. I know that we have time on this bill. I hope also that the distinguished ranking minority member of the committee would also take a look at it. However, if the Senators would like to accept the amendment today, we could clean up the matter now and have it in the bill. Do the Senators have any second thoughts on that?

Mr. LONG. No. I do not. However, I would be glad to have a second thought about it by the date I have indicated.

Mr. HUMPHREY. By Monday?

Mr. LONG. By Monday, the Senator is correct.

Mr. HUMPHREY. Mr. President, I accept that. My good friend, the Senator from Louisiana, is so kind and considerate. No man is a better friend of the poor and the elderly than the Senator from Louisiana. And if the Senator from Louisiana says that he will be ready to give an answer on this by Monday, I will go home to my dear wife in Minnesota and I will be able to tell her: "My good friend, the Senator from Louisiana, has practically accepted my amendment."

Mr. COOK. Madam President, I ask unanimous consent that a member of my staff, Betty Hottell, be allowed the privilege of the floor during the consideration of the debate today in H.R. 1.

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

Mr. GRIFFIN. Madam President, I ask unanimous consent that a member of my staff, Mr. Tom Owsley, be permitted on the floor during the consideration of H.R. 1.

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

Mr. RANDOLPH. Madam President, I support title III of H.R. 1 which establishes a new title XVI program to replace the present State programs of aid to the aged, blind, and totally and permanently disabled. The legislation provides for supplemental security income for this significant segment of our population who are most needy. What we have here is a specific means of adding security and dignity to the lives of so many who have contributed so much to this country, and who are caught today in the crushing vice of rising prices and limited income. As chairman of the Senate Subcommittee on the Handicapped, and as a member of the Special Subcommittee on Aging, I have heard much testimony of hopelessness from witnesses who feel they have been abandoned by their fellow citizens. They live in isolation, ill-housed, ill-fed and ignored by the mainstream of society. Title XVI is designed to encourage each State, as far as practicable, to furnish equitable assistance to these needy and neglected individuals.

Under this provision, aged, blind, and disabled persons with no other income would be guaranteed a monthly income of at least $130 for an individual and $195 for a couple. In addition, the bill would provide that the first $50 of social security or other income would not cause any reduction in supplemental security income payments.

As a result, aged, blind, and disabled persons—and I remind you that there are many instances where a single individual fits into all three categories—who have a monthly income from social security or other sources of at least $50 would be assured a total monthly income of at least $180 for an individual or $245 for a couple.

In addition to the disregard of $50 of social security or other income which is not needs-related, there would be an additional disregard of $85 of earned income plus one-half of any earnings above $85. It is important that those who, despite their infirmities or disability, want to work be encouraged to do so. Another desirable feature of this legislation would provide that any rebate of State or local taxes, such as real property or food taxes, not be counted as income.

Eligibility for supplemental security income would be open to an aged, blind, or disabled individual if his resources were less than $2,500. In determining the amount of his resources, there would be excluded the value of the home, household goods, personal effects, including an automobile, and property needed for self-support.

Madam President, this is just and humane legislation, and I urge my fellow Senators to support this supplemental income program to assure our elderly, blind, and disabled citizens that this Congress believes in the dignity of life.

Mr. LONG. Madam President, I welcome the remarks of the distinguished Senator from West Virginia (Mr. RANDOLPH). I know of his keen interest in the problems of the aged, blind, and disabled, both as a member of the Special Committee on Aging and as the chairman of the Subcommittee on the Handicapped of the Committee on Labor and Public Welfare. I am delighted with his support of what I consider one of the best features of the committee bill.

Mr. LONG. Madam President, I ask for the yeas and nays on my amendment to which I made reference, the supplemental security income proposal. I do not see a quorum present on the floor. Therefore I suggest the absence of a quorum for the purpose of getting the yeas and nays.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. 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. LONG. Madam President, I ask for the yeas and nays.

The yeas and nays were not ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. 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. LONG. Madam President, I ask for the yeas and nays.

The yeas and nays were not ordered.

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

Mr. COOK. Madam President, before the quorum call——

The PRESIDING OFFICER. Will the Senator withdraw his suggestion of the absence of a quorum?

Mr. LONG. No, I insist.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant 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 for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, inserting title III in the bill, which includes all the language beginning at line 12 on page 568, and extending down through and including line 5 on page 615.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Alabama (Mr. SPARKMAN), the Senator from Virginia (Mr. SPONG), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN) and the Senator from Wyoming (Mr. MCGEE) are absent on official business.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. MCINTYRE) would vote "yea."

Mr. SCOTT. I announce that the Senators from Colorado (Mr. ALLOTT and Mr. DOMINICK), the Senator from Tennessee (Mr. BAKER), the Senator from Delaware (Mr. BOGGS), the Senator from New Jersey (Mr. CASE), the Senator from New Hampshire (Mr. COTTON), the Senator from Michigan (Mr. GRIFFIN), 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 Delaware (Mr. BOGGS), the Senator from Illinois (Mr. PERCY), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 75, nays 0, as follows:

[No. 484 Leg.]

YEAS—75

Aiken	Ervin	Moss
Allen	Fannin	Muskie
Bayh	Fong	Nelson
Beall	Fulbright	Packwood
Bellmon	Gambrell	Pastore
Bennett	Goldwater	Pearson
Bentsen	Gravel	Pell
Bible	Gurney	Proxmire
Brock	Hart	Randolph
Brooke	Hartke	Ribicoff
Buckley	Hatfield	Roth
Burdick	Hollings	Saxbe
Byrd, Harry F., Jr.	Hruska	Schweiker
Byrd, Robert C.	Hughes	Scott
Cannon	Humphrey	Smith
Chiles	Inouye	Stennis
Church	Jackson	Stevens
Cook	Javits	Stevenson
Cooper	Jordan, Idaho	Talmadge
Cranston	Kennedy	Thurmond
Curtis	Long	Tunney
Dole	Magnuson	Weicker
Eagleton	Mansfield	Williams
Eastland	Mathias	Young
Edwards	McClellan	
	Miller	

NAYS—0

NOT VOTING—25

Allott	Harris	Percy
Anderson	Jordan, N.C.	Sparkman
Baker	McGee	Spong
Boggs	McGovern	Stafford
Case	McIntyre	Symington
Cotton	Metcalf	Taft
Dominick	Mondale	Tower
Griffin	Montoya	
Hansen	Mundt	

So the committee amendment, embracing title III, was agreed to.

Mr. CRANSTON. Madam President, I send to the desk an amendment sub-

mitted earlier in the day by Senator TUNNEY and myself, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

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

ELIMINATION OF DURATION-OF-RELATIONSHIP REQUIREMENT IN CERTAIN CASES INVOLVING SURVIVOR BENEFITS (WHERE INSURED'S DEATH WAS ACCIDENTAL OR OCCURRED IN LINE OF DUTY WHILE HE WAS A SERVICEMAN)

SEC. —. (a) The first sentence of section 216(k) of the Social Security Act (as amended by section 115 of this Act) is further amended—

(1) by striking out "and he would satisfy such requirement if a three-month period were substituted for the nine-month period" and inserting in lieu thereof "unless the Secretary determines that at the time of the marriage involved the individual could not have reasonably been expected to live for nine months"; and

(2) by striking out "except that this subsection shall not apply" and inserting in lieu thereof "except that paragraph (2) of this subsection shall not apply".

(b) The amendments made by this section shall apply only with respect to benefits payable under title II of the Social Security Act for months after December 1972 on the basis of applications filed in or after the month in which this Act is enacted.

Mr. CRANSTON. Madam President, Senator TUNNEY and I now offer an amendment which seeks to correct an injustice which has been brought to our attention by our colleague from the California delegation, Representative SISK, relating to survivor benefits.

The present law states that in order to be eligible for benefits, the surviving spouse must have been married to the deceased individual for at least 9 months prior to his death. This requirement is then reduced to 3 months if the insured individual's death was accidental, and if at the time of marriage he could reasonably have been expected to live at least 9 months.

That provision is a very sensible procedure in the law. However, there is a quirk in it that was brought to the attention of Representative SISK because of a tragic death that occurred in California, and this simple and, I think, noncontroversial amendment is designed to deal with that situation.

I would like to relate to the Members an incident which occurred in California which I think will clarify the necessity for this amendment. The late Eric R. Larsen, who resided in Fresno, Calif., had been married to Yvonne Larsen approximately 2½ months prior to his tragic death in a motorcycle accident. His wife and stepson are barred from receipt of social security survivors benefits because of the duration of relationship requirement which has been included in the social security law since 1939. Eric Larsen served his country in the U.S. Marine Corps for 4 years and spent 13 months in Vietnam. In 1968 he was honorably discharged, and worked in California for 3 years. There is absolutely no reason to believe that this young man could not, at the time of his marriage, been reasonably expected to live for many, many years after his marriage had it not been for his tragic accidental death.

The legislative history of this provision indicates that the duration of marriage requirement was written into law as a precautionary measure, the main thrust being the prevention of so-called death-bed marriages solely for the purpose of getting monthly survivor's benefits. While it was recognized that there would rarely be such a motive for marriage, the Congress apparently felt, at that time, that some safeguard against the payments of benefits in such cases was appropriate and desirable. While the concern of Congress at that time may have had merit, it does not seem to be a rational or reasonable requirement in the case of accidental death.

The amendment Senator TUNNEY and I have offered would prevent inequitable situations such as that involving the Larsens from arising. At the same time it would avoid the payment of social security benefits in situations which the Congress intended to rule out, because—and I emphasize this—it would retain the part of the requirement that provides that the individual must reasonably have been expected to live for 9 months had he not died accidently.

Representative SISK informs me that, although departmental reports requested on this matter by the House Ways and Means Committee have not yet been received, Commissioner Ball of the Social Security Administration has expressed total agreement that the duration of marriage requirement, with respect to accidental death, is inequitable and he recommended that the law be amended accordingly. The amendment Senator TUNNEY and I have offered conforms with the Commissioner's recommendations.

Madam President, that explains the purpose of the amendment. I hope that it will be supported, and I have every hope that the committee will accept the amendment.

Mr. LONG. Madam President, if the Senator had brought this amendment to us in committee, I think we would have agreed to it, because it does have merit. That is what we have a committee for, to consider matters of this sort and pass judgment on them.

I have no objection to the amendment.

Mr. BENNETT. Madam President, I would join the chairman in accepting the amendment.

Mr. CRANSTON. I thank the Senators very much, and I apologize for not bringing the amendment to the committee. It was not called to my attention until after the committee had acted.

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

The amendment was agreed to.

Mr. LONG. Madam President, the Senate, I am pleased to say, voted by a unanimous vote to sustain the committee's judgment with regard to the proposal which will lift almost all of the aged, blind, and disabled out of poverty.

That proposal will cost more than the administration had been able to budget for the aged, blind, and disabled, and I believe that it is for budgetary reasons alone that the Nixon administration was unable to urge us to report the provision that the Senate has unanimously voted for.

We have another proposal in the bill before us which also has much merit. It was not recommended to us by the administration, and there had been some controversy, even some criticism by some theorists as to the philosophy of social security, which I think the Senate also should vote upon, because that would be an important item in conference, and I believe the House of Representatives would want to know to what extent the Senate supports the proposal.

That is the proposal which says that a person who has worked at least 30 years under social security should be entitled to receive a minimum of $200 per month, or $300 for a couple.

I, therefore, ask unanimous consent that the matter beginning on page 43, line 16, through page 48, line 10 of the bill be subject to a vote of the Senate, notwithstanding the fact that it has been agreed to as one of the committee amendments en bloc, and that when agreed to, the language shall remain subject to amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana?

The Chair hears none, and it is so ordered.

The committee amendment upon which a separate vote was agreed to reads as follows:

SPECIAL MINIMUM PRIMARY INSURANCE AMOUNT

SEC. 101. (a) Section 215(a) of the Social Security Act is amended—

(1) by striking out "paragraph (2)" in the matter preceding subparagraph (A) of paragraph (1) and inserting in lieu thereof "paragraphs (2) and (3)"; and

(2) by inserting after paragraph (2) the following:

"(3) Such primary insurance amount shall be an amount equal to $10 multiplied by the individual's years of coverage in excess of 10 in any case in which such amount is higher than the individual's primary insurance amount as determined under paragraph (1) or (2).

For purposes of paragraph (3), an individual's 'years of coverage' is the number (not exceeding 30) equal to the sum of (i) the number (not exceeding 14 and disregarding any fraction) determined by dividing the total of the wages credited to him (including wages deemed to be paid prior to 1951 to such individual under section 217, compensation under the Railroad Retirement Act of 1937 prior to 1951 which is creditable to such individual pursuant to this title, and wages deemed to be paid prior to 1951 to such individual under section 231) for years after 1936 and before 1951 by $900, plus (ii) the number equal to the number of years after 1950 each of which is a computation base year (within the meaning of subsection (b)(2)(C)) and in each of which he is credited with wages (including wages deemed to be paid to such individual under section 217, compensation under the Railroad Retirement Act of 1937 which is creditable to such individual pursuant to this title, and wages deemed to be paid to such individual under section 229) and self-employment income of not less than 25 percent of the maximum amount which, pursuant to subsection (e), may be counted for such year."

(b) Section 203(a) of such Act is amended by striking out "or" at the end of paragraph

(3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", or", and by inserting after paragraph (4) the following new paragraph:

"(5) whenever the monthly benefits of such individuals are based on an insured individual's primary insurance amount which is determined under section 215(a)(3) and such primary insurance amount does not appear in column IV of the table in (or deemed to be in) section 215(a), the applicable maximum amount in column V of such table shall be the amount in such column that appears on the line on which the next higher primary insurance amount appears in column IV, or, if larger, the largest amount determined for such persons under this subsection for any month prior to October 1972."

(c) Section 215(a)(2) of such Act is amended by striking out "such primary insurance amount shall be" and all that follows and inserting in lieu thereof the following:

"such primary insurance amount shall be—

"(A) the amount in column IV of such table which is equal to the primary insurance amount upon which such disability insurance benefit is based; except that if such individual was entitled to a disability insurance benefit under section 223 for the month before the effective month of a new table (whether enacted by another law or deemed to be such table under subsection (i)(2)(D)) and in the following month became entitled to an old-age insurance benefit, or he died in such following month, then his primary insurance amount for such following month shall be the amount in column IV of the new table on the line on which in column II of such table appears his primary insurance amount for the month before the effective month of the table (as determined under subsection (c)) instead of the amount in column IV equal to the primary insurance amount on which his disability insurance benefit is based. For purposes of this paragraph, the term 'primary insurance amount' with respect to any individual means only a primary insurance amount determined under paragraph (1) (and such individual's benefits shall be deemed to be based upon the primary insurance amount as so determined); or

"(B) an amount equal to the primary insurance amount upon which such disability insurance benefit is based if such primary insurance amount was determined under paragraph (3)."

(d) Section 215(f)(2) of such Act is by striking out "subsection (a)(1) (A) and (C)" and inserting in lieu thereof "subsections (a)(1) (A) and (C) and (a)(3)".

(e) Section 215(i)(2)(A)(ii) of such Act is amended by striking out "under this title" and inserting in lieu thereof "under this title (but not including a primary insurance amount determined under subsection (a)(3) of this section)".

(f) Whenever an insured individual is entitled to benefits for a month which are based on a primary insurance amount under paragraph (1) or paragraph (3) of section 215(a) of the Social Security Act and for the following month such primary insurance amount is increased or such individual becomes entitled to benefits on a higher primary insurance amount under a different paragraph of such section 215(a), such individual's old-age or disability insurance benefit (beginning with the effective month of the increased primary insurance amount) shall be increased by an amount equal to the difference between the higher primary insurance amount and the primary insurance amount on which such benefit was based for the month prior to such effective month, after the application of section 202(q) of such Act where applicable to such difference.

(g) The amendments made by this section shall apply with respect to monthly insurance benefits under title II of the Social Security Act for months after December 1972 (without regard to when the insured individual became entitled to such benefits or when he died) and with respect to lump-sum death payments under such title in the case of deaths occurring after such month.

Mr. LONG. I ask for the yeas and nays on that committee amendment, Madam President.

For lack of a sufficient second, the yeas and nays were not ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. 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. LONG. Madam President, I ask unanimous consent that my request be amended to include the fact that the amendment, if agreed to by the Senate, shall remain open to further amendment.

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

Mr. LONG. Madam President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. By unanimous consent, the question is on agreeing to the matter on page 43, line 16, through page 48, line 10, entitled "Special Minimum Primary Insurance Amount," even though it has previously been agreed to.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Alabama (Mr. SPARKMAN), the Senator from Virginia (Mr. SPONG), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) and the Senator from North Carolina (Mr. JORDAN) are absent on official business.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. MCINTYRE) would vote "yea."

Mr. SCOTT. I announce that the Senators from Colorado (Mr. ALLOTT and Mr. DOMINICK), the Senator from Tennessee (Mr. BAKER), the Senators from Maryland (Mr. BEALL and Mr. MATHIAS), the Senator from Delaware (Mr. BOGGS), the Senator from New Jersey (Mr. CASE), the Senator from New Hampshire (Mr. COTTON), the Senator from Michigan (Mr. GRIFFIN), 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 Delaware (Mr. BOGGS), the Senator from Illinois (Mr. PERCY), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 73, nays 0, as follows:

[No. 485 Leg.]

YEAS—73

Aiken	Ervin	Moss
Allen	Fannin	Muskie
Bayh	Fong	Nelson
Bellmon	Fulbright	Packwood
Bennett	Gambrell	Pastore
Bentsen	Goldwater	Pearson
Bible	Gravel	Pell
Brock	Gurney	Proxmire
Brooke	Hart	Randolph
Buckley	Hartke	Ribicoff
Burdick	Hatfield	Roth
Byrd, Harry F., Jr.	Hollings	Saxbe
	Hruska	Schweiker
Byrd, Robert C.	Hughes	Scott
Cannon	Humphrey	Smith
Chiles	Inouye	Stennis
Church	Jackson	Stevens
Cook	Javits	Stevenson
Cooper	Jordan, Idaho	Talmadge
Cranston	Kennedy	Thurmond
Curtis	Long	Tunney
Dole	Magnuson	Weicker
Eagleton	Mansfield	Williams
Eastland	McClellan	Young
Edwards	Miller	

NAYS—0

NOT VOTING—27

Allott	Hansen	Montoya
Anderson	Harris	Mundt
Baker	Jordan, N.C.	Percy
Beall	Mathias	Sparkman
Boggs	McGee	Spong
Case	McGovern	Stafford
Cotton	McIntyre	Symington
Dominick	Metcalf	Taft
Griffin	Mondale	Tower

So Mr. LONG's amendment was agreed to.

Mr. RIBICOFF. Mr. President, yesterday I introduced a welfare reform proposal which I called the last, best chance for reform. It represents the results of months of consultation and negotiation with the Departments of Health, Education, and Welfare, and Labor. It is imperative that the Senate put aside partisan considerations in designing a system to aid the truly needy and relieve the taxpayers of the inefficiences of the present public assistance system.

Last June Secretaries Richardson and Hodgson met with the President to urge that he work with the supporters of my proposal to fashion a workable welfare agreement. At that time 19 Republican Senators sent a letter to the President urging him to work out an agreement with those of us in the Senate who are supporting meaningful welfare reform.

The leadership of these distinguished Senators in advancing the cause of true reform is commendable.

I ask unanimous consent that the letter and the names of the signers be inserted at this point in the RECORD.

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

U.S. SENATE,
Washington, D.C., June 15, 1972.

The PRESIDENT,
White House,
Washington, D.C.

DEAR MR. PRESIDENT: Since you first offered your welfare reform proposal over two and a half years ago, the welfare situation, as we all know, has worsened, making the reform you proposed even more imperative.

Those of us who deeply care about the well-being of the impoverished have watched with dismay the development of growing divisions in the Congress over the question of welfare reform. Unfortunately, neither the Senate Finance Committee's Workfare proposal nor an unamended H.R. 1 entirely meets, in our judgment, the requirements for genuine welfare reform.

We do not feel it necessary for the Administration to now engage in a whole new line of reasoning or even undertake a substantial change in approach, but the time has now come when we, together, must fashion a humane and decent compromise reform measure that would be acceptable to a majority of the Congress and to the Administration. Without that compromise and a final effort now by the Administration and those members of both parties, certainly including Senator Ribicoff, who wish to see a successful and acceptable program adopted, we firmly believe welfare reform is almost certain to die.

In this critical hour, we ask that you reaffirm your often stated commitment to welfare reform and request the appropriate agencies to work with us toward such a compromise.

Sincerely,

Percy, Pearson, Cook, Schweiker, Brooke, Dole, Fong, Packwood, Taft, Beall, Stafford, Saxbe, Javits, Cooper, Stevens, Case, Weicker, Mathias, and Hatfield.

The PRESIDING OFFICER (Mrs. EDWARDS). The Senator from Rhode Island (Mr. PELL) is recognized.

Mr. JAVITS. Madam President, will the Senator from Rhode Island yield to me for an amendment which, if not accepted within 2 minutes, I will take down?

Mr. PELL. I yield to the Senator for that purpose.

Mr. JAVITS. Madam President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 465 between lines 11 and 12, insert the following:

MEDICAL ASSISTANCE IN PUERTO RICO, THE VIRGIN ISLANDS, AND GUAM

SEC. 271A. Section 227(b) of the Social Security Amendments of 1967 is amended by striking out "June 30, 1972" and inserting in lieu thereof "June 30, 1975".

(b) The amendment made by subsection (a) shall be effective from and after July 1, 1972.

Mr. JAVITS. Madam President, the problem here involves an extension of the so-called free choice deadline which poses a great problem to the government of Puerto Rico.

I offer this amendment at the request of Mr. CÓRDOVA, the Delegate. Congress has not given Puerto Rico enough money so that it can work out a freedom of choice as quickly as the law requires. So, Madam President, they request that we give them an added period of 3 years.

I understand this is satisfactory to the manager of the bill on the majority and minority sides.

The reason for this proposed amendment is that it has been determined by both the Department of Health, Education, and Welfare and by the Puerto Rico Department of Health that it would be impossible with the resources available at this time to implement the freedom of choice provision under the medicaid program.

The funds Puerto Rico receives under this program have been limited ever since 1967 by a statutory ceiling of $20 million per year under section 1108(c)(1) of the Social Security Act. The Puerto Rican Government invests more than $70 million a year out of their own resources for this program to provide medical care for the poor. At present the program serves more than 6½ million cases of indigent patients throughout several district hospitals and clinics on the island.

The Puerto Rican Government is aware that freedom of choice of physician and hospitals should not be denied to anyone and as a matter of fact is taking steps on its own to implement a limited program that would provide a limited freedom of choice to about 1.7 million people or to all members of families earning less than $5,000 a year. This free choice will at first, include only general practitioners and in time will be expanded to include some specialists, laboratories and X-rays. Plans have also been made for a complete free choice program—these plans were and are contingent upon the approval of an additional $10 million in Federal funds authorized in title II of H.R. 1.

The plan was designed as a gradual development into free choice to be completed by fiscal year 1973 when free choice is to go into effect in Puerto Rico, as mandated in the Social Security Act.

Congress has not yet authorized the additional $10 million under the medicaid program for Puerto Rico and therefore they have not been able to implement this plan. They will have to start free choice very soon if this amendment is not adopted, and there is no time for a gradual changeover. The Puerto Rican Government feels that it cannot afford the fiscal burden this abrupt change would necessitate.

Mr. LONG. Madam President, it is my understanding that those who would be likely to understand this proposal best and the people in the Department of Health, Education, and Welfare, and speaking for the administration, they feel that this is a good amendment and that it should be agreed to.

I am willing to support the amendment and take it to conference.

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

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

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York (Mr. JAVITS).

The amendment was agreed to.

Mr. PELL. Madam President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

Mr. PELL. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with and that the amendment be printed in the RECORD.

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

The amendment is as follows:

On page 268, line 11, insert the following:

EYEGLASSES, DENTURES, HEARING AIDS AND PODIATRIC SERVICES

SEC. 215A. (a) Section 1861(s)(8) of the Social Security Act is amended by striking out "(other than dental").

(b) Section 1862(a) of such Act is amended—

(1) in clause (7) thereof, by striking out "eyeglasses or eye examinations for the purpose of prescribing, fitting, or changing eyeglasses, procedures performed (during the course of any eye examination) to determine the refractive state of the eyes, hearing aids or examinations therefor,"; and

(2) by inserting "or" at the end clause (1), and striking out clauses (12) and (13) thereof.

(c) Section 1861(s) of such Act is further amended—

(1) by striking out "and" where it appears at the end of clause (8);

(2) by striking out the period at the end of clause (9) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(10) eyeglasses and eye examinations for the purpose of prescribing, fitting, or changing eyeglasses, procedures performed (during the course of any eye examination) to determine the refractive state of the eyes, and hearing aids and examinations therefor.".

(d)(1) The amendments made by this section shall be effective only with respect to (A) individuals from families with annual adjusted gross incomes which do not exceed $6,000, and (B) individuals who are not members of families with annual adjusted gross incomes of $3,000. Determinations of annual adjusted gross income under the preceding sentence shall be made by the Secretary of Health, Education, and Welfare in accordance with regulations promulgated by him.

(2) The Secretary shall establish reasonable limitations with respect to the provision of such services, the frequency thereof, and the amounts payable.

(3) The amendments made by this section shall be effective on July 1, 1973.

Mr. PELL. Madam President, I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. PELL. Madam President, I will continue with the presentation of my amendment until we do have a sufficient number of Senators present for the yeas and nays.

Madam President, I ask unanimous consent that Stephen J. Wexler and Richard Smith of the Senate Committee on Labor and Public Welfare be permitted on the floor during the consideration of the amendment.

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

Mr. PELL. Madam President, this is the amendment I presented yesterday. However it does contain several substantial changes in order to meet the objections of the Committee on Finance, which were discussed on the floor. It provides for an effective date of July 1, 1973. Second, following the advice of the Senator from Utah, it provides a limitation on the income level of persons who would be covered. The only people who would receive benefits under this amendment would be those over 65 who have an adjusted gross income of $3,000 if single, or $6,000 in the case of a family. This would not include their social security, but it would be limited in this respect. It would mean that with respect to the example cited yesterday, men like ourselves would not be able to benefit from this amendment. Only those who are of modest means would be included.

In addition, the amendment is designed to make sure that many individuals who need dentures, eyeglasses, hearing aids, or the podiatric care would not be forced to go to medicaid but would be able to preserve their dignity and self-respect to whatever degree they wish and still be able to receive these services as part of medicare.

I would hope very much that this amendment could be accepted and will ask for a rollcall vote.

Mr. PASTORE. Madam President, would the Senator yield?

Mr. PELL. I would be glad to yield to my colleague.

Mr. PASTORE. Madam President, I wonder why the Senator made it $6,000 for a couple and not a little less.

Mr. PELL. Madam President, if the Senator thinks that would be preferable, I would be willing to change it.

Mr. PASTORE. Madam President, I think it should be $3,000 for a single person and $5,000 for a married couple.

Mr. PELL. Madam President, I modify my amendment in that respect, so that it would provide for $3,000 for a single person and $5,000 for a married couple.

The PRESIDING OFFICER. The amendment is so modified.

Mr. PASTORE. Madam President, yesterday I joined with my colleague from Rhode Island and spoke in support of his amendment, because I thought it was a worthy amendment.

The argument was made very dramatically at the time by one of our more affluent Members of this body. And when I talk about affluence, I am talking about financial affluence.

He very dramatically took off his glasses and said that he could if he wished under the amendment, leave the cost of those eyeglasses up to the Government because he is over 65. All of us were surprised at that, as I said before, because any wealthy person who charged his eyeglasses to the Government ought to be a little ashamed of himself. However, we ought to provide against such abuse.

Now that the amendment has been modified it would apply to a single person earning $3,000 and a married couple earning $5,000.

If a single person earns $3,000 a year, that is $60 a week. That means that he has to pay his rent, buy his clothes, his food, and pay for his gas, his electric, and his telephone bills. He would have to pay everything out of $60 a week. All of us know how badly affected these people are by inflation.

For that reason, Madam President, I think all we are saying here is that if a person wants to read about all the good and bad things we do in the Senate and cannot do it unless he has a pair of eyeglasses and he cannot afford to buy them, we ought to buy them for him. And if someone cannot hear too well and he wants to hear what is going on in this great country of ours and he has no hearing aid, I think we ought to help him out.

Madam President, a married couple, I do not care where they live, that rents any decent abode, would certainly have to pay $60, $70, or $80 a week. Five thousand dollars a year is less than $100 a week for a couple. I think that in that particular case we ought to be helpful. I do not think it would cost too much money. I think this is one thing we ought to do.

I would hope that the chairman would accept this amendment and, if the amendment is not accepted, I hope it will pass.

Mr. ROBERT C. BYRD. Madam President, does the Senator from Rhode Island wish to ask for the yeas and nays?

Mr. PELL. Madam President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. PELL. Madam President, a further point with respect to the modification of yesterday's amendment: It was pointed out that there could be abuses. To cover that, we have given the Secretary of HEW, a man not noted for his bleeding heart, the right to promulgate regulations so that we can be sure there is no abuse. He could preclude the buying of several pairs of eyeglasses every year, or hearing aids, which usually last 2 or 3 years. And I am sure this would be strictly enforced. Yet, we would be sure that those over 65 will be able to eat, will have the eyeglasses to see that which is around them, will be able to see that those have the foot care they require and do not have and be able to hear.

Madam President, I hope very much that my colleagues would approve the amendment.

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

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CURTIS. 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. CURTIS. Mr. President, at the time that H.R. 1 was reported favorably by the Committee on Finance, I caused this statement to be inserted in the minutes of the committee:

H.R. 1 contains some Social Security amendments which are much needed, in which I have been interested. There are other features of the bill that fall into the same category. I favor the general concept of workfare as contrasted to welfare, and I favor the provisions that would increase the State and local control over the administration of welfare as it involves the unemployed.

There are certain cross-aspects of H.R. 1 to which I am very much opposed. There are features of H.R. 1 under various titles and sections to which I am opposed, but because of a commitment made that a bill should be reported out before the session ends in 1972, and because I believe there are some parts that should be advanced for passage, I am voting to report the bill from the committee to the Senate. I reserve all rights to oppose and to offer amendments.

Mr. President, there are a number of features in this bill that correct various inequities and meet certain problems, that need correction in the statutes. The employees of States and municipalities have their social security by reason of compacts that are entered into between the States and the Federal Government. It requires the consent of Congress to amend those compacts. There are two or three States that have matters pending in H.R. 1 for which they have waited for some time.

I can think of another provision of H.R. 1 that is a very worthy situation. We have at Bellevue, Nebr., the headquarters for the St. Columban Fathers. This is a missionary organization, and these priests are engaged in carrying the Gospel to all parts of the world. They are American citizens, recruited for service in this country. Their business office is in this country. The money is collected here to pay their salaries. When they reach retirement years, they come back to the United States to retire.

Yet, those missionaries are not covered by social security. If it so happens that an American corporation finds it necessary to send its employees abroad to carry on its business, their social security taxes and benefits go on just the same as if they were here. This is also true of employees of religious organizations in the main. If they represent a church in this country, or if they serve an all-American congregation abroad, they are covered by social security.

In the case of the Columban Fathers that I just mentioned, it so happens that the highest ecclesiastical authority is in Ireland. Yet, as I say, they have their business headquarters in the United States, they are American citizens, they are recruited here, they are paid by funds raised in this country, and they return here, yet without social security.

This is one of the many items in the social security section of H.R. 1 that need attention and should be passed. It has been pending a long time.

Mr. President, the reason that H.R. 1 has not been enacted a long time ago is that too much was undertaken in one bill. Here we have the bill, H.R. 1, consisting of 990 pages. Title IV relates to welfare reform. If we were to ask a number of people, "Do you favor welfare reform?" I daresay that we would get a 100-percent affirmative answer. But when it comes to the definition of welfare reform, that is where differences arise.

I have a very high regard for the House of Representatives, and especially for its

Committee on Ways and Means, but I must say that that part of H.R. 1 that came from the House of Representatives called welfare reform certainly is not welfare reform. It would double the number of people who are eligible for welfare. It would increase the cost by several billion dollars. And what is more, it would inaugurate a system of a guaranteed income in the United States—a guaranteed income whether people work or not. Not only would it be expensive at the start, but it would be a great departure in our handling of welfare in this country.

I am told that our beloved and distinguished colleague from Connecticut (Mr. RIBICOFF) will offer an amendment. Actually, it is no different, basically, from the House version, other than that it is worse because it puts more people on welfare, makes more of them eligible, and will cost more billions of dollars; and it, too, would establish the system of a guaranteed income from people in the United States. Even though they might be able bodied, it would guarantee them an income without working.

Mr. President, if such an amendment prevails, there will be no legislation this year, because we cannot let it pass. If either the original administration proposal, modified by the House, or the Ribicoff amendment is agreed to by the Senate, there can be no legislation this year, because we would be embarking on something that would be a grave mistake.

Now, it is rather easy to understand how this universal idea of desire for welfare reform could lead to a situation in which the term "welfare reform" is used as a slogan by which to inaugurate a guaranteed income for everybody in the United States.

Oftentimes we hear criticism of welfare. It is pointed out that there is a certain family on welfare; perhaps they are not disclosing all their assets or their income; there are certain disregards in the law; the children have income, and so forth. Nearby will live a family that never has been on welfare, that gets along on much less money than the family on welfare. Up to that point in the efforts to secure welfare reform, we have identified the problem. But the wrong answer has been applied.

Instead of doing something about the welfare case where there is an abuse, they came along with the idea and said, "Let's give a benefit to this family that has never been on welfare, and raise the minimum for everybody." When they do that, it is a guaranteed income for all Americans.

What a great day for the politicians. Somebody says, "A family of four should have $2,400." The next bidder says, "A family of four should have $3,600." Finally, somebody wants to be President of the United States and says, "A family of four should have $6,500"—and it would put 97 million Americans on welfare.

One of the most shameful things in the annals of the political history of the United States is that one of the candidates for the Presidency of the United States is offering to put 97 million Americans on welfare, trying to buy half of the population.

The root of the evil is the beginning of this system of guaranteeing to everybody a minimum income. That is the evil in the House bill; that is the evil in the Ribicoff amendment. They are all alike, except that the last bidder raises the figure. That is why if either of these proposals—the House bill in regard to welfare reform, or alleged welfare reform, or the Ribicoff amendment—should remain, we cannot permit any legislation to be advanced for passage. Consequently, it is my hope that, without too much more delay, title IV of this bill can be set aside, so that we can do the things that should be done and enact some laws that need to be enacted.

Mr. President, I want to say something about the Finance Committee's version of welfare reform. It is referred to as workfare. It has some very fine features. I support its basic proposal, its basic plan. A couple of features in it make it a little more costly than I would like.

Principally, I would do away with the system of disregards of income. Furthermore, I would limit the application of the workfare plan to those who are actually established as being on welfare, and not extend it to others, and thus not give it any resemblance of a guaranteed minimum income.

Basically, the idea of the Finance Committee plan, the Long plan, is sound. It would divide our welfare recipients and potential welfare recipients into two classes: employable and unemployable. The unemployable would continue to get welfare. The Federal Government would continue to pay its share. But in it we would grant more authority to write rules and regulations, with more administration by the States and the localities and less by the Federal Government. Every Governor who appeared before our committee, every State welfare director, said he could clean up his welfare rolls if it were not for the Federal regulations. So the first step in any welfare reform that amounts to anything is to lessen the authority of the Federal Government and to give more authority to the people back home, who are close to the problem.

Mr. President, I do not want to be misunderstood. There are unfortunate people in the United States who must and should have welfare. There are people who are poor; there are people who are disadvantaged; there are people who face problems and situations over which they have no control. They are entitled to generous and fair and compassionate treatment, and I believe that the taxpayers are glad to do that. The criticism arises when we go beyond that and when abuses creep in.

The worthy poor are not entitled just to the meager necessities, but to fair and compassionate treatment. But we are never going to get the abuses weeded out by a bureaucracy in Washington. It can only be done by less authority in Washington and more authority back home among the people. The Finance Committee version, the Long version, with respect to people on welfare who cannot work, does that very thing: It grants more authority to the States, which in turn can delegate the authority to the local units of government.

I have confidence in the American people. I do not believe that the American people will let their neighbors suffer. I think the American people have more kindness and more generosity than any faraway bureaucracy that gets lost in its own regulations and its own statistics. Therefore, I think that local control not only will eliminate abuses, but also will result in a program for the worthy needy of the land that is more just, more generous, more fair, and more compassionate than what we have.

The Finance Committee proposal, the Long proposal, as I have said, would separate our welfare load into those who are unemployable and those who are employable, and for the latter there would be a work plan. Simply stated, those people would no longer get welfare. They would have an opportunity to report and work and earn as much money as they have been getting on welfare, and the Federal Government would pick up the tab. Thus, it would relieve some welfare costs of our States.

This workfare plan is in accord with everything that is fine and good. There is nothing wrong with the work ethic. If it were not for the work ethic, there would not be anything worth while in the United States. Everything we have, everything we enjoy, everything handed on to us exists because somebody worked. A Government program that perpetuates the work ethic is right and sound and forward looking. Those who ridicule it and call it "slave fare" are backward looking. Abolish work in this country and nothing will be built.

Now, Mr. President, under the Long plan, an able-bodied person who has been getting welfare, reports for this work, and efforts will be made to get him a job in private enterprise. If that fails, there will be a Work Authority of the last resort, to do necessary work, whether it be in the streets, the parks, the hospitals, or wherever. I think many of them will be glad to do it. Visit the neighborhoods in any of our great cities where the bulk of the people are on welfare, and right in those neighborhoods will be enough work just to clean up the many streets, to pick up the litter, the paper, the cans, and other things left lying around.

What is wrong with that? If they are able bodied, if everyone is being taxed to support some people, is it asking too much that the recipients keep their neighborhoods clean a little bit?

I have heard my chairman, the Senator from Louisiana (Mr. LONG), point out that very same thing. That is one of the things that is in there.

We hear a great deal about the welfare cycle, how someone has been on welfare, his parents have been on welfare, and his grandparents have been on welfare. That is true. I invite attention to the fact that the individual who is a victim of the welfare cycle has a hard time getting out of it. He goes out to get a job and they say to him, "Where did you work before? What are your recommendations? Where are your refer-

ences?" So he or she is discouraged before ever getting started.

The Finance Committee worked on a plan that will do something about it. Let us take the individual who is a victim of the welfare cycle. Think for a moment of the man or woman who has known nothing but welfare, whose parents have been on welfare and whose grandparents have been on welfare. Where on earth would they ever go to get a job?

Under this plan, they would report to the Work Authority and they would be required to perform some useful work. They would learn how to do that work. They would learn, for the first time in their lives, perhaps, what it means to report at a given time. They would learn for the first time, perhaps, what it means to follow simple directions. They would have the experience of performing something worthwhile and then receiving something that they had earned, which would do more to lift their spirits and improve their well-being than anything that had ever happened to them before.

This workfare program, if properly handled, can be a training ground that will be welcomed by the unfortunate because it will give them work experience and it will give them sufficient knowledge and self-confidence so that they will be able to go out and apply for another job. It will do something toward breaking the welfare cycle.

There is much merit in the Finance Committee's workfare plan. As I said a minute ago, it is a little more expensive than I can buy. There are a couple of changes that I think should be made, but it is far superior in its basic concept and plan to the House-passed bill or the proposal to be offered by the distinguished Senator from Connecticut (Mr. RIBICOFF).

Mr. President, I mentioned a while ago what a large and complex bill H.R. 1 is. If we could pass it as reported by the committee, with some improvements and changes in the welfare plan that would be acceptable to the House, that will be fine. However, the House is committed to its own plan and we may have a close vote here.

I think it would be wise statesmanship on the part of the leadership of the Senate if they would just lay aside the whole subject of welfare reform and let Congress and the Senate approach it next year, away from all of the competition for ideas and proposals that exist in an election year. Then, I think, the other titles that will go to conference can be ironed out rather shortly.

But, again, I would think that the principle of a guaranteed minimum income is so wrong and so adverse to the basic American idea, and so contrary to the work ethic, that should either the version of welfare reform adopted by the House or that of the Senator from Connecticut (Mr. RIBICOFF) be adopted, it will be the end of all legislation for this year. It is so wrong. We cannot let it pass. We cannot let it be considered.

So, Mr. President, on behalf of all the people that need much of the legislation that is in this bill, I hope that the leadership will take such action as will set aside the whole idea of welfare reform until such time as we are not engaged in an election and when we have the time to work out this difficult problem, so that we can be just and generous and kind to the poor and the unfortunate who cannot help themselves and, at the same time, eliminate from the rolls those who are classified as abuses and who are really abusing the system, and so that we can improve the administration thereof as well as lower the costs.

Mr. President, I want to commend the distinguished chairman of the Finance Committee, the Senator from Louisiana (Mr. LONG) for his stanch opposition to the idea of a guaranteed minimum income for doing nothing.

That is the issue here.

We would render a great disservice to every recipient of the benefits of such a program. We would render a great disservice to our country.

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

Mr. CURTIS. I yield.

Mr. LONG I thank the distinguished Senator from Nebraska for the kind references he made to the junior Senator from Louisiana, but permit me to say to the able Senator that the position of the Senator from Louisiana was not lightly arrived at. This Senator first read of the measure as something he thought he could support. In conversations with the President and others, the Senator from Louisiana made it clear that he very much favored the idea of assuring——

Mr. ERVIN. Mr. President, if the Senator from Louisiana will permit me to interject here, I want to correct an error he made. The Senator referred to himself as the junior Senator from Louisiana. I am satisfied that the distinguished lady from Louisiana (Mrs. EDWARDS) is far the junior of the distinguished chairman of the Finance Committee.

Mr. LONG. I thank the Senator.

Mr. CURTIS. That only proves that gallantry has not disappeared from the Union.

Mr. LONG. I thank the Senator for the correction. May I say that this Senator had applauded the President for his good intentions in deciding to see to it that the needy and poor and children of this country would be protected against dependency and against poverty.

The only reservation in the mind of the Senator from Louisiana is that if we are going to pay out such a large amount of money, we should pay it out on some basis that is work-related so that it would encourage people to accept jobs and so that the work ethic would be enthroned, rather than to encourage people to do the things society does not want them to do.

I might say that every expression that the Senator from Louisiana could gain from the President of the United States was to the effect that he had just that in mind and that that was the direction in which we ought to be moving.

It was only after hearing the Senators who had expressed doubt, such as the Senator from Nebraska, the former Senator from Delaware, Mr. Williams, and others, who pointed out the dangers inherent in this proposal that it became apparent to the Senator from Louisiana that it was our duty to oppose this measure and to oppose it as strongly and logically and with all the determination we could muster, because this was something that posed a grave threat to this form of government.

The problem was that if we want to get started down this track, we cannot stop unless we turn around and move in the other direction. We cannot stop just by guaranteeing someone $2,400 or $2,600 for doing nothing. If it is a family of four we are speaking of, we cannot logically say that we should keep them below a poverty level of $4,000. And we cannot reduce their benefits one dollar for every dollar they earn. No one can logically contend we ought to deny them what they earn by their own efforts.

But if they can keep 50 cents on the dollar earned, then they do not come off the welfare rolls until they are making $8,000 a year. Then they will not be satisfied. The National Welfare Rights Council is campaigning strongly and fervently, as it did at the Democratic National Convention this year, to guarantee a $6,500 income for a family of four.

As the Senator so well knows, that would put us to the point where when the people started working, if we permitted them to keep half of what they earned, they would be making $13,000 a year before they came off the welfare rolls. At that point we would have to have 112 million people drawing welfare checks. And it does not solve the problem just to call it something else. It is still a welfare check whether we call it by that name or not. It is a grant and a gift from the Government for doing nothing. So, we would have 112 million people drawing welfare checks and only 98 million people on the putting up end who would pay for that. We would have more people on the taking down end than we would have on the putting up end.

And, Mr. President, if that is not bad enough, that is assuming that everyone is going to be honest. If there is widespread cheating, it may very well cost far more than that. We might have 130 million or 140 million receiving welfare checks.

I would think, to be practical about the matter, that we would almost need as many investigators as we would have beneficiaries if we wanted to keep up with that sort of thing.

The cost of the NWRO program would be about $70 billion a year. When the committee bill goes into effect, we will be providing more than $80 billion a year in income maintenance programs. However, why should we provide another $70 billion a year in ways that encourage people to do the wrong things, in ways that encourage fathers not to admit the paternity of their children, and in ways to discourage people from joining in wedlock when they decide to start producing a family?

Why should we spend our money in ways that tend to bring into disrepute the American institutions and tear down those that exist? Why should we not instead spend money in ways to encourage

people to do the right sort of things, to take jobs, to marry the women who are mothers of their children, or to try to do something to improve their communities, and to offer some services, the services that society needs.

Those are the kinds of questions which persuaded the Senator from Louisiana, just as it persuaded the Senator from Nebraska, that the family assistance plan should not pass and should not become law.

That persuaded me that we ought to try to find out as hard as we knew how the answer to this matter. And we ought to try to persuade the Senate to accept the right answer rather than the wrong answer.

I congratulate the Senator from Nebraska for being one who was not fooled about this matter from the very beginning. I was told by former democrats who later became White House advisers that this was something that could only happen under a Republican President. And, the more I thought about it, the more I thought they were right. I think they knew what they were saying.

If people could persuade a Republican President to recommend a program such as this, the people would not believe that it was actually quite what it was, because they would not believe that a Republican President could recommend something that would work out in that fashion.

May I say that I do not think the President ever for a moment imagined or conceived many or any of the dangers implicit in this family assistance plan or the Ribicoff version of the family assistance plan. His declarations are too consistent. Everything he said about the subject was consistent. The people who talked with him indicated the contrary to the Senator from Louisiana.

I know that I have had the privilege of discussing this matter with the President of the United States many times. Every time I discussed it with him, the one thing that came through loud and clear was that the President of the United States believes in the work ethic and does not believe in loading the welfare rolls down with untold millions of additional recipients.

I may ask the Senator from Nebraska whether the President of the United States has ever conveyed to the Senator from Nebraska any high degree of displeasure because he has worked for the workfare program rather than the guaranteed income proposal?

Mr. CURTIS. No, definitely not. I think that the country owes a great debt of gratitude to President Nixon for emphasizing the need for welfare improvements. The President's utterances on welfare are sound and the Senate Finance Committee bill, the workfare program, sponsored by the chairman of the committee, come nearest to meeting the objectives stated in the statements and utterances of the President of the United States, than does either the House bill, the original proposal sent to Congress, or the Ribicoff proposal.

Unfortunately, after these fine declarations were made by the President, from that point on certain people have to take over and work out things. It goes to the Department of Health, Education, and Welfare.

In my opinion, they ended up with something that defeats many of the fine objectives stated by the President of the United States. The President of the United States realizes that without the work ethic, the United States is headed for deterioration. Without the work ethic, there would not be anything worth while in this country, because everything that we enjoy, we enjoy because somebody works.

I believe that we would render a great disservice to the President of the United States if we enacted this proposal that was sent to Congress, or that was passed by the House, or proposed by the Senator from Connecticut. I think we must take the approach the Committee on Finance has taken, and that is to take care of those people who cannot work, but for those who can work, to have a program where they can get a job if there is not one available and to give them work experience. Give them the opportunity to know what it means to be at a certain place, to do something, and to be able to earn. That is doing a favor to the unfortunate person who is a victim of the welfare cycle. Just to perpetuate the cycle and send out checks in situations where the people are neither aged, disabled, nor handicapped, is a disservice both to the people who pay for it and the people who receive it.

Mr. President, we have reached a time in the Senate when we need leadership. We need leadership to move in and prevent the Senate from enacting some bad legislation during these hurried times just before an election. If the workfare plan of the Committee on Finance cannot be agreed to—I am convinced if it goes to conference some of the objections I have to it will be ironed out, but if that cannot be done, this matter should go over to a time when candidates for office are not in favor of giving people more for doing less.

Mr. President, just one more thought and then I shall yield the floor. With respect to the guaranteed minimum income, sometimes it is mentioned as $2,400 for four people, sometimes $4,000, and if one is speaking about one of the candidates for the Presidency, it is $6,500. That is only part of the story. People raise the question, How could a family of four live on less than $2,400? It is not limited to $2,400. There are certain disregards. The first $100 a month is disregarded, one-third of earnings above that, the earnings of children, certain casual earnings are eliminated, subsidies for housing; many of them are recipients of medicare. If one adds it all up, it is not just $2,400; it more than twice that. My point is, that is only part of the story.

Mr. President, were we able to submit to the rank and file of the American people from one end of the country to the other the question, "Should the unfortunate and disadvantaged, and people unable to work be continued on in welfare?" the answer would be "Yes." That is what the bill of the Committee on Finance does. But it vests more authority in the people close to the problem.

If we were to ask the same question of the people across the land, "Do you believe those able to work should perform some useful work, and do you believe they would benefit by it and welcome it?" the great majority would answer "Yes."

Mr. President, again I call attention to the size and complexity of this legislation. We should not, in these closing, hectic days of the session, pass any bill of this complexity, let alone one that would represent a new departure, a move toward guaranteeing a minimum income to people throughout the land who do nothing. There is nothing practical or workable in either the House bill or the Ribicoff proposal that will increase the number of people leaving welfare and going to work. That is one of the things the President stressed, and those who worked out a bill and submitted it here, submitted a bill that has nothing in it to bring that about. It will not work.

I yield the floor.

CALL OF THE ROLL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll and the following Senators answered to their names:

[No. 486 Leg.]

Aiken	Dole	Mathias
Allen	Edwards	Muskie
Beall	Goldwater	Pastore
Bennett	Hart	Pearson
Burdick	Hruska	Pell
Byrd, Harry F., Jr.	Hughes	Ribicoff
Byrd, Robert C.	Humphrey	Saxbe
Cooper	Kennedy	Schweiker
Curtis	Long	Smith
	Mansfield	Talmadge

The PRESIDING OFFICER. A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to, and the Sergeant at Arms is directed to execute the order of the Senate.

After a delay, the following Senators entered the Chamber and answered to their names:

Bayh	Fong	Nelson
Bellmon	Fulbright	Packwood
Bentsen	Gambrell	Proxmire
Bible	Gravel	Randolph
Brooke	Hartke	Roth
Buckley	Hollings	Scott
Cannon	Inouye	Stennis
Chiles	Jackson	Stevens
Church	Javits	Stevenson
Cranston	Jordan, Idaho	Thurmond
Eagleton	Magnuson	Tunney
Eastland	McClellan	Weicker
Ervin	Miller	Williams
Fannin	Moss	Young

The PRESIDING OFFICER. A quorum is present.

Mr. LONG. Mr. President, in some respects, the Pell amendment is an even more objectionable proposal than the previous one. This proposal would put a needs test in the social security program. As it stands today, there is only a retirement test; but this amendment

would provide certain services if you had income of less than $3,000; you would not get the services if your income was more than $3,000. If a couple had an income of $5,000 or less, they would get the services, but they would not get the services if their income were more than that.

Furthermore, not one nickel of tax is attached to this amendment to pay for the cost which is estimated initially at some $2.5 billion a year. It would bankrupt the social security medicare fund, because there is no surplus in the fund. It would result in the Senate having a totally irresponsible proposition when it sent conferees to talk with the House.

It would be similar, I regret to say, to some of the "Christmas Tree" proposals that the Senate has voted on occasion—totally irresponsible tax cuts or spending proposals which could bankrupt the country. In this case, it would be a totally irresponsible spending addition that would bankrupt the social security medicare trust fund through enormously increasing the cost of the program without providing any tax to pay for it.

Mr. President, this proposal is not viewed by the Social Security Administration as something which should be done, for the reason that items such as eyeglasses, hearing aids, and podiatric services—which could be anything from having your corns trimmed to having your toenails cut by a foot doctor—are things which people can budget. This could even include a foot massage. You could go in to the podiatrist's office and the man could rub your feet for you. This proposal makes no distinction between a foot service that is essential and a foot service that is not essential. These are the kinds of things for which we provide people with cash income so they can decide and provide for themselves in these budgetable areas.

Every Senator over the age of 40 knows that after age 40 things may start going wrong with the body which do not seem to repair themselves the way they do when one is younger. Eyes get worse and do not correct themselves the way they did when one was younger. One might suffer a broken bone or a sprain, which does not heal or correct itself the way it did earlier. All sorts of things tend to go wrong that people have to live with the rest of their lives; they have to adjust to those things.

In these areas, we should think in terms of priorities. Any State in the Union which wants to provide the services advocated by the Senator from Rhode Island has the privilege of providing them under medicaid and the Federal Government will pay for at least 50 percent of the costs. But let us see how much priority the States place on these items.

Look at Alabama. They do not provide the dentures or the eyeglasses, even though the Federal Government will pay for some 75 percent of the cost. They do not provide this, because they can find a better use for the money in providing something else with a higher priority. Here the Senator proposes to spend at least $2.5 billion to provide these items and services for those who do not need it.

Colorado does not provide these items, because they can find a higher priority for the same money, even with liberal Federal matching.

Delaware does not provide it for the needy, because they can find a better use for this money somewhere else.

Florida does not provide it, and that is one of the most generous welfare States in the Nation, with respect to the aged.

Here is Georgia, one of the States leading in social services. Even though Georgia could have 75 percent Federal money for this, they do not provide it, because they can find a higher priority use somewhere else—child care or another higher priority need.

In the State of Rhode Island, they do provide eyeglasses, dental and podiatric care. They provide it for the needy and for the medically indigent. One might ask, if Rhode Island is providing for this, with the Federal Government paying half the cost, why would the Senator want to insist on providing for it at Federal expense, without any State contribution, under social security?

The answer is that the Senator would like to avoid having to require the people of his State to meet a needs test in order to get eyeglasses, in order to have somebody rub their feet for them or trim their toenails.

On the other hand, in trying to provide it and to avoid a needs test, he would then seek to put the first needs test into the social security program. What sense does it make? In order to avoid a needs test under medicaid, he puts a needs test into the social security program for the first time. It does not make sense.

Mr. BENNETT. Mr. President, will the Senator yield.

Mr. LONG. I yield.

Mr. BENNETT. Does not the chairman believe that if we really feel that it is necessary to put a needs test in the social security program, it should be for some reason more urgent than foot care and dentures?

Mr. LONG. I would certainly think so.

Mr. President, the Senate voted today to provide $4 billion of additional income to people who are 65 years of age and older, and to the blind and to the disabled—$4 billion of additional income. The Senate—I think quite correctly—by unanimous vote regards that as a high priority expenditure. That is money which those people can spend however they wish. They can buy as many pairs of glasses as they think they need, and as many hearing aids, and they can secure the routine foot services they want. Would that not make better sense covering those items elsewhere?

Just to propose an amendment to bankrupt the social security medicare fund does not mean that Congress should be that irresponsible. If we take it to conference with the House, as though we were going there with a Christmas tree, I am sure that the House would not look on it seriously but might insist on knocking out the good things in the bill which the Senate conferees would want retained. This amendment would put us in an irresponsible light. Here is a proposal which appears to bankrupt the social security medicare trust fund by $2.5 billion a year. Suppose some of us with a sense of responsibility should insist on putting additional taxes on the amendment to pay for it, what would that mean?

The average family with $10,000 a year would have to pay some $25 a year more in taxes for this. The employer would have to pay another $25 a year.

As a practical matter, everyone knows that the social security tax goes into the cost of doing business. When the consumer buys something, he is absorbing the cost of the social security tax, plus other expenses and what it takes for the American businessman to make a profit; so that, in the last analysis, the average working family would have to absorb another indirect tax of $25 a year. In other words, $50 a year in taxes from the average working family in order to provide a service to those not necessarily needing it and for a very low priority type of expenditure.

I would say, Mr. President, that the people of this country, looking at all the needs we have elsewhere, would not approve of this. They would not approve of us bypassing other high-priority items, such as those I have suggested on occasion, such as catastrophic insurance so that we would be able to help those who have to spend $5,000 or $10,000 in meeting medical bills in a single year. We would be able to help with those medical expenses, rather than let a person die or go bankrupt because he needs a kidney transplant or dialysis or other things which are so enormously expensive—for diseases which last a very long time.

This amendment would bypass those things which are essential, things which are a matter of life or death, and we would spend money on things which people should and could budget and be able to take care of for themselves.

The Senator has modified his amendment to reduce the cost by $1 billion, but it is still altogether too high. People find ways to meet these problems.

This is not the kind of high-priority item that would compare to other items in H.R. 1. In H.R. 1, we are increasing medicare benefits, I believe, by about $3 billion a year. Just look at some of the items of cost here. For drugs for the aged, we require that they pay $1 toward the cost of a prescription and we will provide the rest, but not for everything, because if we did, it would cost a great deal of money to try to do the whole thing. We do not provide drugs in many situations. We provide only so-called maintenance drugs to keep the cost of the program down to about $700 million. We could have approved drug proposals that would have cost $3 billion and they would have higher priority claims than this present amendment would. We could have provided catastrophic insurance proposals that would have cost $2.5 billion, about the same cost as this amendment, or provided much more desperately needed services. But we restrained ourselves from doing that because of the

taxes necessary to pay for what we have already provided.

We could have provided additional days in the hospital beyond what we do now, but we did not do that. We could have eliminated the part B and part A deductibles. Everyone knows that under part B, which is the doctors' part of medicare, aged people pay $50 a year and they pay $68 now under part A when they go to the hospital.

We could have eliminated those requirements. It would have claimed a higher priority than optional eyeglasses for what people should be able to budget for themselves when they need a change of eyeglasses. But we did not provide for that because it would cost a great deal of money. So there are many other things in the bill which claim a higher priority by any fair standard.

This amendment claims a lower priority than some of the recommendations of the administration which were left out. It claims a lower priority than many of the recommendations the committee left out. It is a low priority. It means that, so far as the average American family is concerned, they would have to pay some $50 a year in additional taxes just to provide for something that claims such a low priority that 18 States do not provide for these items even though the Federal Government will put up from 50 to 83 percent of the cost of doing it.

For example, in Mississippi, the Federal Government will pay 83 percent of the cost of providing these services for the needy, and they do not provide it because other things claim a higher priority on the tax money of the people in Mississippi. They use the available money for things that the people need more, those required to keep people alive and to protect their health. With 83 percent Federal matching, the State still has not elected to provide coverage for those lower priority needs.

The Senator would now suggest that we do it for those that do not need it. I would say that if we are going to do something of this sort, the starting point would be not to do something which would cost the average working family $50 a year in taxes that they would have to absorb out of their incomes. We could provide that under medicaid we would do all of this for people in need and pay 100 percent—and it would cost only a fraction of what he is suggesting in here. That would be the logical way, but that would not achieve the Senator's objective. We already have those services in the State of Rhode Island for anyone who has need of it. All the Senator wants is to provide for those who have no need for it.

This would be a most unwise thing for the Senate to do, particularly without providing one nickel in revenue to pay for it, to ask Senators to go to a conference with the House with a proposal that would bankrupt the social security medicare trust fund. That, to me, does not make any sense at all.

I urge that the amendment be rejected.

Mr. PELL. Mr. President, I have listened with interest to the distinguished chairman of the committee. I understand his viewpoint, yet I would point out that yesterday, without a limitation, the Senate in its wisdom almost agreed to this amendment. It was six votes short, I think. I have sought, in order to make the amendment more acceptable to my colleagues, to bring in an income limitation so that, as the Senator from Utah pointed out, one great means would not benefit from this amendment.

For that reason I brought in an income limitation which I thought would have made it more acceptable, not less acceptable.

As far as whether foot massage and corn removal could be included, I would think those would be excluded, because the amendment very carefully specifies that the regulations for establishing the service limits will be promulgated by the Secretary of Health, Education, and Welfare. I would very much doubt whether any Secretary of Health, Education, and Welfare would permit foot massage and corn removal to be within the scope of those regulations.

As far as irresponsible legislation goes, as to priorities, this is truly a question of priorities. When we raise the Defense Department budget by $4 billion, when we scatter military assistance all around the world, I think that is a question of mistaken priorities. That is irresponsible legislation from my viewpoint. If when we give dentures, glasses, hearing aids and podiatric care to older people it is to be irresponsible legislation and if it is said that to do these other things is responsible legislation, then I want to be for irresponsible legislation, if that is the definition of it, because to my mind this is where the national interest is, I believe our people need these things, and their not having them is wrong.

Another advantage of this amendment would be that it would reduce the forcing of older people to go on medicaid, which is a greater expense to the American taxpayer and with a loss of their own dignity, sometimes just to acquire hearing aids and eyeglasses and things of that sort that they need.

I realize there are other important elements in H.R. 1 that were dropped because of so-called fiscal responsibility.

I myself had one amendment that was considered by the committee that would drop the deductible plans in A and B. I am not pressing that at this time. I realize the expenses involved. I do think it should be adopted eventually.

This pending amendment simply provides that eyeglasses, dentures, hairing aids, and podiatric care should be made available to those of our citizens with adjusted gross incomes of less than $3,000 as an individual and $5,000 as a family. It is not an irresponsible type of legislation. It is a proper question of priorities.

I would very much hope that this amendment would be accepted.

Mr. LONG. Mr. President, with regard to the podiatric services which the Senator's amendment would provide, the medicare program already provides for nonroutine podiatric services. In other words, if an aged person breaks his foot or if he has to have an operation to remove some growth that impedes or impairs his walking or if he has anything that could be described as a nonroutine podiatric service, that is already taken care of in medicare.

The only thing that the Senator's amendment would appear to afford so far as podiatric services are concerned would be routine services, such as the case of a man with fallen arches who would go to a podiatrist from time to time to let the podiatrist massage his foot or periodically remove some of his toenail or do the kinds of things that are ordinarily the routinely occurring type of service.

Those services that are nonroutine, that a person cannot budget or plan for in advance are already taken care of in medicare.

Mr. President, I hope very much that the amendment is not agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Rhode Island. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Alabama (Mr. SPARKMAN), the Senator from Missouri (Mr. SYMINGTON) and the Senator from Virginia (Mr. SPONG), are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN) and the Senator from Wyoming (Mr. MCGEE), are absent on official business.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. MCINTYRE), would vote "yea."

Mr. SCOTT. I announce that the Senators from Colorado (Mr. ALLOTT and Mr. DOMINICK), the Senators from Tennessee (Mr. BROCK and Mr. BAKER), the Senator from Delaware (Mr. BOGGS), the Senator from New Jersey (Mr. CASE), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Michigan (Mr. GRIFFIN), the Senator from Florida (Mr. GURNEY), the Senator from Wyoming (Mr. HANSEN), the Senator from Oregon (Mr. HATFIELD), 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.

On this vote, the Senator from Illinois (Mr. PERCY) is paired with the Senator from Texas (Mr. TOWER). If present and voting, the Senator from Illinois would vote "yea" and the Senator from Texas would vote "nay."

If present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 37, nays 34, as follows:

[No. 487 Leg.]

YEAS—37

Aiken	Hollings	Pastore
Bayh	Hughes	Pearson
Bible	Humphrey	Pell
Brooke	Inouye	Randolph
Burdick	Jackson	Ribicoff
Cannon	Javits	Schweiker
Church	Kennedy	Smith
Cranston	Magnuson	Stevens
Eagleton	Mansfield	Stevenson
Fulbright	Mathias	Tunney
Gravel	McClellan	Williams
Hart	Moss	
Hartke	Muskie	

NAYS—34

Allen	Dole	Nelson
Beall	Eastland	Packwood
Bellmon	Edwards	Proxmire
Bennett	Ervin	Roth
Bentsen	Fannin	Saxbe
Buckley	Fong	Scott
Byrd,	Gambrell	Stennis
Harry F., Jr.	Goldwater	Talmadge
Byrd, Robert C.	Hruska	Thurmond
Chiles	Jordan, Idaho	Weicker
Cooper	Long	Young
Curtis	Miller	

NOT VOTING—29

Allott	Gurney	Montoya
Anderson	Hansen	Mundt
Baker	Harris	Percy
Boggs	Hatfield	Sparkman
Brock	Jordan, N.C.	Spong
Case	McGee	Stafford
Cook	McGovern	Symington
Cotton	McIntyre	Taft
Dominick	Metcalf	Tower
Griffin	Mondale	

So Mr. PELL's amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, I ask unanimous consent that Mr. David Affelt, counsel for the Senate Committee on Aging, and Mr. Kenneth Dameron, professional staff member for the Committee on Aging, be allowed to remain on the Senate floor during the consideration of H.R. 1.

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

The bill is open to further amendment.

Mr. LONG. Mr. President, I am aware of the fact that other Senators wish to offer amendments. Therefore, I do not think we should go to third reading at this time. I would hope Senators who have in mind offering amendments would seek to have their amendments printed so that we may have them before us and analyze those amendments.

Unless other Senators care to offer amendments at this point, I suppose that is as much as we can do on the bill today. Those of us on the committee are ready to vote, but I understand that Senators who would wish to offer amendments are not prepared and are not ready at this moment, so I suggest that we turn to something else, and we will be here in the morning.

Mr. ROBERT C. BYRD. Mr. President, may I inquire whether any Senator has any amendment which he is ready to call up to H.R. 1?

I see no Senator who indicates he has an amendment ready to call up.

COMMISSION ON REVISION OF APPELLATE COURT SYSTEM—CONFERENCE REPORT

Mr. BURDICK. Mr. President, I submit a report of the committee of conference on H.R. 7378, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. BEALL). The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7378) to establish a Commission on Revision of the Judicial Circuits of the United States, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of September 28, 1972, at page 32755.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

THE CONSUMER PROTECTION ORGANIZATION ACT OF 1972

Mr. ROBERT C. BYRD. I therefore, Mr. President, ask unanimous consent, under the order previously entered, that the Senate turn to the consideration of S. 3970.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read the bill 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.

There being no objection, the Senate proceeded to consider the bill.

Mr. DOLE. Mr. President, I have submitted to be printed an amendment to S. 3970 which would strengthen the consumer's voice at the highest level of executive branch deliberations.

My amendment would revise title I of the bill by establishing an Office of Consumers Affairs in the White House—to be headed by a single Director who would serve also as the President's principal adviser on consumer matters—instead of the unwieldly, cumbersome, and, I believe, ill-conceived tripartite organization provided in the bill's current form.

I want to emphasize that my amendment will in no way weaken the bill. Rather, it will augment the consumer's voice over and above that which would result from the bill as it was reported.

I believe no one will dispute the fact that while the interests of consumers must be adequately and professionally represented in formal Federal agency proceedings, it is at least of equal importance that the consumer have an active and persistent voice within the deliberative processes by which any administration's basic policies are formed.

Recognition of the need for such a voice prompted President Nixon to establish by Executive order the first full-fledged office within the White House to serve as the guardian and advocate of the consumer at the highest level of Executive decisionmaking.

The organizational structure the President chose for this crucial function was that of the amendment I now propose. The same form was chosen by the House when it passed similar legislation last fall. Its most noteworthy feature is its single director—appointed by the President with the advice and consent of the Senate—instead of a triad of counselors who would be professional peers, yet, as "good soldiers," supposedly be subject to their chairman's direction.

It is said that giving the President three consumer advisers, instead of one, will provide the consumer with a more effective presence in the councils of executive branch policymaking. It is argued that if an office in the White House has been effectively giving voice to the consumer's interests with one director—and I could not agree more with the opening remarks of the distinguished senior Senator from New York concerning Virginia Knauer's outstanding record of accomplishment—then, surely three directors would be even better. But the Senator from Kansas finds it difficult to accept this proposition.

The report which accompanied this bill cites the Council of Economic Advisers and the Council of Environmental Quality as precedents for adoption of the tripartite structure for the President's consumer advisers. But close reading of the functions which the Congress gave the CEA and the CEQ will show that these organizations have little in common with the proposed Council of Consumer Advisers.

Both the CEA and the CEQ are contemplative bodies, composed of members with expertise in technical disciplines, which have as their principal missions preparation of an annual report to the Congress and the President. While each council's organic act specifies additional functions as well, nonetheless it seems clear that they were intended principally to analyze the broad posture of economic and environmental matters, form a general notion of where we are headed, and make annual recommendations based upon this scholarly process.

But the consumer's interests are not well served by such an ivory tower approach. Both the present White House office established by Executive order, and that contemplated by this legislation are charged with a more persistent, regular participation in policymaking.

Within such a framework the consumer needs a single White House spokesman who will continue to be a regular participant and catalyst in forming an administration's policies. This role requires a structure suited to accommodate the oversight and coordinating functions of such participation.

So we should look not to CEQ and CEA as models for the consumer's voice in the President's official family. The coordinating, oversight, and regular participation in executive branch policymaking functions now performed by the President's consumer adviser and her office are much more aptly compared to the similar duties of the Office of Emergency Preparedness and the Office of Science and Technology, with their single-director structures similar to that proposed by this amendment.

Though some may suggest that a three-member council would be capable of performing these duties even more effectively, the indicators are far from unanimous that this would be true. Recent history teaches the example of one new agency, the Law Enforcement Assistance Administration, which floundered in its beginnings when headed by a triad and which began to function properly only after it was reorganized under the direction of a single administrator. And just last year the Ash Commission which analyzed our regulatory agencies recommended, with but one dissent, that even these bodies be restructured from their multimember composition to agencies headed by a single, responsible individual.

Despite its shortcomings, the triad approach might have made some sense in the context of this bill as it was originally introduced, when the Administrator of the Consumer Protection Agency was required to be an advisory council member as well. But the bill's sponsors have, wisely I think, concluded that the independent, formal advocacy function of the CPA would be incompatible with participation in an administration's overall policymaking, and the bill now before us would not require the Administrator's membership in the advisory council. With this evolution of title I, there is no longer any structural reason to retain the council approach.

Clearly, therefore, the case for the three-member consumer adviser council has not been made. In addition, the organization of the Executive Office of the President is a matter upon which the President's own views should be given great weight. And on this point there can be no doubt. By supporting the approach adopted by the House in similar legislation and in his Executive order of last year, the President has unequivocally expressed his preference for a single consumer adviser to head the White House office. Experience with this office has demonstrated the efficiency and effectiveness of the single consumer adviser concept. The proposed switch to a much less efficient three-member council would disrupt current programs and involve considerable expense. In the absence of any demonstrated need for such reorganization, the basic structure should be retained. The consumer's interest will be better served in this arena by the rapier than by the blunderbuss. I urge that this amendment be adopted to assure the promise that this bill holds.

The PRESIDING OFFICER. The bill is open to amendment.

Mr. BELLMON. Mr. President, I rise to discuss title II of the Consumer Protection Act, S. 3970.

The PRESIDING OFFICER. Senators will please take their seats.

The question is on the amendment by the Senator from North Carolina.

The Senator from Oklahoma is recognized.

Mr. BELLMON. Mr. President, I rise to discuss title II of the Consumer Protection Act, S. 3970, and to urge the Senate to consider most carefully the provisions of this title. Although on previous occasions I have supported legislation which promotes and protects the interests of consumers, in my view, S. 3970, under the guise and high sounding phraseology of "consumer protection," if enacted, would result in a detrimental impact on consumers far in excess of any benefits which could be derived by the average American. Although I have no general quarrel with the idea of a governmental consumer advocate who has power to participate in agency proceedings which may affect the interests of consumers, I have some very serious reservations concerning the merits of this particular proposal.

At least two very basic issues must be resolved.

First, since the CPA will be empowered to intervene or participate in agency proceedings whenever the Administrator determines that a "consumer interest" is affected, we must consider the serious questions raised by this delegation of authority. Are consumers a monolithic bloc who have but one interest? Do they have one interest per agency? Per activity? Per issue? If not, whose interest will be represented by the CPA?

The committee report recognized that a diversity of consumer interests exists and that there is a potential conflict among consumers as to which interest or interests should be represented before a Federal agency. The committee report acknowledges this diversity and gives examples of it in considerations of auto safety and hexachlorophene controversies.

But let us pursue another example of diversity of consumer interests. The Federal Power Commisison regulates the transportation and sale of natural gas in interstate commerce. It exercises control over the rates of interstate gas from the wellhead to the city gates throughout the Nation. It also exercises control over the natural gas companies, including the acquisition, construction, and operation of their facilities necessary for the interstate transportation of natural gas for resale.

All these controls exercised by the FPC have some bearing on the availability of gas and the price to the ultimate consumer. Therefore, the interests of consumers are affected. Note that interests—including price and availability—are involved, and I stress the plural.

You may say, very well, the CPA can take part of FPC activities which bear on these interests, and if dissatisfied with the outcome, CPA can sue FPC or participate in any court review if someone else sues. S. 3970 authorizes more. The CPA can take part in activities of the Tariff Commission when imports of natural gas are considered. The CPA can take part in activities of the Department of Transportation, concerning the safety aspects of pipeline transportation of natural gas. The CPA can take part in activities of the Department of the Interior in relation to its responsibilities under the Defense Production Act of 1950, as amended, concerning natural gas. The CPA, in fact, can take part in the activities of all other agencies concerning classification and appraisal of our Nation's resources, of leasing of public lands for development of our resources, and in many other ways participate fully in all activities which bear on the natural gas industry—even down to what would appear to be the ultimate in objectivity, the activities of the National Bureau of Standards, in establishing applicable standards.

By engaging in selective activities of the various agencies, the CPA could effect overall policy beyond the purview of any of these agencies. If rejected at the agency level, the CPA could seek court review of any activity. Thus, by a determination of a consumer interest to have a low price, for example, the CPA could relentlessly engage in several Federal agencies given some responsibility over activities of the natural gas industry. And, because it would be a forceful advocate, with more power than any other party and with enormous resources at its command, it could work its special interest will no matter what the larger public interest may require.

However, in so doing, the CPA could diminish domestic supply by reducing incentive for continued exploration and use of reserves, and thereby make the United States dependent upon high priced, unreliable foreign sources of gas. This would contravene the policy regarding strategic materials. It would also trade off long range consumer interests in favor of short range consumer interests. The question is, would the officials at CPA be wise enough to choose the course which serves consumers best and strong enough to take such action. There is little evidence that existing Government agencies are made up of such descendants of Solomon.

It should be emphasized that we are told that the CPA cannot consider these other public interests. The Committee report states on page 12:

> 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.

There it is. The CPA cannot consider broad national interests, for that is not a consumer interest as defined in this bill.

Yet we are asked to give the CPA vast and unprecedented powers.

While the CPA may recognize the existence of a variety of consumer interests, it is not obligated to represent all of them. It can select one interest and pursue it almost without limit. In fact, in the case of conflicting consumer interests, CPA will have to take sides among its own constituency. It is true that CPA technically is a nonregulatory agency. But, clearly, CPA will regulate the regulators and attempt to publicly spank them in court whenever they take a public interest position which CPA officials feel conflicts with the special short range interest of consumers. And still, who is to say what is a consumer interest—no one but the Administrator of the CPA—this is simply too much power to place in the hands of one man. This and this alone is enough to reject this bill, but another basic issue must be considered.

Once it has been determined that a consumer interest is involved, how much "discretionary power" are we willing to confer upon the Administrator of the Consumer Protection Agency? Although the central purpose of the new Consumer Protection Agency—to represent in Agency and court proceedings the interest of American consumers—is simple, the problems in this legislation go far beyond the concept of whether to establish a new consumer advocate, and extend to the question of precisely what powers this advocate should possess and be able to exert throughout the Federal Government.

In order to answer this difficult question, we must analyze the effects of this new Agency upon the workings of Government. My own view is that the present version of the bill glosses over many problems which must be squarely confronted and solved before this bill is enacted into law.

I refer to section 203 of the bill because all parties have generally agreed that this section represents the "heart" of the new Agency's role. Section 203(a) confers upon CPA an absolute right to intervene or "otherwise participate" in every Federal agency proceeding which is subject to the Administrative Procedure Act, or which is otherwise conducted on a record after opportunity for an agency hearing. Although the CPA must comply with certain rules of procedure once it has intervened, the question of whether to intervene or participate is entirely subject to the discretion of the CPA Administrator. In addition, section 203(a) permits a range of participatory status for CPA, the choice of which in any particular proceedings is left entirely to the discretion of the CPA Administrator. This element of discretion is stated in a curious way in the last sentence of section 203(a), which appears to urge CPA to seek less than party status wherever possible. But it also makes it absolutely clear that if CPA regards full-party status as a necessary form of participation, it may choose that full-party status without the obligation to consult with the host agency in whose proceeding CPA has determined to intervene.

Having examined the contents of section 203(a), we must ask the question: What effect does this provision have upon the workings of most Federal agencies? In so doing, we must note that the definition of "Federal agency" in section 401(9) of the bill includes Cabinet Departments and the Executive Office of the President, as well as the Federal agencies. Therefore, it is quite clear that this bill would create nothing short of a "super agency" or "super lawyer" or whatever with broad powers to interject itself into the regulatory activities of every Department, agency phase of the executive branch of Government.

In my opinion, section 203(a) simply goes too far in the direction of permitting this consumer advocate to exert a destructive impact on the manner in which the executive branch enforces the legislation which Congress has delegated for its administration.

Let me illustrate: Consider for a moment the fairly typical situation of a Federal agency which has instituted an adjudicatory proceeding against a defendant to determine whether he has violated Federal law. These kinds of proceedings are instituted by a great number of Federal agencies—notably the Department of Justice, the Federal Trade Commission, the Securities and Exchange Commission, and others.

Assuming for a moment that there is some reasonable claims of a "substantial consumer interest involved" in the particular proceeding, section 203(a) would then come into full play.

Under its language, CPA would have an absolute right to intervene as a full party if it so chose or to participate in some lesser status if its own sense of priority and policy dictated such a lesser status. For purposes of analyzing the likely consequences of section 203(a), we will assume that in this particular proceeding CPA opts for full-party status because it regards that status as necessary for the adequate representation of consumers.

It must be kept clearly in mind that this word "party" is a legal term of art, a status which carries with it an important collection of rights, some of which are described in the committee report on page 27. It is fair to say, in fact, that intervention as a party in a proceeding conducted by a Federal agency will give CPA a collection of rights which will place it in a precisely equal status to the defendant or respondent in these proceedings of law. While this fact has concerned a number of Senators because of the way in which CPA party status might affect that defendant or respondent, I will concentrate my discussion of this matter on the way in which CPA full party status will affect the control of an administrative litigation by the agency responsible for instituting it.

In order fully to comprehend this affect, it is necessary first to recognize that enforcing agencies—like everything else in this world—must make choices between competing priorities and among various possible policies which they might pursue. This is so because no agency possesses unlimited resources, unlimited funding or an unlimited amount of time in which to pursue its enforcement mission. These restricted resources, however, must somehow be parceled out so that the enforcing agency can do as good a job as possible in pursuing its regulatory aims. Since it is simply impossible for the Federal agencies to pursue every complaint of wrongdoing to the point of full litigation, other devices have been developed to enable them to do their jobs by methods which require less than the full-scale commitment of resources which a typical litigation calls for.

One example of the ways in which Federal agencies have sought to narrow this gap between enforcement opportunities and enforcement capabilities is by the device of the consent decree, consent judgment, or other types of negotiated settlement which avoid the need for a formal prosecution of every alleged violation of Federal law. Many Federal agencies have found that the law can be enforced more comprehensively and more effectively in this way than by the bringing of a relatively small number of litigations—whether administrative or judicial—against a limited number of defendants.

The ability to take advantage of these types of negotiation procedures depends upon mutual consent of the parties, and in this setting consent will be required of all the parties to that particular proceeding. Thus, if section 203(a) of this bill is enacted in its present form, it will no longer be sufficient for an enforcement agency and the defendant to come to terms over a negotiated settlement. Instead, in any case where CPA has also become a party to the particular proceeding, it may be necessary to obtain CPA's negotiated consent to any resolution of the case before settlement occurs.

In these circumstances, section 203(a) injects an entirely new fact into the present administrative facts of life. No longer would an enforcing agency be free to decide, for instance, that with respect to a certain type of law violation every effort will be made to assure compliance by means of consent settlements rather than full litigation. No longer will the enforcing agency be able to plan in advance the proportion of its resources which it chooses to invest in a particular kind of litigation, because no longer will that enforcing agency be dealing only with one other party. Instead, its proposal for settlement must also satisfy a new party to the proceeding, who will have his own priorities and policy judgments which he is seeking to pursue.

Thus, in any particular case the administrative prosecutor in charge of an adjudicatory proceeding for violation of law can no longer negotiate on a one-to-one basis with the defendant in that proceeding. Rather, his decisions whether to proceed to negotiation, to force the matter to a litigation, or to terminate the proceeding because of facts which have been brought to light by the defendant or by his own staff, will no longer be in the prosecutor's hands alone. Once the proceeding is instituted, every party to that proceeding—including

CPA—must concur in these types of judgments and these types of policy determinations before they can be put into effect.

There is no way of knowing for sure, of course, the extent to which this potential distortion of prosecutorial control might become a reality. There is no way of knowing, under present section 203(a), to what extent and in which types of proceedings CPA will decide to become a full party. But we do know that under the present version of the bill there is an undetermined potential for massive disruption of the policy orientations and priority judgments which each enforcing agency presently makes according to its own good-faith judgment of what will best serve the public interest. We do know, under the present language of section 203(a), that there is no way whatsoever in which any particular enforcement agency can assure itself that it will in fact be able to pursue the enforcement policies and the priority judgments that it does make.

I submit that a provision like 203(a), which leaves the entire Government in doubt as to these very practical and fundamentally important issues, is inherently an unwise statutory provision. I submit, further, that, in order to render it a sound provision, we must make an effort to inject into this section a protected zone of discretion for the enforcing agencies, so that they can retain some measure of control over the extent to which CPA participation will result in alterations in the policies and priorities which they otherwise would pursue. Further, I submit that we can do this easily by stating that the form of CPA participation in any adjudiciatory proceeding where enforcement of the law is at issue be subject to the discretion of the enforcing agency before CPA begins to participate. I am not for a moment suggesting that the question whether CPA can participate be subject to any host-agency control, but only that the host agency have some measure of control over the form of that participation, so that its own enforcement scheme can be administered as it sees fit and as Congress originally envisioned.

With changes like these in section 203(a), we will go a long way toward answering the objections to the present version which were voiced, for example, by the Department of Justice when it expressed the view that CPA's powers of intervention pose a threat to the "orderly and effective dispatch of the public business in the public interest." We would also answer the Department of Justice's point that the "exercise of prosecutorial discretion is a delicate and sensitive task best left to the branch of Government chosen by Congress to conduct litigation involving the interests of the Federal Government."

By dwelling at length on the problems inherent in section 203(a), however, I do not mean to minimize certain other problems raised by this bill which are equally in need of solutions. Perhaps foremost among these involves the issue of CPA participation in Federal agency "activities" under section 203(b). By the word "activities," the bill means "any agency process, or any phase thereof, conducted pursuant to any authority or responsibility under law, whether such process is formal or informal." While the definition in section 401(4) also specifies that "activity" does not mean any particular event within the agency process, it is clear from the definition that the use of this term is intended to cover the entire world of administrative activity which is not included within the structured proceedings described by section 203(a). In other words, the word "activities" means everything that an agency does which is left over after the formal proceedings are isolated.

Section 203(b) suffers from one particular shortcoming that section 203(a) does not share. This shortcoming is a frustrating lack of clarity of meaning, which in effect would force every agency of government to guess at what its rights and responsibilities are vis-a-vis CPA participation in all of its activities. The first part of what CPA can do in these activities is fairly straightforward. Under paragraph (1), CPA is given an absolute right to present information, briefs, and arguments—in oral or written form—to responsible agency officials. This provision seems clearly designed to assure a measure of CPA input in all agency activities which substantially affect the interests of consumers and with respect to which CPA determines that its participation would be helpful.

But there is a second participatory provision in section 203(b) which is not so clear and not so free of problems for the functioning of government. This second provision, which is contained in paragraph (2) of subsection (b), seeks to assure CPA an "equal opportunity" to that of any person "outside the agency" to participate in any agency activity. While it also specifies that this participation need not be simultaneous with the participation of any outside person, it does create a tremendous problem of interpretation by its use of the "equal opportunity" concept.

I am well aware of the difficulty which the drafters of this provision must have experienced in formulating a provision to guaranty consumer input on a par with the input from other interests. I am also sensitive to the fact that this particular provision has been the subject of a great deal of excited invective and bombastic condemnation which have done little to advance a mature analysis of its meaning.

But I must say, in all honesty, that the "equal opportunity" concept which this provision attempts to inject into every facet of administrative action is difficult to describe without coming to the conclusion that it is a hopeless morass of confusion and an invitation to administrative paralysis.

I say this for a number of reasons First, to equate CPA's participation with the hypothetical or actual opportunity to participate of some other hoypothetical or actual participant makes very little sense in light of the different purposes for which outside persons may be called upon to participate in administrative activities. For example, some outside persons participate only by responding to subpenas or by answering investigatory inquiries. Others may express policy views or may respond by way of providing specialized or even general information. But the Administrator of CPA has only one function, and that is to assure that the consumer viewpoint is presented. His ability to fulfill that purpose has no necessary relationship whatever to the rights, obligations, or functions that may be served when others participate or have an opportunity to participate.

Second, the effort to equate CPA participation with that of other persons also makes little sense in terms of the mechanics of informal agency action. This type of nonstructured activity is conducted on a daily basis. It may be conducted by telephone; it may be conducted in face-to-face meetings; it may be conducted by correspondence; or it may be conducted in any other of the infinite ways in which any Federal agency may deal with the outside world. By trying to equalize these contacts to the types of contacts which must be available to CPA, section 203(b)(2) seems to be saying that a telephone conversation with an outside person creates an immediate obligation on the same agency official to provide an "equal opportunity" for CPA to have a telephone conversation of roughly equal dimensions with him. Similarly, if an agency official has asked an outside person for an economic analysis, this provision presumably means that CPA must be given an opportunity to submit a counteranalysis. I suggest that this kind of administrative straitjacket is nonsense in light of the realities of administrative life.

Third, because this "equal opportunity" concept makes so little sense in the context of administrative activities, the present formulation of section 203(b) would pose a serious threat to the very functioning of the administrative process. For one thing, it will be difficult for any agency to decide what this provision requires in any particular fact situation.

Even if an agency official can come to peace with an interpretation of what is required of him under this provision, it is by no means clear that it will be possible for him to equate CPA's opportunity with the opportunity of others while at the same time carrying out his own responsibilities. Finally, no matter what the agency official finally decides to do, he can never act with an assurance of finality because CPA will always have the authority to complain about the treatment it received and to seek court review—under section 210(e)(1)—on the basis of an undefined and senseless standard. Constant judicial review of this sort could, in turn, lead to an administrative paralysis the likes of which no one could seriously desire.

As a concrete example of the types of difficulties that might occur if we were to enact section 203(b)(2), suppose for a moment the pendency of a trade negotiation between officials of the United States and foreign interests under the General Agreement on Tariffs and Trade. Clearly the American officials in charge

of negotiating such a trade agreement would be acting under the auspices of a Federal agency as defined in this bill. Just as clearly, the trade negotiation itself would be an "agency activity" within the definition supplied by the bill.

Finally, since the term "person" is defined in the bill as anything but a Federal agency, there is also no doubt that the foreign negotiating team would be an "outside person" within the meaning of section 203(b)(2). In these circumstances, does the bill mean that CPA must, if it chooses, be made a full third-party negotiator with rights equal to the negotiators for the foreign interests? Does it mean that no agreement can be concluded without providing CPA with an equal opportunity to spend time discussing the proposed agreement with the two parties at interest?

I do not claim to be able to answer this question with absolute certainty, but the fact that it is raised at all by section 203(b)(2) gives some indication of both the ambiguity and the possible ridiculous results of that provision. This is not to say, of course, that it would be ridiculous for CPA to have a right to present its views on the trade negotiation pursuant to section 203(b)(1). But it seems to me that this sort of presentation of views is the maximum that is called for in both this example and most other examples that I can conceive of.

By the same token, we must keep in mind that section 203(b)(2) would apply as well to the functions of the Executive Office of the President. There is no exemption for the Executive Office either in the definition of "Federal agency" contained in this bill or in the definition of "agency" contained in the Administrative Procedure Act from which the bill's definitions are derived.

Since, then, the Executive Office will be a Federal agency, does this mean that whenever a Presidential assistant meets with a member of the public to discuss a topic of consumer interest—for instance, the possibility of a work stoppage in a major American industry—that CPA must be given an "equal opportunity" to participate in the consultation even if not simultaneously? Does it mean that the President himself cannot formulate and issue an Executive order without giving to CPA an "equal opportunity" to provide input on that order? I do not pretend to know for sure the answer to these questions. But I do know that they are raised by the cypher-like language of present section 203(b)(2). And since they are raised, it is incumbent upon the Senate to grapple with them and decide whether a provision like section 203(b)(2) should be enacted into law when it is impossible for anyone ever really to know its precise meaning.

Particularly with regard to questions which this provision raises with respect to forced participation in activities conducted by the Executive Office of the President, this uncertainty of meaning could actually lead us to a violation of the principle of comity between the legislative and executive, which is based upon the separation-of-powers principle of the Constitution. Since even Congress itself probably could not demand that Presidential assistants give a committee chairman an equal opportunity to participate in their activities, it seems doubtful, to say the least that we can establish a child of Congress to which we can accord more power than we ourselves could exert.

Thus, as well as facing us with a provision whose meaning is impossible to decipher, section 203(b)(2) is open to interpretations which are at one and the same time ridiculous in their results but supportable as a matter of statutory interpretation. It seems to me that what we should really be after in this bill is not the erection of a confusing standard like "equal opportunity," but rather an assurance that the consumer viewpoint will be accorded a hearing in the course of agency activities which substantially affect consumer interests. As I read this bill, such a hearing is already guaranteed by section 203(b)(1). The only thing that section 203(b)(2) adds is confusion, ambiguity, and an indication that the Congress is really not sure of what its own legislative language may lead to.

A similar kind of impression, incidentally, is also evident in the judicial review section of this bill. Section 204(a) speaks about CPA intervention or institution of proceedings for "review or enforcement" of Federal agency action. I am troubled by this language not because I quarrel with the concept of CPA participation in judicial review or even with the concept of CPA's bringing actions for such review. I do question, however, what the "enforcement" language is intended to add to the "review" language which already appears in this section.

I had always thought that the concept of judicial review already covered enforcement proceedings which were themselves the only vehicle for review of a Federal agency action. If this is so, why is it that the bill speaks in terms of review or enforcement rather than simply of "review" standing alone. I do not know the answer, but it does seem to me that the judicial review provision would be more precise and less ambiguous if it spoke only of judicial review, as its heading implies, and not of something called "review or enforcement," the meaning of which I am afraid is less than crystal clear.

The problems in the judicial review section, however, are obviously not of the same order of magnitude as those arising from the intervention provisions. The only provisions in this bill which are of a similar order of magnitude are those dealing with the authority given CPA to gather information. These, of course, must be considered in light of CPA's primary mission—as a partisan advocate of a private interest which CPA is expected to represent with all the vigor and force it can command. Because CPA is primarily an advocate for one private interest— albeit an important one—I am gratified to know that its derivative subpoena power set forth in section 203(e) is subject to the host agency's rules of practice and procedure. This is a necessary kind of formulation in order to assure that other parties to proceedings where CPA appears, as well as the agencies conducting those proceedings, do not have to contend with a "super-party" who is able to call upon information-gathering tools that are unavailable to other parties. Creation of such a super-party, of course, would seem directly at odds with the aim of this bill, which, as I understand it, is to fill the empty chair of consumer representation with a co-equal advocate who has the interests of consumers primarily at heart.

Unfortunately, however, the section 203(e) power—which provides equality for CPA in its use of compulsory process in proceedings—is not the only information-gathering authority contained in this bill. Even more unfortunately, the additional authority granted CPA does not seem to have been formulated in the same spirit of creating a co-equal party, rather than a super-party, in agency and court proceedings.

The worst example of this distortion of the equal party concept is represented by section 207(c). This section requires every Federal agency—and I have previously explored the almost unlimited scope of this term—to open its files to CPA access whenever CPA so demands. There is no provision for the exercise of discretion by the agency which receives such a demand. There is no mechanism for appeal to the President or the Congress of the question whether the type of information demanded by CPA is appropriate for disclosure by the other agency. There is only a flat legislative subpena of sorts against every regulatory agency, Cabinet Department and perhaps even the Executive Office of the President—if this is constitutionally permissible—to open its files on the unchallengeable request of one man, the Administrator. Much has been made of the fact that section 207(c) contains some exemptions from this subpena. But a close look at these exemptions will demonstrate just how woefully limited they seem to be.

First, there is an exemption for information classified for national security reasons. No one could argue with this exemption, but everyone can agree that it is a relatively limited type of information which it covers. Next, there is an exemption for something called policy recommendations by agency personnel which are intended for internal agency use only. Notice that this exemption does not cover internal memorandums of all types but merely those which can be termed policy recommendations. So we have a very limited scope of operation for this exemption, and we discover from page 48 of the committee report that this exemption is so narrow as to be almost meaningless. It does not appear, for instance, that the policy recommendation concept will cover investigatory files, even when the investigation in question is still pending and even when such a file may never have reflected any actual violation of law. It also does not cover a whole host of other kinds of internal agency documents, like, for instance, the notes and drafts of hearing examiners and commissioners in a pending case or, apparently, the written advice of agency counsel to a hearing examiner or commissioner. In sum, an agency which receives a demand to open its files to CPA will be hard put to rely upon the policy recommendation exemption to refuse that demand.

The third exemption deals with routine executive and administrative functions such as the internal management of the agency and the internal delegations of authority within the agency. Once again, this exemption is hardly of a type to cover a very broad scope of information.

The fourth exemption is stated in terms of an exemption from the Freedom of Information Act and concerns personnel, medical and other files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Once again, the scope of this exemption is very narrow, and there is no reason to believe that it would be interpreted any more broadly than the identical language of the Freedom of Information Act.

Finally, there is an exemption from forced disclosure of information which a Federal agency is expressly prohibited by law from disclosing to another Federal agency. On its face it is difficult to interpret what this exemption in fact covers. This very uncertainty, as a matter of fact, is one of the weaknesses of this section. But I suspect that the type of information which one Federal agency is prohibited—as opposed to permitted—to refrain from disclosing to another agency is very small indeed.

A more fruitful way of gauging the scope of section 207(c) is to list the types of information which are clearly not exempted from forced disclosure to CPA. These include—in addition to the Hearing Examiner and Commissioner materials previously mentioned—such things as information concerning personal matters which have been uncovered during an agency investigation or with respect to which the right of privacy has been waived for a limited purpose; confidential business or other information submitted voluntarily or under compulsion, or in the understanding that it was to be treated confidentially; and other documents which the collecting agency had become privy to only because the persons submitting those documents had been assured that they would go no further.

Leaving aside for a moment the question whether it is fair to opposing interests to provide a partisan advocate with this kind of access to information in agency files, we should dwell first upon the effect of this provision on the operations of the entire Federal structure. While many Federal agencies collect much of their information by compulsory process, I think it is fair to say that most of the information which agencies need and receive is submitted voluntarily on the understanding that it is to be put to use only by the agency which receives it. In this way, for instance, the Department of Commerce is able to collect much data on business trends in this country. In this same way, the enforcement agencies of government are often able to discover information voluntarily because the person submitting that information is eager that the enforcing agency become aware of it.

But what will happen to this constant voluntary stream of information from the outside world if the people who normally submit it become aware of the fact that it can be forced out of the receiving agency's files merely upon the request of CPA? We have no way of knowing the answer to this question, of course, but the possibilities for bringing to a screeching halt the free flow of information from the private sector to the public sector are clearly implicit in this section.

Even aside from this crushing effect on the ability of other Federal agencies to maintain an exchange of information with the private sector, we must be aware that section 207(c) virtually destroys the careful balance between CPA and other advocates which section 203(e) attempts to establish. Senators will recall that section 203(e) subjects CPA subpena requests to the rules of practice and procedure governing the particular proceeding. In itself, this is a salutary provision, because it means that CPA will have no unfair advantages over parties against whom it may be litigating. But where is there a similar protection against the use of information which CPA may gather from other agencies against persons about whom that information speaks? Where is the equality of advocacy which is the basic concept, as I understand it, of this bill? I suggest that this concept has been lost sight of in the zeal to provide a crushingly strong and effective advocate for the consumer interest. I further submit that losing sight of this principle of equality makes a mockery of the central aim of this bill, which is supposed to be the establishment of a nonregulatory partisan advocate, and not a superagency or a superparty in agency proceedings.

Thus, I would suggest that section 207(c) is in need of the same sort of limitation that section 203(e) presently contains. That is to say, that CPA should be permitted to obtain from its sister agencies the same sort of informational background that an outside advocate would be able to obtain from the same agency. To provide CPA with less power would mean rendering it a weak advocate for the consumer interests. But to provide it with more is to render CPA not an advocate at all but a superagency which has more power to demand and use all the data ever collected by the Federal agencies than any other instrumentality of Government.

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

The PRESIDING OFFICER (Mr. INOUYE). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE BUSINESS TOMORROW, FOR H.R. 1 TO BE LAID BEFORE THE SENATE, AND FOR S. 3970 TO BE TEMPORARILY LAID ASIDE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders conclude their remarks under the standing order, there be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements limited therein to three minutes, at the conclusion of which the Chair lay before the Senate H.R. 1, and that the unfinished business, S. 3970, be laid aside temporarily, and remain in a temporarily laid aside status until some hour during the day to be determined by the distinguished majority leader or his designee.

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

ORDER FOR H.R. 1 TO BE LAID ASIDE TEMPORARILY TOMORROW AND FOR SENATE TO PROCEED TO CONSIDERATION OF DEFENSE APPROPRIATION BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at some hour tomorrow, to be determined by the distinguished majority leader or his designee, the welfare bill, H.R. 1, be laid aside, and that the Senate then proceed to the consideration of the defense appropriation bill.

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

TIME LIMITATION AGREEMENT ON HEW APPROPRIATION BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the bill making appropriations for the Department of Health, Education, and Welfare is called up and made the pending business before the Senate there be a time limitation thereon of 3 hours on the bill, with 1 hour on any amendment; that time on the bill be controlled by and divided between the distinguished Senator from New Hampshire (Mr. COTTON) and the manager of the bill, the Senator from Washington (Mr. MAGNUSON); that time on any amendment to an amendment, debatable motion, or appeal be limited to 30 minutes; and that the agreement be in the usual form.

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

QUORUM CALL

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

THREE AMERICAN PRISONERS OF WAR REACH UNITED STATES

Mr. MANSFIELD. Mr. President, we are all glad that the three American prisoners of war are home at long last. It has been a voyage of difficulty for those three Americans. An editorial appeared in yesterday's Christian Science Monitor entitled "Three Prisoners and the War," which I ask unanimous consent to have inserted in the RECORD at this point.

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

THREE PRISONERS AND THE WAR

The three prisoners on their way home from Vietnam were in a miserable position which is itself a characteristic of the miserable war which caught them up and imposed conflicting duties and responsibilities upon them.

As commissioned officers in the American armed forces they were under U.S. military discipline and should have reported to an official of the U.S. Government at the earliest possible opportunity. That occurred at the Moscow airport when an embassy official offered them lodgings at the embassy and passage back to the United States via American military aircraft.

But they had contrary obligations as human beings concerned about the fate of the other Americans still in prison back in Vietnam and as men on whose behalf promises had been made to the North Vietnamese Government as a condition for their release.

There is no possible way of reconciling those obligations. The three men were caught, and they will continue to be caught, in the ambiguities of an ambiguous war which is in itself the greatest of ambiguities because it is one of the most vicious and destructive of all wars and yet is not technically or legally a war.

The Congress, which under the American Constitution has the exclusive ability to declare war, has never declared it to be a war. Three American Presidents—Kennedy, Johnson, and Nixon—have ordered American soldiers into combat in Vietnam under their powers as Commander in Chief of the armed services. Yet none asked the Congress for a declaration of war or even seriously considered doing so.

This is the biggest and longest undeclared war in American history. It is a war in every factual sense. In terms of wreckage of human lives and numbers killed it has done to Vietnam and its people what the Thirty Years' War did to the Germans.

A committee of the Congress is proposing a law to prevent individual Americans from going to Hanoi, as did those antiwar movement people who arranged for the release of these three prisoners. And yet it would certainly be a denial of constitutional rights of the citizen to pass any such law. A citizen should be free to travel except to an enemy country. There is no legal enemy without a legal declaration of war by the legally constituted authority, the Congress.

This war that isn't a war has seized three human beings and put them into a situation where they must choose between their obligations to the United States as commissioned officers and their obligations to those who secured their release and to their comrades left behind. Whatever they do or say will be used as propaganda either by Hanoi or by Washington. There is no clean, clear, honorable way out. Their personal problem is as tragic as is the war itself which has long outlived whatever theoretical justification ever existed for it. The real rationale for it—the alleged menace of Communist China—disappeared the moment President Nixon announced his new policy toward China.

This predicament of three young men is relatively small against the monstrous destruction of human life and values which still continues. Yet the story is graphic. It calls our attention to the unsatisfactory nature of this war and to the fact that it still continues and still poses ambiguous problems which defy clean solutions.

The moral of it is, however, simple. The United States should get out of this war at the earliest possible opportunity. We can only hope that Henry Kissinger is on his way to such an end.

THE UNCERTAINTY OF SCHEDULING SATURDAY SESSIONS

Mrs. SMITH. Mr. President, I ask unanimous consent to have printed in the RECORD a letter I have today sent to the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD), the majority whip, concerning the uncertainty of scheduling Saturday sessions.

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

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., September 29, 1972.

Hon. ROBERT C. BYRD,
Majority Whip, U.S. Senate,
Washington, D.C.

DEAR SENATOR BYRD: I was on the Senate Floor yesterday at the close of the session when you announced the program for today. I have this morning read the RECORD. I note your notice that "hopefully Senators will be ready to call up amendments on which yea-and-nay votes could occur." However, I note that no notice was given with respect to tomorrow.

As you may recall, I have refrained from asking for accommodation with respect to the scheduling of roll call votes although I make every effort to be present on all roll call votes. I have refrained from doing so because I do not want to be a party to accommodations that delay the work and schedule of the Senate.

However, I do wish to express a desire that the members be given greater definitiveness on the schedules for Friday afternoons and Saturdays. A week from this past Thursday it was announced that there would be four roll call votes on last Saturday. When this was announced I gave notice back in Maine of cancellation on speaking dates for Friday and Saturday and cancelled my airline reservations. Then on mid-Friday it was announced that there would be no session on that Saturday.

I have a half dozen meeting commitments for tonight and Saturday in Maine. I have informed the persons in charge of those meetings at which I am scheduled to attend that I will have to cancel out because of being told yesterday that the Defense Appropriations bill will be brought to the Senate Floor for debate and voting and passage tomorrow. But there has been serious speculation that it will not be possible to get a quorum tomorrow because of the anticipation of so many absentees and that consequently there will be no request for roll call votes tomorrow.

Those of us who are trying to do our duty of staying here for roll call votes and to muster a quorum in order to do Senate business, and yet get back home for our election campaigns, are put in a most unfair position by the uncertainty as illustrated this past weekend and this weekend. If we stay here when we have been warned that there will be roll call votes and then there are no roll call votes, we are then given the image back home that after all we could have been back in the state. On the other hand, if we return to the state and there are roll call votes then we have the image of being derelict in our duty.

I realize that the Senate leadership cannot control or anticipate what all of the Senators might do on requesting roll call votes. But, on the other hand, it is quite often that the Senate leadership itself determines and requires roll call votes, even on some matters on which there is not a single dissenting vote cast.

I am not asking for any accommodation from the Senate leadership. If you desire and decree roll call votes and quorum calls on late Friday afternoon and on Saturdays I shall continue to cancel my meetings back in Maine.

However, all that I ask is that the Senate leadership let us know by Friday noon one way or the other what the Senate leadership itself has decided on roll call votes on Friday afternoons and Saturdays—so that we can plan to either be here to answer roll call votes or we can be back in the state keeping our commitments on meetings.

Sincerely yours,

MARGARET CHASE SMITH,
U.S. Senator.

NOTICE TO SENATORS REGARDING SATURDAY SESSIONS

Mrs. SMITH. Mr. President, I have been in and out of the Chamber all day, attending committee meetings this morning and this afternoon, in an attempt to find out just exactly what is going on tomorrow in the Senate.

I would like to ask the majority leader if any specific statement has been made as to what is to be done and whether there are apt to be any votes tomorrow.

Mr. MANSFIELD. Mr. President, the Senate will come in at 9:30 tomorrow. I do not know whether an order has been entered into, but it is our intention to file a motion for cloture tomorrow on the Consumer Council bill. It is our intention to take up H.R. 1 tomorrow. It is my understanding there will be at least one vote in the form of an amendment, perhaps others. I would hope so. It would be our hope that we would get started on the Defense appropriation bill, if at all possible.

Mrs. SMITH. I will ask the majority leader if it is expected that there will be a quorum here.

Mr. MANSFIELD. Yes, it is.

Mrs. SMITH. I ask these questions, Mr. President, because word has just come to me that Senator JACKSON has already informed the White House that there would be no votes on the Defense appropriation bill tomorrow because of the possible lack of a quorum. I wondered why, if such a statement had been made through the authority of the majority leader, at least those of us who are on the committee could not know.

Mr. MANSFIELD. May I say to the distinguished Senator that no such statement was made by the leadership on this side of the aisle, and certainly if we had made a statement like that to any individual Senator, we would, if that ever happened, and in accord with how we try to conduct the affairs of the Senate, notify the Senate as a whole. We play no favorites. We view the Senate as an entity, and we try to do our best to keep the Senate as an entity informed as to what the situation is.

The Senator is aware of the fact that we are trying to get out by the 14th of next month. Whether or not we can make it, I do not know, but it is the leadership's intention to try to do so.

If my memory serves me correctly, the meeting tomorrow will be the second Saturday meeting this year. Others were contemplated, but because of various pressures, it was not possible to go through with the plans of the joint leadership on those occasions. This time we feel we have a responsibility and we feel that there is important legislation pending and we would like to dispose of it one way or the other.

Mrs. SMITH. Mr. President, I listened to the acting majority leader last evening before adjournment, and I heard nothing about a session on Saturday. I think he did not mention Saturday at all,

as I recall. This morning I wrote a letter to Senator BYRD and sent a copy to the distinguished majority leader, Senator MANSFIELD, and to the minority leader, Senator SCOTT.

I think my record is quite clear. I have never requested that legislation be delayed. I have stayed here many, many times so I would not be the cause of no quorum here. I have tried to keep a record on rollcall votes, but, more importantly, that a quorum would be present.

Last week I canceled my reservations, and you do not get reservations to go to Maine easily, after there was a unanimous consent agreement that there would be four record votes on Saturday. At about 2 o'clock on Friday afternoon, or shortly thereafter, it was announced that there would not be a session on Saturday. I had already canceled my reservations, and, with some trouble, I was able to get them back, so that I could keep my commitment on Friday night although I arrived at the meeting 2 hours late and a goodly portion of the group had left.

I talk about this because those of us who are running for reelection, who try to carry on and not delay the Senate's business—and I am in great sympathy with the majority leader on this—feel that perhaps if we could be more specific about whether there will be a session, and then it falls through, or whether there will not be votes, it would be very, very helpful.

If I send word to the meeting in Maine this evening, which I have already done, that I cannot be there because I could not get late reservations and I had to be here tomorrow because the Senate was in session and voting, and then if we were not in session and voting, I am not looked upon with very good favor, and the newspapers report that I am not present at the meeting because I said I was going to be in the Senate voting. If I go up there and then we are in session and voting, or the Senate tries to vote and we do not have a quorum, then I am in wrong on the other end.

I am just wondering if in the last few days of this session the majority leader and the minority leader could not get together and give us some assurance and time so that at least we could make our reservations or cancel them with some understanding of the program.

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

Mrs. SMITH. I yield.

Mr. MANSFIELD. The Senator has made a most reasonable request. I can understand her position. There is no more dedicated Senator as far as attending to the business of the Senate is concerned. The joint leadership has tried to work together to plan a schedule as far ahead as possible. The last cancellation which the distinguished Senator had to make was made as a result of a decision made at the last minute. If the Senator will recall, I took the floor that afternoon and expressed my personal embarrassment for what had occurred, and my personal apologies to Senators on both sides of the aisle who had been affected by this very late decision. But I want to assure the distinguished Senator that there was no choice in the matter and, under the circumstances, it was felt that that was the only thing which could be done in view of the situation which had existed, about which the majority leader did not know a thing until around the hour of 2 o'clock that afternoon. It was unfortunate. Again, I wish to apologize, but I want to say to the distinguished Senator that I expect a quorum here tomorrow, and if a quorum does not show up, then I think the Senate will be the loser because of what will occur. I expect at least one vote tomorrow on H.R. 1—hopefully more—and, if the Senate is willing, we would like to get started, on the defense appropriation bill.

But may I reiterate again that, as far as any Senator telling the White House or any other Senator or anybody else, apart from the leadership, that there will be no votes tomorrow, that there will be no quorum present, that individual has information which is not available to the leadership, and certainly the leadership had no connection with such a statement and would disclaim it completely.

Mrs. SMITH. May I ask the majority leader if it is his plan to keep the Senate in session until there is a quorum tomorrow, in case there is not one?

Mr. MANSFIELD. No. If it appears, after a reasonable, or perhaps unreasonable, period of time that a quorum is not here, then we will go over until Monday and we will have a quorum call first thing.

Mrs. SMITH. I asked that question because word came to me that the word by Senator JACKSON was that there would be no votes on the Defense Appropriation bill, but word also came through that there would be at least 45 absentees tomorrow. If it is known at this time that there are 45 absentees, I wonder how the majority leader can believe that there would not be more by tomorrow morning.

Mr. MANSFIELD. Well, I have a lot of faith in the Senate. Sometimes it is strained, but I still retain it, and I expect Senators to live up to their responsibilities and be here, just as the Senator from Maine does, even though it means a cancellation of some very important engagements in a very important campaign.

Mrs. SMITH. Mr. President, I will take the majority leader's word, as I always do, and cancel the rest of my reservations and send word through to Maine that I shall not be there for the several meetings I have scheduled tomorrow.

Mr. MANSFIELD. Mr. President, I hope that tomorrow does not make me a prevaricator, because if a quorum of the Senate does not show up I will be in the soup, along with the distinguished Senator from Maine and the others who will be in attendance.

So I urge the attachés on both sides of the aisle to call every Senator's office, to tell them that there will be a session tomorrow beginning at 9:30, and to request their presence in this Chamber.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

SALE AND EXCHANGE OF CERTAIN INDIAN LANDS

Mr. JACKSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 345.

The PRESIDING OFFICER (Mr. HRUSKA) laid before the Senate the amendment of the House of Representatives to the bill (S. 345) to authorize the sale and exchange of certain lands on the Coeur d'Alene Indian Reservation, and for other purposes which was to strike out all after the enacting clause, and insert:

That for the purpose of effecting consolidations of land situated within the Coeur d'Alene Indian Reservation in the State of Idaho into the ownership of the Coeur d'Alene Tribe and its individual members and for the purpose of attaining and preserving an economic land base for Indian use, alleviating problems of Indian heirship and assisting in the productive leasing, disposition, and other use of tribal and individually allotted lands on the Coeur d'Alene Reservation, the Secretary of the Interior is authorized in his discretion to:

(1) Sell or approve sales of any tribal trust lands, any interest therein, or improvements thereon.

(2) Exchange any tribal trust lands, including interests therein or improvements thereon, for any lands or interests in lands situated within such reservation.

SEC. 2. The sale and exchange of lands for the Coeur d'Alene Tribe pursuant to this Act shall be upon request of the business council of the Coeur d'Alene Tribe, evidenced by a resolution adopted in accordance with the constitution and bylaws of the tribe, and shall be in accordance with a consolidation plan approved by the Secretary of the Interior.

SEC. 3. Any moneys or credit received by the Coeur d'Alene Tribe in the sale of lands shall be used for the purchase of other lands, or for such other purpose as may be consistent with the land consolidation program, approved by the Secretary of the Interior.

SEC. 4. The Secretary of the Interior is authorized to sell and exchange individual Indian trust lands or interests therein on the Coeur d'Alene Reservation held in multiple ownership to the Coeur d'Alene Tribe, to any member thereof, or to any other Indian having an interest in the land involved, if the sale or exchange is authorized in writing by owners of at least a majority of the trust interests in such lands; except that no greater percentage of approval of such trust interests shall be required under this Act than in any other statute of general application approved by Congress.

SEC. 5. Title to any lands, or any interests therein, acquired pursuant to this Act shall be taken in the name of the United States of America in trust for the Coeur d'Alene Tribe or individual Indians and shall be subject to the same laws relating to other Indian trust lands on the Coeur d'Alene Reservation.

SEC. 6. The business council of the Coeur d'Alene Tribe may encumber any tribal land by a mortgage or deed of trust, with the approval of the Secretary of the Interior, and such land shall be subject to foreclosure or sale pursuant to the terms of such a mortgage or deed of trust in accordance with the laws of the State of Idaho. The United States shall be an indispensable party to any such proceedings with the right of removal of the cause to the United States district court for the district in which the land is located, following the procedure in section

1446 of title 28, United States Code: *Provided*, That the United States shall have the right to appeal from any order of remand in the case.

SEC. 7. The second sentence of section 1 of the Act of August 9, 1955 (69 Stat. 539), as amended (25 U.S.C. 415), is further amended by inserting immediately after "the Fort Mojave Reservation," the words "the Coeur d'Alene Indian Reservation,".

Mr. JACKSON. Mr. President, the amendment of the House to S. 345 made one change in the bill as passed by the Senate. The House amended the bill to delete the reference in section 2 to the acquisition of land because the only form of acquisition authorized by this bill is acquisition by exchange, and that subject is covered by section 3. The tribe has other land acquisition authority that is not affected by this bill.

Therefore, Mr. President, I move that the Senate concur in the amendment of the House to S. 345. It has been cleared on the other side of the aisle, and I understand that there is no objection.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington.

The motion was agreed to.

NATIONAL ENVIRONMENTAL DATA SYSTEM AND ENVIRONMENTAL CENTERS—CONFERENCE REPORT

Mr. JACKSON. Mr. President, I submit a report of the committee of conference on H.R. 56, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. HRUSKA). The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 56) to amend the National Environmental Policy Act of 1969, to provide for a National Environmental Data System, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of September 28, 1972, at p. 32813.)

Mr. JACKSON. Mr. President, in view of the fact that the House of Representatives, which has already filed the conference report on H.R. 56, has previously printed the report together with the joint statement of the conference committee, I ask unanimous consent that the printing of this report as a separate document by the Senate be waived.

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

Mr. JACKSON. Mr. President, the House had receded from many of its disagreements to the amendments of the Senate to H.R. 56, and in some cases the House receded with further amendments. However, there are several amendments which have been reported by the committee of conference in technical disagreement.

I am satisfied that with respect to those provisions on which the House receded or receded with an amendment, a reasonable compromise has been reached by the conference committee, and, therefore, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington.

The motion was agreed to.

Mr. JACKSON. Mr. President, with respect to those amendments which were reported by the committee of conference in technical disagreement, I move that the Senate further insist on these amendments.

The PRESIDING OFFICER. The clerk will report the amendments in disagreement.

The assistant legislative clerk read as follows:

Amendments Nos. 1, 2, 16, 21, 44, 65, 66, and 67, and the Senate amendment to the title of the bill.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington.

The motion was agreed to.

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

The PRESIDING OFFICER (Mr. HRUSKA). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE LAVELLE INCIDENT: DR. KISSINGER'S PECULIAR VIEWPOINT

Mr. HUGHES. Mr. President, the National Security Adviser to the President, Dr. Henry Kissinger, made some peculiar comments last week regarding the unauthorized bombing of North Vietnam under the command of Gen. John D. Lavelle.

In his press conference on September 16, upon returning from his most recent trip to Moscow, Dr. Kissinger was asked just one question in this regard.

Other significant matters occupied the attention of the press who covered the news conference, so it is not surprising that Dr. Kissinger's rather abrupt dismissal of the subject did not find its way into print.

But in the few words he spoke, Dr. Kissinger succeeded in raising some important questions that require public illumination, and it is for that reason that I now bring them to the attention of my colleagues.

A reporter asked Dr. Kissinger to assess the impact of General Lavelle's unauthorized bombing raids on the secret negotiations that Dr. Kissinger had been conducting with representatives of the Hanoi government.

Dr. Kissinger's first response was:

Of course, the North Vietnamese wouldn't know which raids were authorized and which were unauthorized.

The remark was intended to be facetious, and it elicited the intended laughter from those in the audience.

Viewed soberly, however, the comment implies a remarkably distorted view on the part of Dr. Kissinger of the facts of the Lavelle case.

Dr. Kissinger says the North Vietnamese would not know which raids were unauthorized. But precisely the opposite would be true, if we are to accept without further question the protestations of innocence that have been voiced by one high Government official after another regarding the Lavelle incident.

We have heard testimony and read public statements by persons all the way up the chain of command from General Lavelle that they knew nothing of these unauthorized strikes, until Sgt. Lonnie Franks disclosed them in a letter to me.

"The reports were falsified," these officials now say. "How could we have known?"

Precisely the point: It was the Government of the United States that presumably did not know which raids were unauthorized, because, it is argued, our Government's source of information—the afteraction reports on the bombing strikes—were being systematically falsified.

Mr. President, I am not yet ready to accept the proposition that nobody above General Lavelle was involved or cognizant of his activities, and Dr. Kissinger's statement, even in jest, strengthens my doubts.

It suggests that we did know which strikes were unauthorized and presumes, therefore, that the North Vietnamese did not.

On the contrary, the North Vietnamese were almost certain to know an unauthorized strike when they saw one. They knew the rules of engagement, in general terms—from the 1968 bombing halt understandings, from intelligence sources which I presume they have, from the numerous Presidential statements that have been boradcast "in the public interest" so frequently over the last 3 years and—most importantly—from their own experience.

For 3 years, the North Vietnamese had come to understand that, if they did not fire first, the American planes would rarely fire at them—until November 7, 1971.

On that date, under the command of General Lavelle, American fighter-bombers attacked an airfield in southern North Vietnam, the pilots under orders to expend their ordnance, regardless of enemy provocation, in an effort to destroy a Mig aircraft and to rupture the runway of that particular installation.

The next day, American fighter-bombers were ordered to attack another airfield farther north—again without regard to provocation.

What could the North Vietnamese assume, except that the United States had secretly decided to abrogate the 1968 understandings under which President Johnson had ceased bombing of the North or that our Air Force was no longer under control of the President?

Against that background, Mr. President, Dr. Kissinger's second comment is amazing, when he says:

Secondly as it happens, there were no private talks going on at the time between our side and North Vietnamese . . .

Mr. President, the President of the United States has told us otherwise, speaking to the Nation in a televised address on the evening of January 25, 1972. In that address, the President said:

I sent Dr. Kissinger to Paris as my personal representative on August 4, 1969 . . . Since that time, Dr. Kissinger traveled to Paris twelve times on these secret missions. He has met seven times with Le Duc Tho, one of Hanoi's top political leaders . . .

In sum, Mr. President, and contrary to Dr. Kissinger's statement that there were no private talks going on, he himself had conducted 12 such meetings, seven of them with the Hanoi representative whom the President has consistently indicated was an acceptably high representative of his government.

Dr. Kissinger also said in the September 16 press conference:

There were efforts to set (the private talks) up, which foundered for a variety of reasons, including the presumed illness of Special Adviser Le Duc Tho. This particular issue has never figured in them . . .

Mr. President, I believe Dr. Kissinger owes the Nation an explanation as to how he reached the conclusion that the actions of General Lavelle were not a factor in the "foundering" of the private talks. I say that, because the evidence in the public record suggests that they were an important factor in the collapse of the peace talks.

The first of the allegedly unauthorized strikes by General Lavelle's 7th Air Force occurred on November 7 and 8, 1971—an extremely sensitive period in which negotiations with the North Vietnamese were going on, contrary to what Dr. Kissinger said.

To document this statement, I quote the President of the United States once more, from his January 25 television speech:

On October 25, the North Vietnamese agreed to meet and suggested November 20th as the time for a meeting.

This agreement was reached, therefore, 2 weeks before Lavelle's first allegedly unauthorized strikes. The President went on to explain:

On November 17, just three days before the scheduled meeting, they (the North Vietnamese) said Le Duc Tho was ill. . . . Two months have passed since they called off that meeting.

Mr. President, it may be technically true that "they," the North Vietnamese, called off the meeting. But the most crucial question is why?

Was it because the United States of America, as represented in Indochina by Gen. John D. Lavelle, at least twice in that narrow span of 3 weeks, had broken the bombing halt agreements of 1968 and done so at the very time that the peace negotiations were reaching their most sensitive stage?

Or was the Lavelle incident just one factor in a whole string of factors, orchestrated out of the White House, to undercut the peace talks and thus allow more political elbowroom for increasing the military pressure?

As well informed as Dr. Kissinger is, he could not have missed the clear implications of the following statement broadcast over Hanoi radio on November 9, Hanoi time, by a foreign ministry spokesman:

Since the barbarous air strike on September 21, 1971, U.S. imperialism has on several occasions sent its aircraft to strike at many localities in Vinh Linh and Quang Binh. Also during this time, U.S. aircraft and warships have continuously infringed on the airspace and territorial waters of the Democratic Republic of Vietnam.

Particularly serious was the fact that on 7 and 8 November, the United States sent many planes at a number of populated areas around the Dong Hoi provincial capital, Quang Binh province, and a number of localities in Nghe An province, causing losses in manpower and property to the local populace. These extremely serious acts of war prove that the obdurate and warlike U.S. imperialists are still plotting military adventures against the Democrat Republic of Vietnam. . .

Mr. President, these raids conducted by the Air Force on November 7 and 8 were those apparently unauthorized air strikes ordered by General Lavelle.

Now, Mr. President, can it be said, as Dr. Kissinger proposes, that "this particular issue has never figured in" the reasons for the foundering of the peace talks?

When a Hanoi spokesman singles out this pair of raids, ordered by General Lavelle, as "particularly serious," is it not fair to assume that they were a factor in the collapse of the peace talks in mid-November?

I submit, Mr. President, that these air strikes could have been, and probably were, a significant factor, and I hope that Dr. Kissinger will spell out in greater detail his reasons for saying they were not.

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

The PRESIDING OFFICER (Mr. Moss). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ROUTINE MORNING BUSINESS

(The routine business transacted during the day is printed here, as follows:)

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT OF SECRETARY OF DEFENSE

A letter from the Deputy Secretary of Defense, reporting, pursuant to law, on the appropriation "Contingencies, Defense", for fiscal year 1972; to the Committee on Appropriations.

REPORT ON LISTINGS OF DEPARTMENT OF DEFENSE CONTRACTS

A letter from the Assistant Secretary of Defense (Installations and Logistics), transmitting, pursuant to law, a report on the listings of Department of Defense contracts for experimental, developmental, test or research work during January–June 1972 (with an accompanying report); to the Committee on Armed Services.

REPORT OF NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

A letter from the Secretary of Commerce, transmitting, pursuant to law, a report of the National Advisory Committee on Oceans and Atmosphere, dated June 30, 1972 (with an accompanying report); to the Committee on Commerce.

REPORT OF FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES

A letter from the Chairman, Foreign Claims Settlement Commission of the United States, transmitting, pursuant to law, a report of that Commission, for the calendar year 1971 (with an accompanying report); to the Committee on Foreign Relations.

REPORT RELATING TO BONDING OF CIVILIAN EMPLOYEES AND MILITARY PERSONNEL

A letter from the Secretary of the Treasury, transmitting, pursuant to law, a report on the operations of Federal departments and establishments in connection with the bonding of civilian employees and military personnel, for fiscal year 1972 (with an accompanying report); to the Committee on Post Office and Civil Service.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

H.R. 16593. An act making appropriations for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes (Rept. No. 92–1243).

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

H.R. 9198. An act to amend the Act of July 4, 1955, as amended, relating to the construction of irrigation distribution systems (Rept. No. 92–1244).

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

H.R. 10857. An act to authorize the Secretary of Agriculture to exchange certain national forest lands within the Carson and Santa Fe National Forests in the State of New Mexico for certain private lands within the Piedra Lumbre Grant, in the State of New Mexico, and for other purposes (Rept. No. 92–1245).

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

H.R. 16654. An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1973, and for other purposes (Rept. No. 92–1246).

By Mr. ROBERT C. BYRD (for Mr. WILLIAMS), from the Committee on Labor and Public Welfare, without amendment.

S.J. Res. 265. Joint resolution to provide grants for Allen J. Ellender fellowships to disadvantaged secondary school students and their teachers to participate in a Washington public affairs program (Rept. No. 93–1247).

ORDER FOR S. 4007 TO BE REFERRED JOINTLY TO THE COMMITTEE ON COMMERCE AND THE COMMITTEE ON THE JUDICIARY

Mr. HRUSKA. Mr. President, on behalf of the junior Senator from Michigan (Mr. GRIFFIN), I ask unanimous consent that the bill, S. 4007, which he introduced to remove the antitrust exemption for certain television blackouts of sports events, and which was referred to the Committee on the Judiciary, also be referred on a joint basis to the Committee on Commerce.

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

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. RANDOLPH, from the Committee on Public Works:

William Lewis Jenkins, of Tennessee, to be a member of the Board of Directors of the Tennessee Valley Authority; and

Jack O. Padrick, of Virginia, to be Federal Cochairman of the Pacific Northwest Regional Commission.

HOUSE BILL REFERRED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, at the request of the distinguished senior Senator from New York (Mr. JAVITS), and with the concurrence, I am informed, of the distinguished chairman of the Committee on Armed Services, the Senator from Mississippi (Mr. STENNIS), that H.R. 16233 be referred to the Committee on Armed Services.

There being no objection, the bill, H.R. 16233, to amend the Maritime Academy Act of 1958 in order to authorize the Secretary of the Navy to appoint students at State maritime academies and colleges as Reserve midshipmen in the U.S. Navy, and for other purposes was read twice by its title and referred to the Committee on Armed Services.

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. MANSFIELD (for himself and Mr. AIKEN):

S. 4046. A bill to amend the Internal Revenue Code of 1954 to provide a personal depletion allowance deduction for individuals. Referred to the Committee on Finance.

By Mr. HARTKE:

S. 4047. A bill to amend title 38, United States Code, to require the Administrator of Veterans' Affairs to conduct an appropriate test for the deduction of lung cancer on any veteran who requests such a test. Referred to the Committee on Veterans' Affairs.

By Mr. KENNEDY (for himself, Mr. RANDOLPH, Mr. WILLIAMS, Mr. CRANSTON, Mr. PELL, Mr. MONDALE, Mr. STEVENSON, Mr. SCHWEIKER, Mr. JAVITS, Mr. BEALL, Mr. STAFFORD, and Mr. TAFT):

S. 4048. A bill to provide for the extension of the Developmental Disabilities Services and Facilities Construction Act. Referred to the Committee on Labor and Public Welfare.

By Mr. JORDAN of Idaho (for himself and Mr. CHURCH):

S. 4049. A bill to declare that certain federally owned lands shall be held by the United States in trust for the Kootenai Tribe of Idaho, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. HUMPHREY:

S.J. Res. 272. A joint resolution creating a bicentennial film series. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MANSFIELD (for himself and Mr. AIKEN):

S. 4046. A bill to amend the Internal Revenue Code of 1954 to provide a personal depletion allowance deduction for individuals. Referred to the Committee on Finance.

Mr. MANSFIELD. Mr. President, at our breakfast meetings, the distinguished Senator from Vermont (Mr. AIKEN), the senior Senator in this body in terms of service, and I, have been discussing a number of propositions dealing with the welfare and the well-being of the people of this Nation as a whole.

As a result, we are going to introduce legislation this morning which we hope will be given consideration and will be passed.

Mr. President, it is difficult to question basic assumptions. It is hard to analyze the obvious because the obvious is what we have become accustomed to, as a part of the way things are. But when one can break the cycle and reflect, the obvious is sometimes sad.

The emphasis that we as a nation have placed upon things over people—on economic growth over social good, on the protection of tangible assets—could lead one who is not blinded by the obvious to ask whether our emphasis is misplaced.

It seems to have always been thus: As an oil well is used up, we give the owner a depletion allowance to compensate him for his lost asset. We do the same for gravel and the other minerals—it is an accepted practice.

But there is no depletion allowance for the people—the greatest asset—as they wear out. Our social security system, although providing only a bare subsistence, was an enormous breakthrough. But what of the man and woman whose toil does not permit them to reach that period of life? The man and woman who are made old before their time—the man who stokes the fires of a steel mill or digs the minerals from the bowels of the earth, and the woman who, likewise, engages in difficult work, should be considered. Their bodies and spirits can be exhausted long before the age of general retirement.

Every job has its cost. The manual laborer may be physically depleted before the office worker; white-collar workers may be psychologically depleted before the statutory age of retirement; the assembly-line employee may be dehumanized long before his statutory retirement age.

This Nation must put at least as great an emphasis on people as it does on oil, land, coal, and other such assets. A depletion allowance for people in their occupations must be established, and this, the greatest national resource of all, must have greater emphasis.

Today, Senator AIKEN and I are introducing a bill that will provide a depletion allowance for the working man and woman. The allowance will be in the form of a tax deduction on the Federal income tax for income earned through wages. It will provide for a minimum deduction of 10 percent of wages earned and can rise to 23 percent for those occupations which are determined by the Secretary of the Treasury to extract a greater measure of the working life of a person. The figure of 23 percent was chosen because it is 1 percent higher than the highest depletion allowance presently provided in the tax code—the depletion allowance for oil.

Mr. President, this is not an original idea on the part of the Senator from Vermont or myself, but we would hope that the Senate will have the opportunity to vote on this measure because we think it might bring back into balance where the emphasis of our national policy should be.

Mr. President, I ask unanimous consent, on behalf of the distinguished Senator from Vermont (Mr. AIKEN) and myself, that the bill we are introducing this morning be printed in the RECORD.

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

S. 4046

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 219 as 220, and by adding after section 218 the following new section:

"SEC. 219. PERSONAL DEPLETION ALLOWANCE FOR INDIVIDUALS.

"(a) IN GENERAL.—In the case of an individual who has attained the age of 45 before the close of the taxable year, there shall be allowed as a deduction for the taxable year an amount (determined under subsection (b)) for the personal depletion of that individual due to physical, mental, and emotional stress incurred in connection with the production of income during that year.

"(b) DETERMINATION OF AMOUNT.—

"(1) IN GENERAL.—The amount of the deduction allowable to an individual under subsection (a) for any taxable year is an amount equal to the applicable percentage of that individual's earned income for that taxable year.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage for any taxable year is—

"(A) except as provided in subparagraph (A), 10 percent, plus one percent for each year in excess of 45 attained by the individual before the close of the taxable year, or

"(B) in the case of an individual more than half of whose earned income is derived from a physically hazardous occupation, the percentage prescribed under paragraph (3) for that occupation, plus one percent for each year in excess of 45 attained by the individual before the close of the taxable year.

In no case shall the applicable percentage exceed 23 percent.

"(3) PHYSICALLY HAZARDOUS OCCUPATION.—For purposes of paragraph (2), the term 'physically hazardous occupation' means an occupation which exposes an individual engaged therein to substantial physical hazards ordinarily resulting in either physical disability or death at an age which is substantially lower than the average age at death for the United States generally. The Secretary or his delegate shall, by regulations, prescribe for each physically hazardous occupation a percentage of not less than 11 percent or more than 23 percent.

"(c) LIMITATION.—The amount of the deduction allowable under subsection (a) for any taxable year shall not exceed $1,000.

"(d) DEFINITION OF EARNED INCOME.—For purposes of this section, the term 'earned

income' has the meaning given that term by section 911(b).

"(e) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this section."

(b) The table of sections for such part VII is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 219. Personal depletion allowance for individuals.
"Sec. 220. Cross references."

SEC. 2. The amendments made by the first section of this Act shall apply to taxable years beginning after December 31, 1972.

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

Mr. MANSFIELD. I am happy to yield to the Senator from Vermont.

Mr. AIKEN. Mr. President, I should like to say that this country has been in existence for about 200 years, so it is about time we realize what our most valuable assets and resources are in this country—that is, its people.

We allow deductions from taxes for so many, many things. We allow deductions for organizations, a large part of whose incomes may go to pay excessive salaries.

We allow deductions on the automobile which is used in business, 40 percent the first year, 20 percent the next year, and so on.

We allow deductions on farm machinery up to so many years. I think it is about 8 years; it used to be 3.

We allow deductions for taxes on contributions made to foreign radio systems, like RFE and Radio Liberty.

We allow deductions on contributions to political campaigns up to, I think it is, $100. One can deduct half of it from his income.

Particularly do we allow deductions—or depletion allowances—on resources which are considered to be exhaustible, like oil wells, mines, and quarries which the distinguished Senator from Montana has mentioned.

Mr. President, there are those who will say that this idea, if put into action, will cost millions of dollars. Well, what are we paying now? Our welfare bills come to untold billions of dollars. I do not believe that any Senator can estimate what the cost of welfare really is for health, medicare and medicaid, and other health benefits, and other kinds of aid to poverty-stricken people.

But we do not allow any deductions for the failing ability of a human being to earn.

Only yesterday, I received a letter from a man who is in failing health. He can continue to work, but he cannot do the work he used to do, and therefore, he cannot get employment. This will seriously affect him. I thought his letter was timely.

We allow deductions on industrial machinery, but no deductions for the failing health of the people who operate that machinery.

Thus, Mr. President, I am more than glad to cosponsor the bill with the distinguished Senator from Montana, the majority leader. I think we should ask ourselves: Are trucks, foreign radios, systems, and industrial machines more important than people?

Mr. MANSFIELD. I thank the Senator from Vermont.

By Mr. HARTKE:

S. 4047. A bill to amend title 38, United States Code, to require the Administrator of Veterans' Affairs to conduct an appropriate test for the detection of lung cancer on any veteran who requests such a test. Referred to the Committee on Veterans' Affairs.

Mr. HARTKE. Mr. President, the purpose of this amendment to title 38 of the United States Code is to provide every veteran of the Armed Forces of the United States the opportunity to be tested for early signs of lung cancer.

It is no secret that this dread disease is a scourge of mankind. Lung cancer ranks No. 1 as the contemporary killer of men. In 1972, more than 55,000 American males will succumb to this fatal illness, and statistics point to the rapid spread of this disease among women to the point where it will become also the No. 1 killer of our female population.

All of us have been educated as to those conditions in modern life which exacerbate the causes of lung cancer.

Cigarette smoking has been established by responsible research agencies, including the Surgeon General of the United States as one of those agents which trigger the onrush of lung cancer, and I venture to say that our veteran population continues to smoke with at least the same degree of addiction that other Americans do.

Why they do so in the face of all the revelations about the danger involved is one of those mysteries of human frailty which defies understanding. It may be that cigarette smokers live within a foolish illusion of immortality.

The atmosphere itself seems to contain severe elements adverse to human health, and contains pollutants that also trigger the explosion of cancer cells in the lungs. All of us including our veterans breathe the air, contaminated as it is with cancer causing particles and powerful radiation.

I suggest it will be a long time before we come to our senses and take those bold steps to clean up the air we breathe. In the meantime, all of us including our veterans breathe this dirty air, which is a danger unto itself. But when it is compounded by habitual cigarette smoking, the danger is increased manyfold. The result is that the killer—lung cancer—is let loose to rampage at will, claiming each year more and more victims.

Lung cancer happens to be one of those diseases which is always caught too late. By the time a firm diagnosis is made, through conventional diagnostic procedures, the death order has already been delivered and most patients have no chance whatsoever for recovery and survival.

Yet this need not be so. There are new and effective diagnostic methods which have the capability of detecting the early appearance of cancer cells in the lungs, as well as those changes in the cell structure of the lungs which are like a herald's announcement that lung cancer is developing. I understand that these early signs cannot be ascertained by X-ray or conventional diagnostic methods, but only through new methods, one of them being new techniques of sputum cytology.

It appears in various sources of medical evidence that early diagnosis through sputum cytology can save lives.

This diagnostic method detects the presence of cancer cells early enough so that the doctors can get to work before the ravages of the disease make treatment useless. Furthermore, this method can also detect those cell changes in the lungs which precede the development of the cancer, and provides therefore a clear and certain warning that the patient is in danger—a danger that can be averted by giving up cigarette smoking.

The purpose of this amendment is to give every veteran the chance to know the truth about his lungs. If he is facing danger, he should have the opportunity to know it. If he is already caught in the incipience of lung cancer, he is entitled to know, and if he knows well enough in advance, his chance of survival and a long life will be immeasurably increased. I say we should give every veteran this chance.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD.

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

S. 4047

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 17 of title 38, United States Code, is amended by adding after section 627 a new section as follows:

"§ 628. Test for detecting lung cancer

"The Administrator shall provide a sputum cytology test for the early detection of lung cancer in the case of any veteran who requests such a test and shall provide such veteran with the results of such test together with such information relating to such test and the results thereof as the Administrator may deem appropriate. For the purposes of this section, the term 'veteran' means any person who served on active duty for a period of 90 days or more and who was discharged or released therefrom under conditions other than dishonorable or who was discharged or released from active duty for a service-connected disability."

SEC. 2. The table of sections at the beginning of chapter 17 of title 38, United States Code is amended by adding after:

"627. Persons eligible under prior law."

the following:

"628. Test for detecting lung cancer."

By Mr. KENNEDY (for himself, Mr. RANDOLPH, Mr. WILLIAMS, Mr. CRANSTON, Mr. PELL, Mr. MONDALE, Mr. STEVENSON, Mr. SCHWEIKER, Mr. JAVITS, Mr. BEALL, Mr. STAFFORD, and Mr. TAFT):

S. 4048. A bill to provide for the extension of the Developmental Disabilities Services and Facilities Construction Act. Referred to the Committee on Labor and Public Welfare.

Mr. KENNEDY. Mr. President, I introduce on behalf of myself and the entire Senate Subcommittee on the Handicapped, chaired by the distingished Senator from West Virginia, Senator JENNINGS RANDOLPH, a bill to extend the Development Disabilities Act for 3 more years.

The developmentally disabled are the children and adults in our society whose handicaps originate in childhood and

continue in some measure throughout life. The mentally retarded form the largest group of the developmentally disabled—more than 6 million Americans are afflicted with this condition.

In his first year in office, President Kennedy called public attention to the long neglect of both the mentally retarded and the mentally ill, and he established a President's Panel on Mental Retardation. The report of that Panel in 1963 spurred the development of two significant pieces of Federal legislation for the retarded: First, Public Law 88–156 launched a special Federal program of comprehensive maternity and infant care projects aimed at high-risk mothers. In subsequent years this program has demonstrated spectacular success in reducing infant mortality and has achieved a presumptive reduction in the incidence of mental retardation and cerebral palsy. At the same time, in another important series of provisions, Public Law 88–156 authorized grants to the States for comprehensive planning in the field of mental retardation. Public Law 88–164, the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963—launched the first major Federal program for the construction of facilities for the mentally retarded and the mentally ill.

The next major legislative advance was the Developmental Disabilities Act of 1970. Instead of focusing exclusively on the mentally retarded, this act refers to the developmentally disabled, which includes victims of cerebral palsy, epilepsy, and similar disabilities attributable to neurological impairments. This legislation significantly expanded the role of the States in the planning and implementation of comprehensive programs of services for the developmentally disabled. The bill was hailed by professionals in this area who felt it would make a truly comprehensive program in this area possible for the first time in the Nation's history.

Mr. President, these legislative accomplishments raised the hopes not only of the developmentally disabled but of their family and friends, of the health professionals and volunteer workers associated with them. It seemed that our society, which had shunned, disrespected, designated, and ignored the developmentally disabled for so long, was finally ready to cope compassionately with their problems—problems which diminish us all by the toll they take on the human potential in our society. But it has not come to pass. It has not come to pass because, in spite of authorizations of $60 million for 1971, $105 million for 1972, and $130 million for 1973, the President's annual appropriations requests for those 3 years has been $36 million, $40 million, and $44 million. As in so many other areas in the health field, the President's refusal to fully implement the authority contained in the Developmental Disabilities Act of 1970 has effectively vitiated the effectiveness of the program. Now, almost 3 years after its historic enactment, the Developmental Disabilities Act has still not been given a chance to do the job.

Mr. President, this administration has once again taken a public stand on an issue which it contradicts by its own actions. On November 16, 1971, the President pledged "continuing expansion" of Federal spending in this area of developmental disabilities. He asked the American people to join him in a commitment to two major national goals: First, to reduce by half the occurrence of mental retardation in the United States before the end of this century, and second, to enable one-third of the more than 200,000 retarded persons in public institutions to return to useful lives in the community. He called those goals "realistic and achievable." Yet, in spite of that pledge, this administration has worked to hold down appropriations for the developmentally disabled, thereby placing his own goals out of reach.

The thrust of the legislation passed in 1970 was aimed at expanding the role of the States in developing and implementing comprehensive services programs. Yet, because of the Nixon administration's refusal to request the necessary funds, the States have received far less than they requested. For example, New York in fiscal year 1972 received $1.4 million out of a budget request for $17 million. Massachusetts requested $6 million in fiscal year 1971, but received $246,000. That level of funding simply will not do the job.

We have, in this society, finally come to realize that almost all mentally retarded individuals can develop and learn. It takes them longer; it puts greater demands upon their environment; but they can learn. You have to provide them with residential settings which are warm, devoid of dehumanizing conditions, so that the individual can have a greater opportunity to develop to his full capacity. It takes money to provide the proper kind of setting. Within the past 10 years, the average cost per capita per day per resident has increased from $4.64 to about $11.56. The number of institutions has increased 76 percent between 1960 and 1970, from 108 in 1960 to 190 in 1970.

Out of an estimated 117,327 persons who are fulltime employees of these institutions in 1970, the overwhelming majority were attendants, matrons, and maintenance employees. Teachers and nurses accounted for only 11 percent of the employees. Fewer than 2 percent were psychologists, psychiatrists, or social workers. Clearly, more professionals are needed if the proper environment is to be provided. At the present time inadequate funding and poor working conditions have contributed to a massive turnover of personnel working in these institutions. A survey of the 26 institutions in the 16 Southeastern States shows that, on the average, 20 percent are replaced each year. In two of the 26 institutions, fully 50 percent of the attendants were replaced within 12 months. The attainment of continuity of care is impossible with this kind of turnover. Among the majority of the 26 institutions, the maximum possible salary for attendants was more than $1,000 below the median income of the families in the county in which the institutions were located. That is no way to attract qualified staff.

Mr. President, the bill my colleagues and I are introducing today will extend all the provisions of the 1970 Developmental Disabilities Act for 2 more years. We expect to hold hearings to determine ways to improve that authority, but unless the President is willing to fully implement it, he will not solve the problems. It is easy to find compassionate things to say about the plight of our developmentally disabled; it is more difficult to act compassionately. It is my hope that our actions will reflect a new dedication to solve the problems confronting the developmentally disabled.

Mr. CRANSTON. Mr. President, I am pleased to join in cosponsoring legislation extending the authorities of the Developmental Disabilities Act.

Projects supported by these authorities provide a major source for effective programs to aid those with developmental disabilities to live in society to their fullest potential.

The legislation introduced today is a simple extension of existing authorities. When this legislation is considered next year I will be anxious to hear from those individuals and organizations who are engaged in programs to aid the developmentally disabled on ways in which this act can be strengthened and made more effective.

One deficiency about which I am particularly concerned and which I feel must be addressed is the definition of the term developmentally disabled.

The Secretary of Health, Education, and Welfare, has given the narrowest interpretation possible to the definition in the statute.

When this act was adopted by the 91st Congress, it was clearly intended to broaden the application of the act's provisions beyond mental retardation, which had previously been the only focus of the legislation. A new definition was adopted and the term "persons with developmental disabilities:" replaced the term "mentally retarded" throughout the act.

The term "developmental disability" was defined as:

> A disability attributable to mental retardation, cerebral palsy, epilepsy, or another neurological condition of an individual found by the Secretary to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, which disability originates before such individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial handicap to such individual.

I believe this definition clearly indicates that disabilities in addition to the three specifically listed—mental retardation, cerebral palsy, and epilepsy—in the definition are within the scope of the act.

I have grave reservations about laundry listing disabilities, since so frequently such a method leads to exclusion rather than inclusion of relevant areas.

Although the current definition clearly indicates that other disabilities should be covered, the listing of three disabilities has worked to exclude all others from support.

One severe disorder which has been excluded is that autism. I believe autism is well within the definition of developmental disability in the current act.

Autism is a disability which becomes evident very early in the child's life, severely handicaps his ability to perform in the family or social environment, and is a life-long handicap.

Efforts to help these children adjust to society through use of psychoanalysis or through use of drugs have not been successful. Currently the approach of reaching these children through trained educators in an educational environment gives promise of positive achievements and has resulted in some success in helping the children overcome the disability.

Thus this disability is one that falls well within the parameters of the definition in the statute.

However, the Secretary in regulations, has limited application of the act to only those programs dealing with mental retardation, cerebral palsy, and epilepsy, and has disallowed those portions of State plans which have been directed to other disabilities, such as autism, learning disabilities, or other neurological disabilities. Project grant support, also has been limited to the three disabilities specified in the definition.

I would prefer to see a liberal interpretation given to this definition and the inclusion or exclusion of a program for a particular disability done on a project merit basis, rather than on the arbitrary categorical basis adopted by the administration.

A liberal interpretation would permit the inclusion of other neurological conditions in State programs at the States' option and would permit the consideration for direct projects grant support on a case by case review of proposals.

The limitation adopted by the administration restricting support to the three disabilities listed leaves major areas of critical importance outside the area of support.

I believe there are other functional disabilities which should be covered as well resulting from neurological disorders and I intend in developing this legislation to make it clear that the intention of the Developmental Disabilities Act is to provide strong support to effective programs in this entire field.

By Mr. HUMPHREY:

S.J. Res. 272. A joint resolution creating a bicentennial film series. Referred to the Committee on the Judiciary.

A BICENTENNIAL FILM SERIES

Mr. HUMPHREY. Mr. President, one of the disappointments of these past months has been the lack of significant planning for the celebration of the Nation's bicentennial in 1976.

Plans have apparently been abandoned for a bicentennial exposition in Philadelphia, or in any other major city. None of the alternative proposals under consideration by the American Bicentennial Commission have caught the imagination of the American people. What seems lacking is a concept which would be directly tied to the history of the American Republic, and would be of lasting value beyond the bicentennial year itself.

Mr. President, I propose that the American Bicentennial Commission and the Corporation for Public Broadcasting jointly be authorized and directed to produce a series of major documentary films, covering in depth and in detail the history of the American people, During 1976, the bicentennial year, the series would be telecast to the American people, and be available to the world TV audience in multilingual versions.

Beyond the value of such a television series as the center point of the bicentennial celebration, the films could be made available for the permanent usage of high schools, colleges, and universities, and for the general public.

It is coincidental that the new technology of videotape cassettes and videodiscs will be producing consumer products in quantity for the first time about the time of the bicentennial year—giving American families an opportunity to own at low cost or to rent such a series for playback in their own homes.

And by 1976, many more millions of Americans will be subscribers to cable TV, and would have the opportunity to view such a public-service series via cable.

There is now in existence no comprehensive series of films on American history; indeed, there are few films at all of superior quality in the field of American history. The British Broadcasting Corp., has undertaken a limited analytical series on American history, with Alistair Cooke, to be shown on commercial television. But it is my understanding that it will not begin to approach in scope and detail the comprehensive series I am proposing.

I can conceive of such a series as being an essential supplement to the study of American history at the secondary-school and college level—one that would stimulate students and flesh out for them what are too often the bare bones of formal lectures on American history, would enlarge their perceptions of the great currents of American history and thought.

The project should not be undertaken without the fullest cooperation and participation of America's most distinguished historians and other scholars, who might be encouraged to help design what could become a masterwork of scholarship and cinematic art.

Indeed, I would encourage the formation of a group of American scholars to serve as an independent editorial board, and to insure that the series reflects the finest traditions of American independent scholarship, as well as to bar any effort to utilize the series to serve the interest of either the Government or of a political party candidate. The American Historical Association might well be invited to select such an editorial board.

As to the production of the films themselves, a challenge could be issued to the film-makers of America, and a competition held to select the finest of the producers and writers to produce one or more of the films in the series. Because of the shortness of time in which to design and produce such a major series, a number of producers would be needed to accomplish the task. And what an honor it would be to participate in such a national effort. Rather than a competition in terms of price, I would suggest that the competition be on the basis of demonstrated experience and ability, as well as the imagination with which a proposal can come forward to produce a given film within a fixed but reasonable budget.

Mr. President, in terms of the sums which I have heard discussed for expenditure on the bicentennial, the cost of designing and producing a series of, say, 39 hour-length films would be modest. With production costs averaging $100,000 per program, and adequate budgeting for planning, writing and scholarship, the entire project would appear to be an investment of under $5 million.

There are many Hollywood theatrical films which cost more than that.

The investment, to have such a series produced and telecast into every American home, would come to less than 3 cents per American family. And the benefits to education would be incalculable.

If such a series were to be ready for telecast in the bicentennial year, planning and preparation would have to begin almost immediately. Therefore, Mr. President, the joint resolution which I introduce today would direct the American Bicentennial Commission and the Corporation for Public Broadcasting to establish a joint task force to bring before the Congress no later than May 1, 1973, a detailed proposal for the design, production, and funding of the American History series. And the joint resolution would authorize the expenditure by the American Bicentennial Commission of up to $5 million for the project.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 3598

At the request of Mr. WILLIAMS, the Senator from Idaho (Mr. CHURCH), the Senator from Washington (Mr. MAGNUSON), and the Senator from Nevada (Mr. BIBLE) were added as cosponsors of S. 3598, the Retirement Income Security for Employees Act of 1972.

S. 4010

At the request of Mr. PASTORE, the Senator from Indiana (Mr. BAYH) 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 homegame is sold out.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 364

At the request of Mr. STEVENSON, the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from Oklahoma (Mr. HARRIS), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of Senate Resolution 364, calling for the immediate suspension of American assistance to Uganda.

CONSUMER PROTECTION ACT—AMENDMENTS

AMENDMENTS NOS. 1629 THROUGH 1636

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

Mr. ERVIN submitted eight amendments intended to be proposed by him to

the bill (S. 3970) to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

AMENDMENT NO. 1637

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

Mr. PERCY submitted an amendment intended to be proposed by him to the bill (S. 3970), supra.

AMENDMENT NO. 1638

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

Mr. PERCY (for himself and Mr. MILLER) submitted an amendment intended to be proposed by them jointly to the bill (S. 3970), supra.

AMENDMENT NO. 1639

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

Mr. DOLE submitted an amendment intended to be proposed by him to the bill (S. 3970), supra.

AMENDMENT NO. 1640

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

Mr. MOSS (for himself and Mr. MAGNUSON) submitted an amendment intended to be proposed by him to the bill (S. 3970), supra.

AMENDMENTS NOS. 1641 AND 1642

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

Mr. BROCK submitted two amendments intended to be proposed by him to the bill (S. 3970), supra.

AMENDMENTS NOS. 1643 AND 1644

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

Mr. BEALL submitted two amendments intended to be proposed by him to the bill (S. 3970), supra.

AMENDMENTS NOS. 1645 THROUGH 1649

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

Mr. HRUSKA submitted five amendments intended to be proposed by him to the bill (S. 3970), supra.

AMENDMENTS NOS. 1650 THROUGH 1652

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

Mr. GURNEY submitted three amendments intended to be proposed by him to the bill (S. 3970), supra.

SOCIAL SECURITY AMENDMENTS OF 1972—AMENDMENTS

AMENDMENT NO. 1653

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

Mr. TUNNEY (for himself, Mr. GAMBRELL, Mr. BAKER, Mr. BURDICK, Mr. DOMINICK, Mr. HART, Mr. HARTKE, Mr. KENNEDY, Mr. MCGOVERN, Mr. METCALF, and Mr. STEVENS) submitted an amendment, intended to be proposed by them, jointly, to the bill (H.R. 1) to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes.

AMENDMENTS NOS. 1654, 1655, AND 1656

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

Mr. HUMPHREY submitted three amendments, intended to be proposed by him, to the bill (H.R. 1), supra.

AMENDMENT NO. 1657

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

Mr. BROOKE. Mr. President, I submit an amendment to H.R. 1, and I ask that it be printed. My amendment would strike section 511 of title V, part A of H.R. 1, entitled "Treatment of Rent Under Public Housing."

The intention of the Committee on Finance was laudable. Unfortunately their efforts to remove one inequity in the rental payments made by welfare agencies to local housing authorities will result in an even greater inequity amongst public housing tenants living side by side. Let me explain.

The Housing and Urban Development Act of 1969 contained a provision that limited rents paid by public housing tenants to 25 percent of their incomes. Prior to the enactment of this rent-to-income limitation, we found that many of the tenants were paying 50 and 60 percent of their incomes for rent. Food, clothing and the other necessities of life were forced to take a second priority to shelter. The elderly in particular, living on fixed incomes, were hit the hardest as inflation and spiraling operating costs pushes public housing rents out of the reach of many low-income families for whom the program was designed. It must be kept in mind that while public housing tenants were paying 50 and 60 percent of their incomes for rent, the rest of the Nation was averaging less than 20 percent.

The language of the 1969 amendment contained a proviso. In substance it said that in the case of tenants on welfare, they would have to continue paying a disproportionate amount of their income for rent if they were unfortunate enough to be residing in States that paid welfare grants for rent on an "as paid" basis; that is, whatever rent was charged the tenant. Without this proviso, a reduction of a welfare tenant's rent would have resulted in a reduction in his grant. We would then have had the Department of Housing and Urban Development subsidizing the Department of Health, Education, and Welfare with no benefit accruing to the tenant.

We then found that more than two-thirds of the States used this "as paid" basis for determining grants for shelter. It is not difficult to see the inequity of two tenants living side by side in the same project in identical units with the welfare tenant paying, in some cases, twice as much rent as the nonwelfare tenant.

Therefore, in 1971, Congress saw fit to enact corrective legislation in the form of section 9 of Public Law 92–213. The thrust of this measure was to eliminate the inequity and to give welfare tenants the same benefits that their neighbors were getting under the 1969 amendment.

Section 511 of H.R. 1 is now before us a short 9 months later. It seeks to undo our good-faith attempt to correct this situation before we have had time to evaluate effectively our efforts. Let us also keep in mind that a repeal of Public Law 92–213, section 9, would throw local housing authorities into hopeless confusion. They have just completed a substantial revision of their rent schedules pursuant to the recent statute and would be faced with an intolerable administration burden if section 511 of H.R. 1 is permitted to stand.

Aside from the premature timing, section 511 is premised on an apparent misunderstanding of Public Law 92–213. According to the "Summary of the Principal Provision of H.R. 1 as Determined by the Committee on Finance," dated June 13, 1972, on page 81:

> Public Law 92–213 . . . would require welfare agencies in some circumstances to pay as a rental allowance more than the actual cost of rent.

In reality, the "actual cost of rent" or the operating cost for each public housing unit has far exceeded the inadequate rental allowance given welfare families in most States. If welfare agencies had been willing to pay the operating costs of units in public housing, we would have not needed Public Law 92–213 in the first place. As a matter of fact, if my colleagues on the Finance Committee will assure me that sufficient funds will be made available to welfare agencies so that they can provide rental allowances equal to the "actual cost of rent," I will withdraw my amendment.

The purpose of Public Law 92–213 and a companion measure, Public Law 91–152, was to enable low-income families to live in public housing without having to pay out most of their meager incomes for rent. The intent of the combined measures is to permit the Department of Housing and Urban Development to pay the difference between the actual cost of operating the public housing unit and 25 percent of the tenants' incomes. Most often a welfare agency's rental allowance falls somewhere between the two. If we allow section 511 of H.R. 1 to repeal Public Law 92–213 we are saying to the welfare tenants in public housing, "We realize that you will not be given a rental allowance sufficient to pay for your unit. That's unfortunate. You must now use all of your rental allowance plus money earmarked for food and clothing." We thus tell these tenants that it is unimportant that 60 percent of their incomes must go for shelter. I, for one, cannot bring myself to tell them that.

In this connection it is worth pointing out that whether Public Law 92–213 is repealed or not, the welfare agencies will have to spend the same amount of money. Public Law 92–213, in no way, increases or decreases the welfare outlay.

Nearly 40 percent of the tenants in public housing are elderly. Fifty-six percent of the tenants are minors. Surely

my colleagues do not want to tell these tenants that they are getting too much of a break when they must pay one-fourth of their monthly incomes for rent while the rest of us average less than one-fifth of our incomes?

Mr. President, to allow section 511 to remain in H.R. 1 is to give these tenants the bad news. I urge that my amendment to strike this section be adopted.

Mr. President, I ask unanimous consent that the text of my amendment be printed at this point in the RECORD.

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

AMENDMENT No. 1657

On page 933, strike out lines 9 through 14.

On page 33, line 17, strike out "sec. 512" and insert in lieu thereof "Sec. 511".

In the table of contents, strike out, "Sec. 511. Treatment of rent under public housing---------- 933" and renumber section 512 as section 511.

AMENDMENTS NOS. 1660 THROUGH 1662

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

Mr. TUNNEY submitted three amendments intended to be proposed by him to the bill (H.R. 1), supra.

THE PROFESSIONAL BASKETBALL LEAGUE MERGER—AMENDMENT

AMENDMENT NO. 1658

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

Mr. GURNEY. Mr. President, I am today submitting an amendment to the basketball merger bill (S. 2373) which will terminate the antitrust law exemption for blackouts of sports telecasts in areas more than 50 miles from the game site.

The Judiciary Committee has already included two of my amendments to S. 2373 regarding blackouts. One will prohibit blackouts of postseason games, such as playoff and Super Bowl games, when there is a sellout 5 days beforehand. The other will protect high school, junior college, and college basketball from competition from professional telecasts in a manner similar to the existing protections for intercollegiate and interscholastic football. Another step, however, is needed in order for professional sports to meet the obligations of public trust implicit in any exemption from antitrust restrictions.

My amendment does not result in complete abolition of television blackouts, as has been proposed in other legislation now pending before Senate committees. Although further hearings on the proposal to abolish blackouts completely may be held this session, the chances such legislation will be enacted this session are, for all practical purposes, nonexistent. What clearly does exist, however, is an obvious injustice to local sports fans which demands at least some form of interim correction. My amendment will reduce the size of the blackout area without completely eliminating it. At the same time it permits local clubs to blackout areas even beyond the 50-mile radius, provided such an extension is reasonable and in the public interest. Any agreement to black out an area wider than the 50 miles is made subject to judicial review under the antitrust laws.

The primary problem with televising professional sports involves football. Presently, the National Football League unilaterally imposes a television blackout of games in the "home territory" of the local club. "Home territory" is interpreted by the NFL as a 75-mile radius from the exterior limits of the home city. In practice, the blackout extends even further than this 150-mile-wide circle since games telecasts by stations whose signals can be received within the area are also prohibited.

This latter practice has certain invidious effects. As the distinguished Senator from Michigan (Mr. GRIFFIN) has related with regard to Detroit Lion broadcasts, not only are there three local Detroit stations which are blacked out when the Lions are playing at home, there are also six network stations outside Detroit which do not carry the games because of the blackout rule. There are two stations in Lansing; three in Toledo, and one in Flint.

Consider the plight of the Miami Dolphins fan who cannot get a ticket—even at scalpers prices—to see a home game. Due to the blackout restrictions, the closest stations to Miami which can carry the game are in Daytona Beach, 257 miles away, and Tampa, 210 miles away. This means that a dedicated Dolphins fan must travel well over 100 miles in order to be able to pick up even a weak television signal of the game. Because of the frequency of stadium sellouts, this is hardly fair.

Consider the blackout problem from a different perspective. Television audiences are categorized according to recognized market areas, or areas of dominant interest. These market areas consist of the counties within a State in which the home market television station receives a preponderance of viewing by the various citizen households. Thus the market areas and sizes are determined by the area and population, without overlap, which are served by television stations associated with particular cities.

Market areas are ranked on a national basis, recognized by the FCC, and are used to determine, among other things, proper television advertising rates. Periodically, relative market area sizes are calculated, and American Research Bureau, the most prominent private television research organization, publishes the national rankings. These rankings are instructive of the lack of rhyme or reason to the existing blackout system.

In Florida, for example, West Palm Beach stations located over 60 miles from Miami are blacked out when the Dolphins play at home. Yet, West Beach is in a separate market area serving some 171,100 households. Thus 171,100 Florida families are deprived of the opportunity to watch the Dolphins even though they are not, by the television industry's own standards, even in the same area.

Consider also the Detroit situation described by the distinguished Senator from Michigan (Mr. GRIFFIN). The cities of Lansing, Toledo, and Flint are each in separate market areas different from that of Detroit. The blacked out stations in the three areas serve 166,700, 303,400, and 343,000 households, respectively, or a total of 813,100 Michigan families. Yet again, these families should not be considered to be in the same area if the criteria used by the television industry are any guide.

Further analysis of this aspect of the blackout problem brings to light numerous inconsistencies and inequities. Take this example. On the 6th of November of this year, WTEV television of New Bedford, Mass., will televise the ABC Monday night football game involving the New England Patriots, who will be playing at Foxboro, Mass., only 30 miles away. According to WTEV officials in New Bedford, that station has never been blacked out of televising Patriots home games. Yet at the same time, WCBV, the Boston ABC outlet, will be blacked out on November 6, just as it is for all Patriots home games.

Ostensibly, this is because the New Bedford station serves a different market area than WCBV in Boston. Yet this reasoning does not seem to apply to some 984,200 Florida and Michigan families who are now being deprived of the opportunity to watch their favorite teams. This is, to say the least, discriminatory, disgraceful and damning. As a Senator from Florida, I cannot but wonder why it is that my fellow Floridians do not receive the same treatment that some residents of Massachusetts get. Boston residents might well ask the same question. The answer is clear: The present blackout system is ludicrous.

Consider a further example. We are all aware of the on again, off again shenanigans surrounding telecasts of Washington Redskins football games from Baltimore stations 40 miles away. Conversely, we should also remember from our experiences last year that Baltimore Bullets basketball games could be seen here in Washington while they were blacked out in Baltimore. If Baltimorians can watch the Bullets on Washington TV, why cannot the people of West Palm Beach watch the Dolphins on local television?

My amendment, of course, is not a panacea for all the ills of the existing system. It would not, for example, affect a station, such as WETV in New Bedford, which televises home football games from a distance less than 50 miles from the game site. Existing agreements to televise into blacked out areas would continue, but at least some relief will be afforded the fans who are arbitrarily discriminated against in my State and other States, such as Michigan. At a very minimum, those fans deserve the immediate, interim relief which my amendment provides until such time as Congress formulates a more definitive policy on blackouts.

Nationwide, the existing blackout restrictions are unconscionable. In the first place, the local fan in large part subsidizes his local team—and all professional sports for that matter—whether or not he is able to get into the stadium to watch them. Local taxpayers foot the bill for building the stadiums they cannot get a ticket to sit in. As the distinguished Senator from Kentucky (Mr. COOK) has pointed out, the citizens of Kansas City are paying $60 million of a $69 million bond issue to build a stadium where the Kansas City Chiefs play foot-

ball they cannot watch. The same can be said of other cities with professional sports teams.

In addition to the stadium itself, the public subsidizes the teams through parking and other associated concessions. The profits from such concessions, in large measure, go to the teams. Also, the public suffers the inconvenience of, and pays for the traffic control of, crowds of people fortunate enough to be able to attend the game. And those who are lucky enough to get tickets, of course, also contribute directly through gate receipts.

Not only this, but the public indirectly subsidizes sports through television. Not only do the people pay for the TV advertising that makes sports telecasts possible, but the people also own the airways over which the telecasts are sent. And it is to the people that we, as a representative body, owe our final allegiance.

The continuation of the present tactics of sports blackouts is absolute proof that the financial wizards of organized sports do not realize that the times have changed. Along with so many other things in today's society, the method of viewing sports contests is not the same as it used to be. Today, rather than just 60,000 people watching a game in the stadium, 60 million fans watch it at home at the same time.

My amendment is in the interest of these people, the fans who will be better able to watch the teams whose facilities they subsidize and whose livelihood they insure. It improves the basketball merger bill by promoting a greater sense of public responsibility in professional sports. Pending resolution of the proposals to eliminate blackouts altogether, it provides some immediate relief to the harried sports fan. It is a measure we can all support, and I urge its adoption.

NATIONAL DRUG TESTING AND EVALUATION CENTER—AMENDMENT

AMENDMENT NO. 1659

(Ordered to be printed and referred to the Committee on Labor and Public Welfare.)

PUBLIC HEALTH PRICE PROTECTION ACT

Mr. NELSON. Mr. President, for many years the American people have been forced to pay high and discriminatory prices for drugs. These prices are borne by those people in our society who are least able to afford them—the sick, the poor, and the aged. Moreover, a substantial share of this burden is borne by State and Federal governments—in the form of welfare payments, reimbursable aid programs, and susbtantial direct purchase for use in community and military hospitals.

The extent of this discrimination has already been documented by the Monopoly Subcommittee of the Senate Small Business Committee and by the Department of Health, Education and Welfare. The price of 100 tablets of propozyphene, Darvon, sold by the Lilly Co. to the druggist in the United States is $7.02, but the price charged by the same company for the same product in Ireland is $1.66, and in the United Kingdom is $1.92. Bristol charges $21.84 for 100 tablets of ampicillin in the United States, but $9.31 in Ireland; Ciba charged $3 for glutethimide, Doriden, in the United States, but 92 cents in Ireland, $1.23 in New Zealand, and $1 in the United Kingdom. The Pfizer Co. charges $20.48 in the United States for oxytetracycline, Terramycin, but $4.63 in Brazil and $3.68 in New Zealand. These are only a few examples of discrimination against the American people. I ask unanimous consent that the material developed by the Department of Health, Education and Welfare, documenting these unfair and discriminatory practices, be printed in the CONGRESSIONAL RECORD following my remarks.

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

(See exhibit 1.)

Mr. NELSON. Mr. President, the American consumer is not the only victim of discrimination by the drug industry—the Federal Government is, also. This situation can be illustrated by a very important example. Rhone-Poulenc, a French firm, discovered chlorpromazine, a widely used heavy tranquilizer. This firm secured a patent in this country and licensed Smith, Kline and French on an exclusive basis to market it in the United States. Rhone-Poulenc also secured a Canadian patent and licensed a company in Canada to market it in that country. The Canadian and U.S. firms were each given a separate exclusive market; both markets were on the same continent.

The price charged in 1965 by the U.S. patent licensee for 25 milligram tablets to our Department of Defense was $32.62 a thousand. The price charged by the Canadian licensee to Canada's Department of Veterans Affairs was $2.60. When this startling 12-to-1 discrepancy was first brought to the attention of the Department of Defense, the Government agency attempted to secure the product from the Canadian firm, but that firm's licensing agreement with the patent owner restricted its sales to Canadian customers only.

Such patent monopolies permit the most incredible differentials between cost and selling prices. An amazing example was disclosed in 1971 in Canada during proceedings resulting from an application for a manadatory license. Valium and Librium, products of Hoffman-LaRoche, a Swiss company, dominate the tranquilizer business in almost the whole world. During the hearings in Canada, it was made clear that Roche could make Valium in its raw form at $87 per kilo and in final dosage form at $487 per kilo. Roche's selling price of the final dosage form in Canada was $11,000 per kilo, or about 13,000 percent of the price of raw material and 2,300 percent of what Roche claimed it cost them to make the dosage form.

Applications for compulsory licensing in Canada indicated that if licenses were granted, prices of many widely prescribed drugs—such as Diuril, Tandearil, Mellaril. Tofranil—would be sold at less than half the price at which the drugs are presently available in Canada—this would be possible even though a reasonable royalty would be paid to the patent holder. It should be noted that many drugs in Canada which are now considered too expensive and thus subject to manadatory licensing—are still about one-third less expensive than in the United States.

What factors exist in this country to sustain a higher level of drug prices to the American public?

There is considerable evidence that the high price of many drugs is due to a large extent to the existence of patent monopolies. Hearings of the Monopoly Subcommittee of the Senate Small Business Committee have indicated 20-to-1 and 10-to-1 differentials between prices for the same drugs, with and without patent monopolies. Securing such patent monopolies has been so important to some companies that they have not hesitated to commit fraud on the Patent Office. This is dramatically illustrated in the Tetracycline cases, in which the Federal Trade Commission, the Attorney General of the United States, and the attorneys general of most of the 50 States have been involved.

In my judgment it is a gross abuse of the American patent system to permit such oppression of the public. The patent is a public grant. It is clothed with the public interest, and it is the responsibility of the Congress to see that the public interest, instead of private gain, is the paramount factor in the administration of the patent system.

I am, therefore, proposing a bill designated the Public Health Price Protection Act, that will attempt to protect the public from monopolistic excesses. This bill will authorize the Federal Trade Commission, upon the certification and with the advice of the Surgeon General of the Public Health Service, to require that a drug patent become available for reasonable royalty licensing on nondiscriminatory terms to all applicants for licenses, whenever the Commission finds that certain factual conditions are met.

The conditions are basically that the average price to the consumer of the drug is higher than five times the direct cost of manufacture or else higher than the average price of such drug to the consumer in any foreign country; and that the annual sales of the drug have been more than $1 million for 3 or more years; and that the existence of a patent is a substantial contributing factor to the high price of the drug. If these conditions are met, and the Federal Trade Commission also determines that mandatory licensing will tend to secure lower drug prices to consumers and that the public interest is otherwise satisfied, then the Commission may issue its ruling that the patent shall be subject to mandatory licensing on reasonable terms under the proposed law. The procedures set forth in the act will assure due process of law and orderly and expeditious enforcement and administration of the act by the Commission.

There are ample precedents for these proposals. The U.S. Congress in at least three areas has already decided that mandatory licensing at reasonable rates is appropriate because of public considerations. One instance is in the field of atomic energy—42 U.S.C. 2182-90. Another is in the case of certain kinds of foodstuffs and other plant material—section 44 of Public Law 91-577, 84 Stat. 1547, the Plant Variety Protection Act. In this latter act of Congress the public interest in not allowing a patent

monopoly to block distribution or use of a given invention was found paramount if "necessary in order to insure an adequate supply of fiber, food, or feed in this country." A third example is the air pollution area, where the Congress also decided that the needs of the Clean Air Act required the safeguard of a mandatory licensing provision.

The Department of Justice in a memorandum of law dated May 11, 1971, emphasized that—

A patent is not a limitless right; its use is not untrammeled. The patent law does not exist in a vacuum. Its goals must be reconciled and kept in harmony with other goals.

The Department noted that the courts have also found that enforcement of the patent monopoly by injunction could be against the public interest.

In the *City of Milwaukee* v. *Activated Sludge, Inc.*, 69 F. 2d 577 (7th Cir. 1934), the Court of Appeals refused to enjoin the city of Milwaukee from infringing patents covering the operation of a sewage treatment plant. The court held that to grant an injunction would result in pollution of Lake Michigan, "thereby polluting its waters and endangering the health and lives of that and other adjoining communities." It, therefore, ruled that patent rights should be subordinated to the public interest, the city's patent infringement being compensable by money judgment. This is, of course, the direct analog of compulsory, reasonable royalty licensing.

Similarly, in *Vitamin Technologists, Inc.* v. *Wisconsin Alumni Research Foundation*, 146 F. 2d 941 (9th Cir. 1944), the Court of Appeals ruled that the public interest was violated when a patentee refused to license, and tried to prevent others from practicing, his drug patent—covering the process of producing Vitamin D by ultraviolet radiation. The court concluded that the patentee could not be allowed to enforce the patent, and went on also to refer the matter to the Attorney General of the United States for appropriate action to protect the public interest.

It is not unusual for most countries including the United States to provide licensing of a patent at a reasonable royalty where the public interest requires. At a recent briefing conference on "Patents and the Public Interest," Thomas C. Jorling, minority counsel of the Senate Public Works Committee, said that section 308 of the Clean Air Act amendments, which provides for compulsory licensing of patents needed to facilitate compliance with Federal air pollution standards, indicated the type of approach that Congress is prepared to adopt. He thinks it is possible that Congress will expand compulsory licensing to the water pollution field as well, if experience shows this is advisable.[1]

Bruce B. Wilson, Deputy Assistant Attorney General for the Antitrust Division, said attackers of compulsory licensing are "tilting at windmills." It is ridiculous, he said, to assume that a patent owner could withstand public pressure and try to exclude the rest of society from making use of a vital advance even in the absence of statutory provisions for compulsory licensing.[2]

Most of the Western European countries prohibit product patents on items considered necessary to the health and welfare of people. In those cases where product patents are permitted, as in the United Kingdom, Canada, Australia, and New Zealand, compulsory licensing is required. Under the present system the American people, who are paying higher prices for drugs than anyone else in the world, are being subjected to monopolistic exploitation. I expect that this bill I am introducing, if enacted, will go a long way to rectify this situation.

I ask unanimous consent that a more detailed analysis of the proposed legislation, which I have prepared, be included in the RECORD at this point, as well as the actual bill.

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

AMENDMENT NO. 1659

On page 66, between lines 4 and 5, insert a new title as follows:

"TITLE VII—PUBLIC HEALTH PRICE PROTECTION

"SEC. 701. This title may be cited as the Public Health Price Protection Act of 1972.

"Sec. 702. Title III of the Public Health Service Act (58 Stat. 691; 42 U.S.C. 241–380b–12) is amended by adding the following Part K thereto:

"PART K—PUBLIC HEALTH PRICE PROTECTION

"SEC. 399c. Whenever it appears to the Suregon General, whether on the basis of his own information or belief or on the basis of information furnished him by other persons, that, in the case of any drug—

"(1)(A) its continued availability by reason of its general use by the medical profession may be in the public interest, or

"(B) it may be the drug of choice for particular clinical uses,

"(2) the usage and price levels of such drug are such that the volume of commerce therein may not be insubstantial, and

"(3)(A) there may be fewer than four producers of such drug in the United States, or

"(B) the average price of such drug to the consumer or to the user (whether the ultimate user or otherwise) of such drug in the United States may be higher than (i) five items the direct cost thereof to the producer, or (ii) the average price of such drug to the consumer or to the user (whether the ultimate user or otherwise) of such drug in any foreign country,

he shall immediately so certify to the Federal Trade Commission (hereinafter in this part referred to as the 'Commission'). The Comission shall thereupon investigate the pertinent facts.

"INSTITUTION OF PROCEEDING

"SEC. 399d. Whenever the Commission has reason to believe—

"(1) that the average price of any drug to the consumer or to the user (whether the ultimate user or otherwise) of such drug in the United States is higher than

"(A) five times the direct cost of such drug to the producer, including materials and labor but excluding overhead and promotional expenses; or

"(B) the average price of such drug to the consumer or user of such drug in any foreign country;

"(2) that the annual sales of such drug in the United States have exceeded $1,000,000 for three or more years; and

"(3) that the existence of a patent relating to the manufacture, use, or sale of such drug has constituted a substantial contributing factor to the high price of such drug, it shall institute a public rule making proceeding pursuant to section 553 of title 5, United States Code, to determine whether such patent should be made subject to mandatory licensing on reasonable terms and conditions, in order to secure to consumers lower prices for such drug. Such reason for belief may be, but need not be, based upon a certification pursuant to section 399c of this Act. As used in this section the term 'drug' includes an intermediate or nonfinal form of the drug.

"RULE MAKING

"SEC. 399e. (a) If the Commission determines, on the record after opportunity for agency hearings, as provided in section 553 (c) of title 5, United States Code, that—

"(1) the conditions set forth in section 399d of this Act exist with respect to any drug,

"(2) to require the patent on such drug to be made subject to mandatory licensing or reasonable terms and conditions will tend to secure to consumers lower prices for such drug, and

"(3) it would be in the public interest to require such mandatory licensing,

then it shall formulate and publish a rule so declaring.

"(b) The Commission shall concurrently, or after further public hearings, formulate and publish a rule specifying a reasonable royalty rate for the patent on such drug, at an amount that will duly take into account the need of the public for moderate drug prices, the public interest in encouraging research by giving manufacturers of drugs a fair rate of return on invested capital, and the public interest generally. In so doing the Commission may be guided by, but shall not be bound by, the standards used by the Federal courts in assessing patent infringement damages.

"(c) If, after formulating a rule pursuant to subsection (a) of this section, the Commission finds that the public interest requires the immediate availability of mandatory licenses in order to protect consumers from high drug prices, it may formulate and publish a rule specifying an interim royalty rate, with protective conditions to insure payment or repayment in the proper amount upon the formulation of a subsequent rule determining the actual reasonable royalty rate.

"(d) Unless the Commission otherwise provides because it believes that the public interest so requires, the Commission shall specify as additional reasonable terms and conditions for mandatory licensing that licenses are to be available to all applicants therefor for the life of the patent, that the terms are to be nondiscriminatory, and that no limitations or restrictions are to be imposed on the freedom of licensees to practice the patented subject matter.

"(e) The Commission may further provide, if it believes that to do so will tend to secure lower drug prices to consumers, that, as a condition to a person's collecting or being entitled to any royalties under the mandatory licensing arrangement, such person shall make available, to all licensees requesting the same, any technical data which exists in tangible form, which is in the possession or control of such person or to which he has access, and which the licensees need to practice the patent or market the drug economically and expeditiously.

"(f) If the Commission determines that no rule should be formulated, it shall publish its decision so providing.

"(g) Any applicant for a license, or patentee or other person entitled to royalties under the patent, may make application to the Commission for an interpretation, clarification, or modification of the rule of the Commission in the event of a disagreement with respect to the interpretation of the rule or otherwise; and the Commission shall

[1] Bureau of National Affairs' *Patent, Trademark & Copyright Journal*—News and Comments 11–11–71.

[2] Ibid.

proceed with respect to such application, on the record, after opportunity for a public agency hearing has been granted as provided in section 553 of title 5, United States Code.

"(h) In connection with the Commission's carrying out its responsibilities under this part, and particularly those under subsections (a) through (e) of this section, the Surgeon General shall furnish the Commission with such technical assistance and advice as it may request.

"EFFECT OF RULES; PENALTY FOR DISOBEDIENCE

"SEC. 399f. (a) After any rule for mandatory licensing formulated pursuant to section 399e becomes final and effective, no person shall be subject to suit under section 281 of title 35, United States Code, or related status, or to prosecution for contempt of a previous injunction thereunder, for infringement of the patent or patents subject to the Commission's rule, if such person shall have paid or offered to pay to the patentee or other person entitled thereto the royalties specified in the rule.

"(b) Any person who sues or threatens to sue another person for the infringement of any patent subject to a final and effective rule of the Commission under this part shall forfeit and pay to the United States a civil penalty of not more than $100,000 for each such act. Such penalty shall accrue to the United States and may be recovered thereby in a civil action brought in the United States District Court for the District of Columbia. Service of the summons and complaint may be made wherever the defendant is found or transacts business, or as otherwise authorized by a Federal statute of the Federal Rules of Civil Procedure.

"FINALITY AND REVIEW

"SEC. 399g. (a)(1) Any rule formulated under section 399e of this Act shall become final thirty days after the publication thereof by the Commission, and shall become effective forty days after publication thereof, unless the Commission shall for cause specify earlier or later dates.

"(2) Until the rule becomes final the Commission shall have power to reopen the rule making proceedings. The Commission shall for cause have power at any time to rescind or modify the rule.

"(3) The denial of a rule shall become final and effective upon the publication of the decision so providing, unless the Commission shall for cause specify a later date.

"(b)(1) Any person suffering legal wrong because of any final agency action under this part, or adversely affected or aggrieved by such action, shall be entitled to judicial review thereof.

"(2) There shall be no interlocutory review of any nonfinal agency action under this part.

"(3) The form of proceeding for judicial review shall be exclusively by way of petition for review by the United States Court of Appeals for the District of Columbia, pursuant to the rules of that court and the Federal Rules of Appellate Procedure. Any petition for review must be filed prior to the effective date of the rule.

"(4) Upon review, the Commission's findings shall be conclusive if supported by substantial evidence, and its rule shall be sustained if there is warrant for it in the record.

"(5) If the court of appeals or the Supreme Court sustains the rule, it shall become effective on the date the mandate is entered. If the rule is not sustained, the matter shall be remanded for further proceedings consistent with the judgment of the appellate court.

"(c) Upon the filing of a petition for review, the Commission, unless it finds that the public interest requires otherwise, or that to do so would be inconsistent with a district court order entered pursuant to section 399th of this Act, shall stay the effective date of its rule, pending the completion of judicial review.

"INTERIM JUDICIAL RELIEF

"SEC. 399h. (a) If the Commission believes that the public interest requires the immediate availability of mandatory licenses in the case of the patent on any drug in order to protect consumers from high drug prices, it may, at any stage of its proceeding or thereafter, so certify to the Attorney General, with a request that the Attorney General seek a temporary restraining order, preliminary injunction, or other appropriate relief.

"(b) Upon the application of the Attorney General, the United States District Court for the District of Columbia shall have jurisdiction to enter an order in the case of any patent or patents, with respect to which a rule has been issued by the Commission under this part, to prevent the enforcement of such patent or patents under section 281 of title 35, United States Code, or related statutes, during the pendency of the Commission proceedings and review thereof. Such relief shall be granted to the Attorney General upon a showing of likelihood that a final mandatory licensing rule will issue after a determination on the merits by the Commission. The relief may be conditioned upon the payment of interim royalties by applicants for licenses, and the court may impose other conditions in accordance with the principles of equity.

"(c) The proceeding before the district court shall be in the nature of an *in rem* action, and summons shall be served by publication in the Federal Register or otherwise as the court directs. Any person having a legal interest in the patent or patents shall have an unqualified right to intervene. The district court shall, upon the application of the Attorney General, pursuant to the procedure obtaining under section 5 of the Act entitled "An Act to protect trade against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 5), or otherwise as authorized by Federal statute or the Federal Rules of Civil Procedure, summon before it the patentee or any party whose presence appears to be necessary to make the court's order effective.

"(d) The district court's order shall be reviewable under section 1292(a) of title 28, United States Code.

"INVESTIGATORY AND RELATED POWERS

"SEC. 399i. The Commission may utilize its powers under sections 3, 6, and 9 of the Federal Trade Commission Act (15 U.S.C. 43, 46, and 49) and related statutes, in order to carry out its duties under this part. The Commission is authorized to promulgate rules and regulations governing the enforcement of this part and proceedings thereunder; to define any and all terms used herein; to specify accounting methods and procedures for making the determinations of costs, sales, prices, and other such matters required hereunder; and otherwise to prescribe such further rules and regulations as may be necessary or proper for the purposes of administration and enforcement of this part.

"SEPARABILITY CLAUSE

"SEC. 399j. If any provision of this part or the application thereof to any person or circumstances is held invalid, the remainder of the part and the application of such provision to any other person or circumstance shall not be affected thereby.

"APPLICATION OF EXISTING LAWS

"SEC. 399k. The provisions of this part shall be held to be in addition to, and not in substitution for or limitation of, the provisions of any other Act of Congress."

EFFECTIVE DATE

SEC. 703. This title shall take effect 180 days after the date of enactment. It shall apply to all patents heretofore or hereafter issued.

On page 66, line 5, strike out "Title VII" and insert in lieu thereof "Title VIII".

On pages 66 through 71, renumber sections 701 through 707 as sections 801 through 808, respectively.

EXHIBIT 1

DOMESTIC AND FOREIGN PRESCRIPTION DRUG PRICES

(By Edmond M. Jacoby, Jr. and Dennis L. Hefner)

As an outgrowth of the studies conducted by the Task Force on Prescription Drugs established by the Secretary of Health, Education, and Welfare in 1967, the Social Security Administration was asked to accept the responsibility of continuing research in the area of drug costs, prices, and use. The broad base of this activity is highlighted by the fact that the total annual cost of all pharmaceutical services in the United States today, including both inpatient and outpatient care, exceeds $7 billion. For HEW-sponsored health care programs the figure is likely to reach $1.4 billion in the fiscal year ending June 1971.

During the same period, even though currently out-of-hospital drugs are not provided as a benefit under Medicare, Social Security Administration outlays attributable to prescription services received by aged persons in institutions will probably reach $500 million.

Consequently, an examination of various factors that influence drug prices is relevant for both society in general and the Department of Health, Education, and Welfare, and for the SSA in particular. This analysis of domestic and foreign drug prices represents one approach for reviewing the economic dimensions of the problem.

Widely differing prices in the United States and eight foreign countries were found in a study of selected prescription drugs sold throughout the world. The countries in the study were those from which price data were immediately available. In addition to the United States, the countries included were Australia, Brazil, Canada, Ireland, Italy, New Zealand, Sweden, and the United Kingdom.

Comparisons of the prices are presented here in terms of charges to druggists. Charges to druggists are not necessarily the same as wholesale prices in the usually accepted sense; they represent the prices paid, on the average by druggists for a product rather than the manufacturer's receipts for the sale of the product to druggists. The difference between the two price levels may vary from zero to 20 percent. Selection of the drugs was based on their sales importance in the United States. The 20 drugs selected are listed below, by U.S. brand name and manufacturer.

Achromycin-V (tetracycline HCl), Lederle (American Cyanamid)

Benadryl (diphenhydramine HCl), Parke-Davis

Compazine (prochlorperazine maleate), Smith, Kline, & French (SKF)

Darvon (propoxyphene HCl), Eli Lilly

Declomycin (demethylchlortetracycline HCl), Lederle

Doriden (glutethimide), Ciba

Elavil (amitriptyline HCl), Merck

Equanil (meprobamate), Wyeth (American Home)

Erythrocin (erythromycin), Abbott

Gantrisin (sulfisoxazole), Roche

Lanoxin (digoxin), Burroughs-Wellcome (B–W)

Librium (chlordiazepoxide), Roche

Orinase (tolbutamide), Upjohn

Ovulen (ethynodial diacetate with mestranol), Searle

Polycillin (ampicillin), Bristol

Stelazine (trifluoperazine HCl), SKF

Terramycin (oxytetracycline HCl), Pfizer

Thorazine (chlorpromazine HCl), SKF

Valium (diazepam), Roche

V-Cillin-K (potassium phenoxymethylpenicillin), Eli Lilly

The data in table 1 demonstrate the great variation from country to country in prices

for a single product by the same company. The price of propoxyphene, for example, was $7.02 in the United States, where Eli Lilly is the exclusive seller; the price charged by Lilly in Ireland was $1.66 and in the United Kingdom it was $1.92. Pfizer charges $20.48 for oxytetracycline in the United States under the brand name Terramycin but sells the same product for $7.74 in Ireland.

TABLE 1.—COMPARISON OF SELECTED PHARMACEUTICAL PRICES IN THE UNITED STATES AND EIGHT FOREIGN COUNTRIES, JANUARY 1970

[All prices in U.S. dollars for 100 tablets or capsules]

Generic name	Price to druggist, brand name, and manufacturer								
	United States	Australia	Brazil	Canada	Ireland	Italy	New Zealand	Sweden	United Kingdom
Analgesic: Propoxyphene HCl (65 mg.)	$7.02, Darvon, Lilly.	$2.73, Doloxene, Lilly.	$3.72, Doloxene, Lilly.	$5.29, Darvon, Lilly.	$1.66, Doloxene, Lilly.	$7.86,[1] Doloxene, Lilly.	$2.08, Doloxene, Lilly.	$3.33, Doloxene, Lilly.	$1.92, Doloxene, Lilly.
Antibiotics:									
Ampicillin (250 mg.)	$21.84, Polycillin, Bristol.	$20.48, Penbritin, Bristol.	$41.95,[2] Polycillin, Bristol.	$22.18,[3] Ampicin, Bristol.	$9.31, Pentrexyl, Bristol.	$19.15,[1] Sintopenyl, Aesculapius.	$11.30,[1] Penbritin, Beecham.	$16.58, Pentrexyl, Bristol.	$8.23, Penbritin, Beecham.[4]
Demethylchlortetracycline HCl (150 mg.)	$19.79, Declomycin, Lederle.	$11.17, Ledermycin, Lederle.	$4.93, Ledermicina, Cyanamid Quim. do Brasil.[5]	$16.09, Declomycin, Lederle.	$8.97,[1] Ledermycin, Lederle.	$17.88,[1] Ledermicina, Cyanamid.[5]	$3.87, Ledermycin, Lederle.	$19.43, Ledermycin, Lederle.	$8.20, Ledermycin, Lederle.
Erythromycin (250 mg.)	$26.12, Erythrocin, Abbott.	$14.51, Erythrocin, Abbott.	$11.92,[1] Pantomicina, Abbott.	$25.04, Erythrocin, Abbott.	$8.56, Erythrocin, Abbott.	$24.57,[1] Eritrocina, Abbott.	$10.88, Official price.	$19.21, Erythromycin, Abbott.	$10.02, Erythrocin, Abbott.
Oxytetracycline HCl (250 mg.)	$20.48, Terramycin, Pfizer.	$9.79, Terramycin, Pfizer.	$4.63, Terramicina, Pfizer.	$16.92, Terramycin, Pfizer.	$7.74, Terramycin, Pfizer.	$13.27,[1] Terramicina, Pfizer.	$3.68, Official price.	$13.04, Terramycin, Pfizer.	$9.06, Terramycin, Pfizer.
Potassium phenoxymethylpenicillin (250 mg.)	$8.95, V-Cillin-K, Lilly.	$6.11, P.V.K., Lilly.	$8.66,[1] V-Cil-K, Lilly.	$10.69,[1] V-Cillin-K, Lilly.	$2.77, Penicillin-V, Lilly.	([6])	$2.99, Official price.	([6])	$2.40, V-Cil-K, Lilly.
Tetracycline HCl (250 mg.)	$5.34,[7] Achromycin-V, Lederle.	$9.79, Achromycin-V, Lederle.	$4.22, Achromycin-V, Cyanamid Quim do Brasil.[5]	$12.64, Achromycin-V, Lederle.	$3.42, Achromycin-V, Lederle.	$10.84,[1] Achromycina, Cyanamid.[5]	$13.78,[1] Achromycin-V, Lederle.	$13.89, Achromycin-V, Lederle.	$5.04, Achromycin-V, Lederle.
Antidepressant: Amitriptyline HCl (25 mg.)	$8.55, Elavil, Merck.	$8.33, Tryptanol, Merck.	$2.26,[1] Tryptanol, Merck.	$6.30, Elavil, Merck.	$2.26, Tryptizol, Merck.	$4.22,[1] Triptizol, Merck.	$4.20,[8] Tryptanol, Merck.	$3.09, Tryptizol, Merck.	$2.28, Tryptizol, Merck.
Antidiabetic: Tolbutamide (500 mg.)	$8.23,[1] Orinase, Upjohn.	$2.83, Rastinon, Hoechst.	$2.77, Rastinon, Hoechst.	$6.34,[1] Orinase, Hoechst.	$2.22,[1] Rastinon, Hoechst.	$2.86,[1] Rastinon, Hoechst.	([9])	$4.86, Rastinon, Hoechst.	$2.28, Rastinon, Hoechst.
Antihistamine: Diphenhydramine HCl [10] (50 mg.)	$2.22, Benadryl, Parke-Davis.	$1.60,[1] Benadryl, Parke-Davis.	$0.81, Benadryl, Parke-Davis.	$2.77, Benadryl, Parke-Davis.	$1.37,[1] Benadryl, Parke-Davis.	$2.60,[1] Benadryl, Parke-Davis.	$1.29,[1] Official price.	$2.33,[1] Benadryl, Parke-Davis.	$1.20,[1] Benadryl, Parke-Davis.
Ataraxics (tranquilizers):									
Chlordiazepoxide HCl (10 mg.)	$6.40,[1] Librium, Roche.	$3.74, Librium, Roche.	$2.40,[1] Librium, Roche.	$5.45, Librium, Roche.	$2.05, Librium, Roche.	$3.55,[1] Librium, Roche.	$1.83[1] Librium, Roche.	$3.11, Librium, Roche.	$2.40, Librium, Roche.
Chlorpromazine HCl (50 mg.)	$6.60, Thorazine, SKF.[11]	$2.22, Largactil, May & Baker.[11]	$2.47,[1] Amplictil, Rhodia.[11]	$5.82,[1] Largactil, Rhone-Poulenc.[11]	$1.71, Largactil, May & Baker.	$3.47,[1] Largactil, Farmitalia.	$1.82,[1] Official price.	$2.88, Largactil, Rhodia.	$1.68,[1] Largactil, May & Baker.
Diazepam (5 mg.)	$8.03, Valium, Roche.	$3.74, Valium, Roche.	$3.62,[1] Valium, Roche.	$6.01, Valium, Roche.	$2.46, Valium, Roche.	$3.42,[1] Valium, Roche.	$2.72, Official price.	$3.71, Valium, Roche.	$2.88, Valium, Roche.
Meprobamate (400 mg.)	$7.06, Equanil, Wyeth.	$4.17, Equanil, Wyeth.	$1.91,[12] Equanil, Wyeth.	$5.13,[1] Equanil, Wyeth.	$1.79,[1] Equanil, Wyeth.	$3.65,[1] Quanil, Wyeth.	$2.06, Official price.	$1.67, Equanil, Ferrosan [13]	$1.74,[1] Equanil, Wyeth.
Prochlorperazine maleate (10 mg.)	$7.86, Compazine, SKF.	$4.44,[1] Stemetil, May & Baker.	$2.45,[1] Tementil, Rhodia.	$6.05,[1] Stemetil, Rhone-Poulenc.[11]	$2.87, Stemetil, May & Baker.	$3.04,[1] Stemetil, Farmitalia.	$2.93,[1] Official price.	$2.28, Stemetil, Leo.[14]	$3.04,[1] Stemetil, SKF.
Trifluoperazine HCl (5 mg.)	$9.75, Stelazine, SKF.	$4.70, Stelazine, SKF.	$2.42,[1] Stelazine, SKF.	$8.38, Stelazine, SKF.	$2.78,[1] Stelazine, SKF.	$3.82,[1] Modalina, Maggioni.[15]	$3.71, Official price.	$4.41,[1] Terfluzin, Rhodia.	$2.59, Stelazine, SKF.
Cardiovascular: Digoxin (.25 mg.)	$1.03, Lanoxin, B-W.	$0.69, Lanoxin, B-W.	$1.31,[16] Digoxina, B-W.	$1.51,[17] Lanoxin, B-W.	$0.53, Lanoxin, B-W.	$1.73,[1] Lanoxin, Wellcome.	$0.52,[1] Official price.	$0.98, Lanoxin, B-W.	$0.38, Lanoxin, B-W.
Oral contraceptive: Ethynodial diacetate with mestranol (6x21 tabs, 1 mg.)	$7.38, Ovulen 21, Searle.	$4.11, Ovulen 21, Searle.	$4.82, Ovulen 21,[18] Searle.	$5.85,[1] Ovulen 21, Searle.	$3.59, Ovulen 21. Searle.	$8.20, Ovulen Lepetit.[19]	$3.56, Official price.	$4.51, Ovulen 21, Searle.	$4.10, Ovulen 21, Searle.
Sedative: Glutethimide (250 mg.)	$8.00, Doriden, Ciba.	$2.11, Doriden, Ciba.	$1.97,[1] Doriden, Ciba.	$2.76, Doriden, Ciba.	$0.92, Doriden, Ciba.	$1.80,[1] Doriden, Ciba.	$1.23, Officela price.	$2.06, Doriden, Ciba.	$1.00, Doriden, Ciba.
Sulfonamide: Sulfisoxazole (500 mg.)	$2.94, Gantrisin, Roche.	$3.00,[1] Gantrisin, Roche.	$1.51, Gantrisin, Roche.	$3.06, Gantrisin, Roche.	$1.64, Gantrisin, Roche.	$2.47,[1] Gantrisin, Roche.	$1.11,[1] Gantrisin, Roche.	$2.83,[1] Gantrisin, Roche.	$1.92, Gantrisin, Roche.

[1] See Technical Note, Price Adjustments, p. 2.
[2] Sold as unspecified dosage, 12's for $5.04. It is assumed the most common dosage (250 mg.) is sold in Brazil.
[3] Estimated from suggested retail price of $36.83.
[4] Beecham holds the original British patent for ampicillin. Bristol and Aesculapius manufacture the drug by agreement with Beecham. (Hearings before the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary, Administered Prices, United States Senate, S. Res. 238, part 26, 1961, p. 15756, and L'Informatore Farmaceutico, 1970, p. 916.)
[5] Lederle is a division of American Cyanamid.
[6] Data not available.
[7] Calculated from direct sale price, Sept. 14, 1970.
[8] Price taken from an advertisement in the June 1968 issue of the New Zealand Medical Journal. The drug is not covered by social security program, and the official price for amitriptyline HCl is $2.52; difference in price must be paid by the patient.
[9] Available in New Zealand, but no price was reported in New Zealand's Prescription Pricing Schedules.
[10] Only available as Kapseals in the United States, Australia, Canada, and the United Kingdom.
[11] SKF licensee of Rhone-Poulenc. Farmitalia owns controlling interest in Rhone-Poulenc, which owns Rhodia and May & Baker.
[12] Sold as unspecified dosage, 24's for 46 cents. It is assumed the most common dosage (400 mg.) is sold in Brazil.
[13] Wyeth does not distribute drugs in Sweden. There are other manufacturers of meprobamate in Sweden, but only Ferrosan's product is called Equanil.
[14] Only manufacturer of prochlorperazine maleate in Sweden.
[15] Only manufacturer of trifluoperazine HCl in Italy.
[16] Dosage unspecified. It is assumed the most common dosage (.25 mg.) is sold in Brazil.
[17] Estimated from suggested retail price of $2.50.
[18] Available only as 20's.
[19] Searle does not distribute drugs in Italy.

Sources: Brasindice Industrial Farmaceutico, 6th edition, July-December 1967, Brasindice Grafica Editora, Ltda., Soa Paulo and Brasindice Industrial Farmaceutico, Boletim de Atuzlizaco, No. 44, May 20, 1968; Chemist & Druggist, Quarterly Price List, vol. 11, No. 1, March 1970, Thomas Marns & Co., Rustington, Sussex; FASS, 1969, Farmacevtiska Specialiteter, i Sverige, Stockholm, 1969, Almqvist & Wiksells Boktryckeri AB, Uppsala and FASS, 1969 Supplement, January-August 1969; L'Informatore Farmaceutico, 1970, Organizzazione Editoriale Medico—Farmaceutica, Milano, 1970; Mims, Monthly Index of Medical Specialities, Irish edition, Medical & Allied Publications, Ltd., Dublin, April 1970; New Zealand Medical Journal, June 1968, Medical Association of New Zealand, Wellington; Prescription Pricing Schedules, August 1969, Department of Health of New Zealand, Wellington; Price Book of Drug Store Merchandise (38th edition), June 1969, Canadian Pharmaceutical Association, Toronto; Price List of Prescription Proprietaries for Dispensing, No. D/69, issued by the Federal Council of the Pharmacy Guild of Australia, Nov. 1, 1969; U.S. Drug Topics Red Book, 1970, Topics Publishing Co., Inc., New York.

The same diversity of price among countries exists where sellers are independent firms and related only through patent licensing agreements. Chlorpromazine, marketed in this country by Smith Kline & French under the brand name Thorazine, is sold to druggists here for $6.60. Smith Kline & French has operated under an exclusive patent license from Rhone-Poulenc, the French firm that discovered the product and held the United States patent until its expiration in mid-1970.[1] Rhone-Poulenc, through a subsidiary, markets the identical product in Australia for $2.22 and in Sweden for $2.88. A closely related product, prochlorperazine, also was developed by Rhone-Poulenc. In this case the patent, again exclusively licensed to SKF in the United States, does not expire until September 1972. SKF's price for the product marketed under the brand name of Compazine is $7.86 in this country. A subsidiary of Rhone-Poulenc charges $2.87 in Ireland and $3.04 in the United Kingdom.

Another product that has had a wide market in the United States is tolbutamide—an oral anti-diabetic drug—marketed here under the brand name Orinase. Upjohn, the single seller of the product in the United States, secured a patent license from Hoechst, the German discoverer of the compound. Upjohn's price in this country is $8.23. Hoechst itself, marketing under the brand name Rastinon, sells the drug for as little as $2.22, $2.28, and $2.77 in other countries.

The findings of this study show that differences between selected countries in drug prices are significant. The extent to which such variations are caused by real economic factors (differences in labor costs, size of markets, etc.) or the application of market power by pharmaceutical manufacturers cannot be determined from this study. General knowledge of the total problem suggests that it would be unwise to assume that price discrimination exercised by drug producers is a minor factor.

The study shows that prices in the United States for these drugs are generally higher than in any other country studied. The lowest price for any drug was usually about one-fourth the highest price. In each case the product was marketed by the same manufacturer. For some of the drugs the same brand name was used both in the United States and abroad; for others the manufacturer used different brand names in different countries.

Although certain countries exhibited tendencies toward a high or low level of prices, these levels were not consistent for all products. The United States, for example, had the highest prices overall. For one category of drugs—tranquilizers—U.S. prices were highest in every case. Yet for Achromycin-V, an antibiotic, the U.S. price was among the lowest observed. The price for Polycillin was much higher in Brazil than in any other country, yet for five drugs Brazil had the lowest price.

TRENDS IN COUNTRIES WITH HEALTH INSURANCE PROGRAMS

Findings from other studies provide additional information on drug prices in some of the countries in this report.[2]

Australia, Ireland, and Sweden pay part of the retail price of prescription medicines. In Sweden, payment is for one-half of that portion of the price between $1 and $3 and for everything over $3. In Ireland, payment depends on the patient's income; in Australia, payment is for everything except a nominal copayment fee. For medicines to treat certain chronic diseases, all three countries pay the total price. The United Kingdom and Italy pay the full retail price for medicines. New Zealand pays for the least expensive brand of a drug. These six governmetns therefore have a direct interest in the prices at which pharmaceutical items are sold.

Sweden demonstrates this interest by regulating the prices of drugs through established regulatory codes. Ireland, New Zealand, and the United Kingdom negotiate with the industry for lower drug prices but do not exercise statutory power to enforce them. Italy and Brazil actually set drug prices, with the prices determined from data supplied by the manufacturers. (Brazilian and Italian laws require disclosure of cost information.) Australia lacks statutory power to regulate drug prices but considers the price of a drug when deciding whether to include it on the list of drugs for which the government will reimburse.

Brazil and Italy permit no patents on pharmaceuticals. Sweden grants patents only for pharmaceutical manufacturing processes. The six other countries in the study issue patents for both product and process.

Brazilian prices generally are among the lowest four of the nine countries. Because "run-away" inflation is a serious problem in Brazil, pharmaceutical manufacturers introduce new drugs in the market at artificially high prices as protection from inflation for a number of years. Yet, when inflation overtakes the prices, manufacturers apparently find it difficult to obtain government approval for price increases. Some of the prices were established many years ago, and difficulty in revising them may account in part for Brazil's low price level.

As the accompanying chart indicates, the United States has the highest median position among eight of the countries in the group.[3] Twelve times out of 20, the U.S. prices are the highest. Canadian prices are second highest 14 times out of 20. Among the six European and North American countries in the group, only Canada and the United States have no national health insurance program. Many Canadian Provinces, however, have health insurance programs of their own. The United States has health insurance for the aged (Medicare) and a medical assistance program (Medicaid) for the medically indigent, as well as many private health insurance plans. There is, however, no uniformity of care and benefits as would be possible under a national program.

Ireland and the United Kingdom, which rank lowest with respect to prices, have national health insurance programs with features such as drug cost reimbursement and government control over prices. Both Sweden and Australia—ranking fourth and fifth highest, respectively—have national health insurance programs featuring reimbursement plans and government regulation of pharmaceutical prices. Italy offers the most comprehensive system of drug price controls, with prices set by the government and cost data disclosure required. Its health program covers nearly all the population and features complete governmnet payment for drugs. Italian prices generally ranked third highest.

Additional foreign prices

For three of the 20 brand name drugs studied in this report, prices from additional countries are available.[4] The 10 prices obtained are too few to warrant their inclusion in table 1. They are shown here in table 2, however, because they (1) provide added information and (2) can be used to verify or refute some of the trends shown in this report.

Table 2 presents these pharmaceutical prices for Denmark, West Germany, Norway, and Switzerland. The source of the information provided only generic name, manufacturer, and dosage. No reference was made to brand name, and the drugs may be marketed under different brand names in the foreign countries.

TABLE 2.—COMPARISON OF 3 PHARMACEUTICAL PRICES IN UNITED STATES AND 4 FOREIGN COUNTRIES

[All prices stated in U.S. dollars for 100 tablets or capsules]

Country	Diazepam (10 mg., Roche)[1]	Meprobamate (400 mg., Wyeth)	Tetracycline HCl (250 mg., Lederle)
United States	$11.07	$7.06	$5.34
Denmark	4.27	.58	10.54
Germany	4.97	[2]	12.53
Norway	4.91	[2]	11.15
Switzerland	3.74	4.43	17.17

[1] Standard dosage is shown in table 1 as 5 mg., but diazepam prices in these 4 countries were only available for 10 mg.
[2] Data not available.

This report shows that U.S. prices for ataraxics are high in relation to foreign prices and that U.S. prices for antibiotics are comparable to those in foreign countries. The prices shown in table 2 for two ataraxics, Valium and Equanil, reinforce the report findings, as the prices in the United States for both Valium and Equanil are higher than the prices in the four other countries.

Achromycin is an antibiotic whose U.S. price ranks among the lowest four prices of the nine countries in table 1. When the U.S. price for Achromycin is compared with Achromycin prices in these four countries, it is found to be substantially lower. The conclusion that antibiotic prices in the United States appear to be comparable with the average of foreign antibiotic prices thus receives some support.

Technical Note

To avoid biasing or compromising any conclusions drawn from the study material it was necessary to standardize certain criteria for data acceptability, equivalency, and adjustment.

The 20 products were found to be available in all nine countries, except for potassium phenoxymethylpenicillin in Italy and Sweden. Moreover, it was possible to obtain prices for an individual product in each of the countries, in most cases as the proprietary of a single manufacturer. Table 1 lists the products and their manufacturers and the prices reported in each country, with the drugs grouped by therapeutic category and alphabetized by generic name. The products displayed on the price matrix were selected on the basis of the following criteria:

1. They were among the 50 most often prescribed drugs in the United States.[5]

2. Their combined sales during fiscal years 1968 and 1969 to the Veterans Administration amounted to more than $100,000.

3. Their combined sales during fiscal year 1968 and 1969 to the Defense Personnel Support Center (Department of Defense) amounted to more than $300,000.

In addition, foreign prices were admitted to the matrix only if they were manufactured or sold (1) by the same manufacturer or (2) by an affiliated native firm (a subsidiary, parent, licensee, or licensor of the U.S. firm) or (3) under the identical brand name by a manufacturer with no known affiliation with the U.S. firm[6] or (4) under a different brand name by a manufacturer of unknown affiliation with the U.S. firm when there was only one manufacturer selling the product.[7]

To obtain prices for products in New Zealand, these criteria were waived. For that country, exact prices for only five of the 20 products were known, and these were obtained from magazine advertisements.[8] The remaining 15 prices were obtained from the New Zealand Government's official price list for pharmaceuticals. That list designates the amount the Government will pay for the products, but manufacturers are not obliged to sell their proprietaries at that price. Of the five prices known, however, four coincide with the official price. Thus it seems

Footnotes at end of article.

reasonable to assume that most brand name drugs sell at or near the official price in New Zealand. To approximate the price for the 15 remaining products, the official price was used.

All prices in this report have been converted to U.S. dollars, as of March 1970.[9] Price comparisons are shown for a standard quantity package containing 100 tablets or capsules of uniform dosage. Where products were not available in this standard package, the necessary statistical adjustment was made.

PRICE ADJUSTMENTS

Some adjustments of basic prices were necessary for a valid comparison. In many instances, prices were not available for the standard dosage and/or quantity employed in the study. When this occurred, prices for other dosages and/or quantities were adjusted to conform to the established standard. When the U.S. price for the standard dosage or quantity was not available, the price was calculated from a larger, hence more economical, dosage or quantity. Adjustment in the "downward" direction tends to make the calculated price equal to or less than the actual price. All adjusmtents of foreign prices were in the "upward" direction, which tended to make the calculated foreign prices equal to or greater than the actual prices.

The method chosen for collecting U.S. prices also avoids adjustments that could produce bias. Whenever possible, the price used was the "average wholesale price" (AWP) based on a sample of actual prices paid by druggists. Because the AWP was not available for every product,[10] the "manufacturer's suggested wholesale price" was substituted when necessary.[11] That price was always less than or equal to the AWP.

Listed below are the drugs for which price adjustments were necessary, with the price before adjustment indicated.

Three countries—Ireland, Italy, and Sweden—reported prices to consumers rather than prices to druggists. Irish prices were adjusted to wholesale prices by multiplying by 0.567.[12] Italian prices were adjusted by two ratios. For a drug not reimbursed by the Italian national health program (INAM), the adjustment was accomplished by multiplying the price by 0.712.[13] For drugs reimbursed by INAM, there is a 17-percent rebate from the manufacturer to INAM on the price to the consumer; these prices were adjusted by multiplying by 0.542.

No general conversion rate was available for Sweden, but both prices to druggists and prices to consumers were available for 30 Swedish drugs.[14] The markups by druggists for these 30 drugs ranged from 23.6 percent to 170.2 percent and averaged 45.3 percent To assure that no calculated price would be less than the actual price, all Swedish prices were adjusted on the basis of the lowest markup, 23.6 percent, by multiplying consumer prices by 0.809. Use of the lowest markup means that these prices reported are equal to or greater than the actual prices in Sweden.

FOOTNOTES

[1] For licensing agreements referred to in these paragraphs, see *Hearings on Administered Prices in the Drug Industry Before the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary*, United States Senate (86th Cong.), vol. 17, exhibit 86, pages 9474 ff., and exhibit 101, pages 9484 ff., and vol. 20, exhibit 306, pages 11266 ff.

[2] See *Health Insurance Systems in E.F.T.A. Countries, Pharmaceutical* Industries Association in the E.F.T.A., Zurich, Switzerland, April 1968, and *Current American and Foreign Programs*, Task Force on Prescription Drugs, Office of the Secretary, Department of Health, Education, and Welfare, December 1968.

[3] New Zealand has been omitted from these comparisons and from the chart because only five of the 20 prices in that country are definitely known.

[4] Information on these prices was received August 1, 1970, from the National Health Service, Copenhagen, Denmark.

[5] *National Prescription Audit*, R. A. Gosselin and Co., Inc., Dedham, Mass., 1969.

[6] Only three prices were thus obtained: Equanil (meprobamate), manufactured by Ferrosan in Sweden; Stemetil (prochlorperazine maleate), manufactured by LEO in Sweden; and Ovulen (ethynodial diacetate with mestranol), manufactured by Lepetit in Italy.

[7] Only the price of Modalina (trifluoperazine HCl) manufactured by Maggioni in Italy, was obtained in this way.

[8] Doloxene (propoxyphene HCl), manufactured by Lilly; Gantrisin (sulfisoxazole), by Roche; Trypyanol (amitriptyline HCl), by Merck; Librium (chlordiazepoxide HCl), by Roche; and Penbritin (ampicillin), by Beecham. (*New Zealand Medical Journal*, June 1968.)

[9] Sources of the data on exchange rates used in converting the foreign prices were Deak & Co., Inc., Washington, D.C., and the Foreign Currency Office, Riggs National Bank, Washington, D.C.

[10] The AWP was not available for Ovulen 21, Stelazine, Doriden, Compazine, Darvon, Equanil, Lanoxin, Thorazine, Benadryl, Polycillin, and V-Cillin-K.

[11] *Drug Topics Red Book* (1970 edition), Topics Publishing Co., Inc., New York.

[12] Conversion rate obtained from an official of the Central Pharmaceutical Co., Dublin, Ireland.

[13] The products not reimbursable under the program are Doloxene, Triptizol, Librium, Valium, Quanil, and Ovulen, (*Italian Pharmaceutical Market, 1969*, I. M. S., vol. 1, December 1969, page 17.)

[14] Prices were obtained from an unpublished survey by the National Health Service, Copenhagen, Denmark.

Generic name	Country	Dosage, quantity, and price before adjustment
Analgesic: Propoxyphene HCl	Italy	65 mg., 20's for $1.58.
Antibiotics:		
Ampicillin	Italy	250 mg., 12's for $2.30.
	New Zealand	250 mg., 500's for $56.50.
Demethylchlortetracycline HCl	Ireland	150 mg., 16's for $1.44.
	Italy	150 mg., 16's for $2.86.
Erythromycin	Brazil	250 mg., 120's for $14.30.
	Italy	250 mg., 12's for $2.93.
Oxytetracycline HCl	Italy	250 mg., 16's for $2.12.
Potassium phenoxymethyl-penicillin.	Brazil	250 mg., 6's for $0.52.
	Canada	250 mg., 50's for $5.34.
Tetracycline HCl	Italy	250 mg., 16's for $1.73.
	New Zealand	50 mg., 25's for $0.69.
Antidepressant: Amitriptyline HCl	Brazil	25 mg., 25's for $0.57.
	Italy	25 mg., 25's for $0.84.
Antidiabetic: Tolbutamide	Canada	500 mg., 50's for $3.17.
	Ireland	500 mg., 40's for $0.88.
	Italy	500 mg., 20's for $0.57.
	United States	500 mg., 50's for $4.35.
Antihistamine: Diphenhydramine HCl	Australia	50 mg., 50's for $0.80.
	Ireland	25 mg., 50's for $0.34.
	Italy	25 mg., 25's for $0.33.
	New Zealand	50 mg., 50's for $2.58.
	Sweden	50 mg., 50's for $1.17.
	United Kingdom.	50 mg., 50's for $0.60.
Ataraxics (tranquilizers):		
Chlordiazepoxide HCl	Brazil	10 mg., 20's for $0.48.
	Italy	10 mg., 25's for $0.89.
	New Zealand	10 mg., 25's for $0.46.
	United States	10 mg., 500's for $32.
Chlorpromazine HC	Brazil	25 mg., 250's for $3.09.
Chlorpromazine HC—Continued	Canada	50 mg., 50's for $2.91.
	Ireland	25 mg., 50's for $0.43.
	Italy	25 mg., 25's for $0.43.
	New Zealand	50 mg., 50's for $0.91.
	United Kingdom.	50 mg., 50's for $0.84.
Diazepam	Brazil	5 mg., 20's for $0.73.
	Italy	5 mg., 20's for $0.68.
Meprobamate	Canada	400 mg., 50's for $2.57.
	Ireland	400 mg., 20's for $0.36.
	Italy	400 mg., 20's for $0.74.
	United Kingdom.	400 mg., 20's for $0.35.
Prochlorperazine maleate	Australia	5 mg., 25's for $0.56.
	Brazil	5 mg., 20's for $0.25.
	Canada	10 mg., 50's for $3.03.
	Italy	5 mg., 20's for $0.30.
	New Zealand	5 mg., 250's for $3.66.
	United Kingdom.	5 mg., 25's for $0.38.
Trifluoperazine HCl	Brazil	5 mg., 25's for $0.93.
	Ireland	5 mg., 50's for $1.39.
	Italy	5 mg., 25's for $0.95.
	Sweden	5 mg., 50's for $2.21.
Cardiovascular: Digoxin	Italy	0.25 mg., 50's for $0.87.
	New Zealand	0.25 mg., 1,000's for $5.20.
Oral contraceptive: Ethynodial diacetate with mestranol.	Canada	1 mg., 5x21's for $4.96.
Sedative: Glutethimide	Brazil	250 mg., 20's for $0.40.
	Italy	250 mg., 12's for $0.22.
Sulfonamide: Sulfisoxazole	Australia	500 mg., 40's for $1.20.
	Italy	500 mg., 20's for $0.50.
	New Zealand	500 mg., 500's for $5.55.
	Sweden	500 mg., 50's for $1.42.

ANALYSIS OF BILL

The proposed bill would empower the Surgeon General and the Federal Trade Commission to determine that a patented drug should be made subject to mandatory licensing to all applicants, on reasonable and nondiscriminatory terms and conditions. The Surgeon General and the Commission would also be authorized to determine a reasonable royalty rate. Other provisions of the bill would permit judicial review and, where the public interest so required, interim equitable relief from the Federal courts.

The key substantive provision in the bill is a new Part K of the Public Health Service Act, section 399d of which specifies the following as the essential conditions for requiring mandatory licensing:

(1) The average price to the consumer or user of the drug must be more than five times the producer's direct cost of materials and labor, or must be higher than the average such price in a foreign country.

(2) The annual sales of the drug must be more than $1 million for three or more years.

(3) The existence of a patent on the drug must constitute a substantial contributing factor to the high price of the drug.

If the Federal Trade Commission has reason to believe that all of these conditions are met, it is to institute a public proceeding, in accordance with the Administrative Procedure Act (5 U.S.C. 553), in order to determine whether they are, in fact, met, and, if so, whether the patent should be made sub-

ject to mandatory licensing so that consumers may secure the drug at lower prices. The Commission is also directed to consider whether it would be in the public interest to require such mandatory licensing.

In the event that the Commission determines that the patent should be made available for licensing, section 399e of Part K directs it to specify a reasonable-royalty rate on the basis of the following factors: the need of the public for moderate drug prices, the public interest in encouraging research by giving drug manufacturers a fair rate of return on their invested capital, and "the public interest generally." The Commission is also authorized to consider the standards used by the federal courts in assessing patent infringement damages, since 35 U.S.C. 284 refers to the award of damages in terms of "a reasonable royalty for the use made of the invention by the infringer." The Commission is not bound by such court standards, however, and is permitted to develop its own standards.

If the Commission finds that the public interest requires manadatory licensing at once, to protect consumers from high prices on the drug, under section 399e(c) the Commission may determine an interim royalty rate, pending its hearings and decision on an actual reasonable royalty rate. A related provision, section 399h of Part K, permits the Commission to request the Attorney General to seek preliminary relief *pendente lite* from a district court, so that the patent will be made available immediately for mandatory licensing to protect consumers from high drug prices.

The proposed legislation is, in large part, self-executing. The Commission need not specifically enforce its mandatory licensing requirements against the patentee. The determination by the Commission under the proposed law acts directly against the patent, and section 399f of Part K prevents the patent from being the basis for injunction suits against drug manufacturers that wish to take advantage of the reasonable-royalty, mandatory licensing provision. Once a Commission determination becomes final, section 399f(a) provides that the federal courts may no longer entertain such suits. This greatly facilitates the administration of the proposed law and the realization of its objectives.

A detailed sectional analysis of the proposed legislation follows:

SECTION 701

The short title of the proposed law is the "Public Health Price Protection Act."

SECTION 702

Section 702 amends the Public Health Service Act, by adding a new Part K—Public Health Price Protection. The section numbers that follow are those of amended Part K, not those of this Act.

SECTION 399C

Section 399c directs the Surgeon General to certify to the Federal Trade Commission the apparent existence of certain facts which might indicate excessive or monopolistic pricing practices on drugs that he considers of medical importance, which are commercially significant, and which may be subject to monopolistic conditions. One such factor is fewness of actual producers of the drug in this country, indicating a possible monopoly over production. The term "manufacturers" is not used here, because in Food and Drug matters the term includes packagers and repackagers of drugs originally manufactured by others. Other factors, including prices, have been discussed earlier. It should be noted that price to users as well as consumers is to be considered, since in some circumstances the drug is purchased by a doctor, hospital, or other person who uses it only by administering it to the patient, who is not himself the purchaser. Again, in the case of manufacturers who are not producers, because they buy in bulk or dosage form through channels of distribution, such "users" are neither consumers nor ultimate users. The same principle applies to manufacturers who purchase intermediates and convert them into dosage form drugs.

SECTION 399D

Section 399d directs the Federal Trade Commission to institute a public rule making proceeding under the provisions and safeguards of the Administrative Procedure Act (5 U.S.C. 553), whenever it has reason to believe that:

(1) the average price of a drug to consumers or users is more than five times its production cost or more than its foreign price;

(2) its annual sales have been $1 million for three or more years;

(3) a patent on the drug is a substantial contributing factor to the high price of the drug.

The purpose of the rule making proceeding is to determine whether mandatory reasonable-royalty licensing of the patent should be required, in order to secure lower prices for the drug. The term "user" is explained in the preceding section. The term "drug" includes pharmaceutical intermediates as well as final forms of a drug, because in some cases intermediates may be the relevant article of commerce.

SECTION 399E

Subsection 399e(a) provides for a Commission determination whether the foregoing facts are true, whether mandatory licensing will tend to bring about lower drug prices, and whether it would be in the public interest to require such licensing.

Subsection (b) provides for a determination of reasonable royalty rates on the basis of various factors—the need of the public for moderate drug prices, the public interest in encouraging research by giving drug manufacturers a fair rate of return on their capital investments, and the public interest generally. The Commission may also, but is not required to, consider the standards used by federal courts in determining patent infringement damages under 35 U.S.C. 284.

Subsection (c) permits the Commission to establish an interim royalty rate, to permit immediate mandatory licensing in order to protect the public from high drug prices, during the pendency of a possibly time-consuming proceeding to determine the actual level of a reasonable royalty. The Commission will also, if it follows this procedure, devise conditions to insure payment of the difference owed the patentee, or repayment of overcharges, measured by the discrepancy between the ultimately determine royalty rate and the interim royalty rate.

Subsection (d) provides that reasonable terms and conditions ordinarily to be included in the mandatory licenses will be that: (1) any applicant may have a license, (2) the license will be good for the life of the patent, (3) there will be no discrimination in terms among licensees, (4) no restrictive provisions will be included in licenses. The second of these conditions is to insure that small manufacturers will not be deterred from entering the market by fears of possible loss of their licenses and thus investments. The fourth provision prevents license restrictions or limitations such as price-fixing, tie-ins, or other practices limiting the business freedom of the licensee. Where the public interest so requires, however, the Commission may permit deviation from the foregoing standards.

Subsection (e) permits the Commission to speed or encourage new entry by denying the patentee the right to royalties unless he provides needed know-how or other tangible technical information in his possession to licensees. Thus, the Commission could provide that licensees should have access to new drug application data filed with the Food and Drug Administration or other clinical materials, if it believed that this was important in getting newcomers into the market promptly and economically, and thus lowering the market price of the drug to consumers as the result of the entry of such new competition. The Commission cannot order the patentee to provide such data, however, under this subsection; it may only condition the collection of royalties under the mandatory licenses upon the patentee's so doing. The patentee is then free to elect whichever alternative he prefers—furnishing the technical data to licensees under the mandatory program, in return for reasonable compensation therefor, or losing his right to collect royalties on the drug patent. This limitation on the Commission's power is consistent with the *in rem*, rather than in *personam*, administrative and enforcement scheme of the Act.

Subsection (f) provides for the publication of decisions denying rules, so that judicial review under section 399g will become available.

Subsection (g) provides for interpretation, clarification, or modification of rules, on the basis of the procedures specified in the Administrative Procedure Act. This provision is designed primarily for resolution of disputes between license applicants and patentees over matters not left clear by initial rule making procedures.

Subsection (h) provides for cooperation between the Surgeon General and the Federal Trade Commission in administering the Act.

SECTION 399F

Subsection 399f(a) is the principal enforcement provision of the Act. It provides that a final rule will have the effect of making those who apply for mandatory licenses under the rule no longer liable to patent infringement suits. The existence of the rule, and the alleged infringer's having brought himself within its protection by offering to pay the royalty decreed by the Commission, will automatically operate to bar any suit. The Act thus becomes self-enforcing without any policing by the Commission. To this end, *in rem* rule making procedures instead of *in personam* adjudicative or prosecutorial procedures, have been adopted in section 399e of the Act. Thus, all procedures are directed toward the patent which is the basis of monopoly power and consequent high prices, rather than against the patentee.

Subsection (b) is the only policing measure in the Act. It permits the Attorney General to bring a civil penalty action against any person who, in disregard of the Act's removal of patent infringement remedies, nevertheless threatens or brings a lawsuit he has no right to institute.

SECTION 399G

Subsection 399g(a) deals with finality of action by the agency, which triggers judicial review. Paragraph (1) makes a rule final in thirty days, after which it is ripe for judicial review. Ten days after the rule becomes final, it becomes effective. Paragraph (2) preserves the Commission's power to reopen the proceeding until the agency action has become final, and also preserves the Commission's power for cause to modify final rules. Paragraph (3) permits judicial review of the refusal of a rule, as soon as the decision is published.

Subsection (b) deals with the mode of judicial review. Paragraph (1) is based on the language of the Administrative Procedure Act (5 U.S.C. 702), and confers a right to review of a rule upon patentees affected by it, would-be applicants for licences, and others having an interest at stake. Paragraph (2) prevents review of nonfinal actions, such as procedural rulings; the Commission should not be harassed by dilatory tactics designed to prevent prompt determination of these mat-

ters. Paragraph (3) vests review jurisdiction in the District of Columbia Circuit, which is the situs of the Commission and the patent grant. This will prevent improper forum shopping and centralize review responsibility in a court experienced in administrative agency matters.

The judicial review pattern generally follows that of the Federal Trade Commission Act (15 U.S.C. 45). Thus paragraph (4) of subsection (b) follows the substantial evidence test used in reviewing findings under that Act, and provides that the agency's action shall be sustained if "the Commission's opinion 'has "warrant in the record" and a reasonable basis in law' " (*Atlantic Refining Co.* v. *Federal Trade Commission*, 381 U.S. 357, 367–368 (1965)). Upon an appellate court's upholding a rule, the rule becomes effective as soon as the court sends down its mandate sustaining the rule. In the case of the Supreme Court, it may remand to the court of appeals for further proceedings, where they are necessary, or else it may sustain the rule without such a remand, because that would be unnecessary. The mandate of the Supreme Court, by its terms, would provide for the foregoing. Upon reversal of the agency's action, presumably for want of substantial evidence, the ordinary procedure would be to remand to the Commission for further proceedings in accordance with the law.

Subsection (c) provides for the agency to stay the effective date of a rule pending review, unless public interest considerations require otherwise. This section carries out the similar provisions of the Administrative Procedure Act (5 U.S.C. 705).

SECTION 399h

This section provides for interim judicial relief to protect the public from a drug patent monopoly during the pendency of the Commission proceeding. Subsection (a) authorizes the Commisison to request the Attorney General to seek a temporary restraining order, preliminary injunction, or other relief from the federal courts, to protect consumers from high drug monopoly prices.

Subsection (b) authorizes the Attorney General to apply to the United States District Court for the District of Columbia for an order preventing the drug patent from being enforced during the course of the proceeding, so that the patent will be subject to mandatory licensing for such time. The standard for grant of such interim relief is the customary "likelihood of success on the merits" test (see, e.g., *United States* v. *Ingersoll-Rand Co.*, 320 F. 2d 509, 524 (3d Cir. 1963); *Hamilton Watch Co.* v. *Benrus Watch Co.*, 206 F. 2d 738, 740 (2d Cir. 1953); *United States* v. *Crocker-Angelo National Bank*, 223 F. Supp. 849, 850 (N.D. Calif., 1963); *United States* v. *Brown Shoe Co.*, 1956 Trade Cases #68,244 (E.D. Mo. 1956)). These and other cases make it clear that, when "relief in furtherance of the public interest" is at stake, equity courts will "go much further" than in private cases (*Virginian Railway System* v. *System-Federation*, 300 U.S. 513, 552 (1937)). Consequently, the government need not show "irreparable injury" to secure preliminary relief under this section, but need only establish that "there is a reasonable probability that the Government will prevail on the merits" (*Crocker-Angelo, supra*). The district court has the power to impose equitable protective conditions to its order, as does the Commission under the analogous provisions of section 399e(c).

Subsection (c) specifies procedures for the Attorney General to institute such applications for interim relief. The action is *in rem* against the patent, as is the Commission's proceeding. Any legally interested party may intervene. The Attorney General is also to cause the patentee and other necessary persons to be summoned under Section 5 of the Sherman Act (15 U.S.C. 5) in the case of domestic companies, under 35 U.S.C. 293 in the case of foreign companies, and other federal statutes or rules as may be appropriate. Necessary parties would include those who should be bound by the court's order, in order to prevent threats or harassment against new entrants under the interim mandatory licensing arrangement.

Subsection (d) makes the grant or denial of preliminary relief under this section reviewable in the United States Court of Appeals for the District of Columbia, as in the case of a grant or denial of a preliminary injunction (28 U.S.C. 1292(a)(1)).

SECTION 399i

Section 399i permits the Commission to subpoena data, require reports, and carry out inquiries, etc. in accordance with the procedures under the Federal Trade Commission Act. This section also authorizes the Commission to promulgate rules, to define all terms used in the Act, to specify accounting procedures, and otherwise take necessary or proper action for the administration or enforcement of the Act.

The following section is of this Act, rather than of amended Part K:

SECTION 703

Section 703 makes the Act effective 180 days after passage, and makes it clear that it applies to preexisting patents.

NOTICE OF HEARING ON NOMINATIONS FOR COUNCIL ON ENVIRONMENTAL QUALITY

Mr. JACKSON. Mr. President, I wish to announce for the information of the Members of the Senate and all interested persons that the Committee on Interior and Insular Affairs will hold open hearings on Friday, October 6, 1972, on the nomination by President Nixon to fill two vacancies on the Council on Environmental Quality. The two nominees are Dr. Beatrice E. Willard of California and John A. Busterud of Oregon. I ask unanimous consent that the biographical sketches of each of the nominees be printed in the RECORD at the close of my remarks.

The hearings will begin at 10 a.m. in room 3110, New Senate Office Building.

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

DR. BEATRICE E. WILLARD—PERSONAL RESUME

DATE AND PLACE OF BIRTH

Palm Springs, California, December 19, 1925.

MARITAL STATUS

Single.

HOME ADDRESS

1529 Columbine Avenue, Boulder, Colorado.

PRESENT POSITION

President (since 1970), Thorne Ecological Institute, Boulder, Colorado.

FORMER PROFESSIONAL AFFILIATION

1967–1970 Vice President, Thorne Ecological Institute.

1965–1967 Executive Director, Thorne Ecological Institute.

1963–1964 Assistant Professor of Biology, S. Oregon College, Ashland.

1960–1963 Teaching Assistant, Department of Biology, University of Colorado, Boulder.

1958–1963 Research Assistant, Institute of Arctic and Alpine Research, University of Colorado, Boulder.

Previously: Teacher in public schools, Ranger Naturalist in National Parks.

EDUCATION

B.A. Stanford University, 1947, in Biological Sciences.

M.A. University of Colorado, 1960, in Botany (Plant Ecology).

Ph.D. Same, 1963, in Botany (Plant Ecology).

COMMUNITY AND PUBLIC ACTIVITIES

Secretary, Colorado Air Pollution Control Commission, 1970–1971.

Member, Colorado State Advisory Committee on Environmental Education, 1967–1970.

Secretary and Trustee, Rocky Mountain Center on Environment.

President, Colorado Open Space Council, 1968–1969.

Trustee, Aspen Center for Environmental Studies, 1970 to date.

Member, Colorado Environmental Inventory Advisory Committee, 1970–1972.

Founder and director, Seminar on Environmental Arts and Sciences for national decision-makers, Aspen, 1967 to date.

Founder and director, Seminars on Ecology, Rocky Mountain National Park, 1962 to date.

Chairman, Denver Olympic Planning Commission, 1971 to date.

Recipient, 1970 American Motors Award for Professional Conservation.

Recipient, 1969 Colorado Conservationist of the Year Award by Colorado Wildlife Federation (with Dr. Estella B. Leopold).

Trustee, Colorado Chapter of Nature Conservancy.

Chairman, Rocky Mountain Chapter, Sierra Club.

Member, Ecological Society of America, AAAS, American Institute of Biological Science, National Parks Association, Wilderness Society.

PUBLICATIONS

Co-author. 1972 (in press). Landscape above the Trees. Harper-Row, New York. Illust.

Willard, B. E. and J. W. Marr. 1971. Recovery of alpine tundra ecosystems from visitor impact, Trail Ridge, Rocky Mountain National Park, Colorado. Biological Conservation.

Willard, B. E. and J. W. Marr. 1971. Effects of human activities on alpine tundra ecosystems in Rocky Mountain National Park, Colorado. Biological Conservation 2(4):257–265.

Marr, J. W. and B. E. Willard. 1970. Persisting vegetation in an alpine recreation area in the S. Rocky Mountains, Colorado. Biological Conservation 2(2):97–104.

Willard, B. E. and C. O. Harris. 1963. Alpine Wildflowers of Rocky Mountain National Park. Rocky Mountain Nature Association. 24 p.

Willard, B. E. et al. 1959. A Guide to the Mammoth Lakes Sierra. Wilderness Press. 141 p. Rev. 1963, 1969.

JOHN A. BUSTERUD—PERSONAL RESUME

DATE AND PLACE OF BIRTH

Coos Bay, Oregon, 7 March 1921.

MARITAL STATUS

Married to Anne Witwer with three children, John 16; James 14; Mollie 12.

HOME ADDRESS

102 Mountain View Avenue, San Rafael, California 94901.

LOCAL ADDRESS

6737, Towne Lane Road, McLean, Virginia 22101.

PRESENT POSITION

Deputy Assistant Secretary of Defense (Environmental Quality).

FORMER PROFESSIONAL AFFILIATION

Attorney, Partner in Law Firm of Busterud, Draper and Adams, San Francisco, California. Emphasis in law practice on conservation and environmental law and on antitrust law. (See attached statement).

EDUCATION

University of Oregon, 1943, BS with Honors
Yale Law School, 1949, LL. B Phi

Beta Kappa; Editor, *Yale Law Journal;* Phi Delta Phi.

COMMUNITY AND PUBLIC ACTIVITIES

Past President, Commonwealth Club of California (1970).

President, Headlands, Inc., a charitable conservation organization formed to preserve the Golden Gate headlands (1968–71).

Marin County Chairman, People for a Golden Gate National Recreation Area (1971).

Vice President, Associated Regional Citizens, a charitable organization devoted to study of regional government for San Francisco area.

Member, Sierra Club.

Former Member of Assembly, California Legislature (1957–62).

Chairman, Assembly Committee on Constitutional Amendments (1959–61).

Special Counsel to California Legislature on Constitutional Revision (1963–65).

Member, California Constitution Revision Commission (1965–71).

ENVIRONMENTAL BACKGROUND

Mr. Busterud presently is Deputy Assistant Secretary of Defense for Environmental Quality, a position which he has held for the past year. In this role he has exercised responsibility for establishing Department of Defense policy for compliance with the National Environmental Policy Act, Presidential executive orders in the environmental quality field, and other Federal and State laws dealing with this subject.

The Department of Defense environmental quality program has developed rapidly under Mr. Busterud's leadership, with military construction pollution control budget requests for FY 73 of 171 million dollars, and a total environmental program of that fiscal year of 313 million dollars.

Mr. Busterud's office has supervised and expanded the Department's program of environmental impact analysis, surveyed the use of non-military lands by Department of Defense agencies, engaged in environmental demonstration projects in cooperation with the Environmental Protection Agency and the Council on Environmental Quality, and encouraged increased interest in the field of natural resources management of the some 26 million acres of real estate controlled by the Department of Defense.

Mr. Busterud has been considered a progressive voice within the Department of Defense on environmental matters and participated in the Stockholm Conference on the Human Environment. He is a member of the Committee on International Environmental Affairs of the Department of State.

Prior to his present assignment Mr. Busterud was a senior partner in the law firm of Busterud, Draper and Adams in San Francisco specializing in conservation and antitrust law.

Mr. Busterud was a founder and President of Headlands, Inc., a charitable conservation organization which was formed to give assistance to the Department of Parks and Recreation of the State of California in connection with development of the Marin Headlands State Park. Under his leadership a state appropriation was obtained which permitted purchase of the Kirby Cove Area of Fort Baker on the Golden Gate for inclusion in the Marin Headlands State Park. He has fought along with conservationists to prevent construction of the proposed City of Marincello in southern Marin County.

Mr. Busterud also served as Marin County Chairman and as a member of the Board of Directors of the Citizens for a Golden Gate National Recreation Area formed for the purpose of supporting creation of the National Recreation Area as part of the President's Program of Parks to the People. He has also been a member of the Marin County State Parks Advisory Committee to the State of California.

Mr. Busterud has been active in the Nature Conservancy and the Sierra Club.

While President of the 14,000-member Commonwealth Club of California in 1970 he created a new Club Study Section on the Environmental Crisis, to review the interrelationships between proposed Federal and State environmental quality laws.

Mr. Busterud has been active in many community conservation projects, including leadership of a Green Belt coalition in San Francisco which successfully urged purchase and preservation of a key 13-acre wilderness area on the slopes of Mount Sutro in the heart of the city. He also has been allied with other conservationists in a number of zoning and building height battles in San Francisco and Marin County.

Mr. Busterud was also a founder and Executive President of the Associated Regional Citizens, a charitable organization dedicated to the formation of a proposed limited regional government in the San Francisco Bay area to better coordinate area-wide planning and conservation effort such as the on-going programs of the Bay Conservation and Development Commission.

In addition to Mr. Busterud's work on environmental and conservation matters, he has served as a member of the California Constitution Revision Commission for nearly 10 years, and supported inclusion of a special provision in the California Constitution dealing with environmental quality.

Mr. Busterud was born in Coos Bay, Oregon and is a resident of San Rafael, California. He is married and the father of two sons and a daughter. Among his hobbies he lists back packing, tennis, golf and jogging.

NOTICE OF CHANGE OF HEARINGS ON REGULATION OF THE SECURITIES INDUSTRY

Mr. WILLIAMS. Mr. President, I wish to announce that the hearings before the Subcommittee on Securities on the regulatory structure of the securities industry, originally scheduled for October 3, have been rescheduled for October 5 at 10 a.m. in room 5302, New Senate Office Building.

If you wish to submit a statement for the hearing record, please contact Stephen J. Paradise, Committee on Banking, Housing and Urban Affairs, room 5308, New Senate Office Building, telephone number 225–7391.

ADDITIONAL STATEMENTS

RETIREMENT OF GORDON F. HARRISON

Mr. THURMOND. Mr. President, I wish to pay tribute to a distinguished American, Gordon F. Harrison, who recently retired as staff director of the Rules Committee. Gordon Harrison has served our great Nation for 35 years with honor and distinction, the last 18 years as Staff Director of the Senate Committee on Rules and Administration.

Gordon has been a man of outstanding accomplishments his entire life—in college, as valedictorian of his class; in law school, as 3-year staff member of the Georgetown Law Journal; in the Navy, where he served as an officer aboard the U.S.S. carrier *Franklin*, retiring from such service with the rank of captain in the Naval Reserve; in the U.S. Department of Justice, as an accomplished trial lawyer under the direction of Warren E. Burger, who was at that time an Assistant Attorney General; and as a recipient of the George Washington University Annual Award for Internatonal Relations and World Peace.

Mr. President, Gordon Harrison was first appointed staff director of the Senate Rules and Administration Committee by his fellow Rhode Islander, Senator Theodore Francis Green, and continued to serve subsequent chairmen—Senators Thomas C. Hennings, Jr., of Missouri, Senator Carl Hayden of Arizona, Senator MIKE MANSFIELD of Montana, and the present chairman Senator EVERETT JORDAN of North Carolina.

It is testimony in itself of Gordon's knowledge and devotion to duty that five chairmen from different parts of the country, and with various approaches to problems, have seen fit to retain him as their staff director.

As staff director of the Rules Committee, Gordon was in continuous contact with Senate Members or their legal and administrative assistants. He was able to assist them both quickly and efficiently. He was a professional dedicated to serving his fellow man and his country.

Gordon F. Harrison is a man who deserves our admiration and respect. He is a man who native State of Rhode Island should be proud to call her own. It is with deep regret that we learn of Gordon's retirement, for it will be hard to replace such a man.

Mr. President, I am sure that all Senators join me in wishing him well in his future, and thanking him for a job well done.

SENATOR HERMAN E. TALMADGE LEADS WITH A STRATEGY FOR SURVIVAL OF THE COUNTRYSIDE

Mr. HUMPHREY. Mr. President, I would like to share with Senators an article authored by the distinguished chairman of the Committee on Agriculture and Forestry (Mr. TALMADGE) which appeared in the September issue of Nation's Business.

The article, very aptly entitled "A Strategy for Survival of the Countryside," addresses the problems and potential of rural America and how the provisions of the recently enacted Rural Development Act of 1972, if fully funded and effectively administered by the administration, can help solve many of those problems and help the nearly 70 million people who live there achieve a better and higher quality of life.

Most of the credit concerning the development and passage of this historic piece of legislation must be attributed to the senior Senator from Georgia (Mr. TALMADGE). His efforts on behalf of rural development and his work toward the development of a more balanced growth pattern in this country began even prior to his assuming the chairmanship of the Committee on Agriculture and Forestry.

In 1970, he sponsored and secured passage of title IX of the Agricultural Act of that year which committed the Congress to a sound balance between rural and urban America as a matter of national policy. That act declared that the highest priority must be given to the revitalization of rural areas. It also

requires the executive branch to submit reports on the availability of Government services and financial assistance in support of rural development. It further set down for the first time requirements for the executive branch with respect to the location of Federal facilities, giving preference to areas of lower population density.

In addition to his leadership in connection with title IX passage, Senator TALMADGE also pushed hard in 1970 for the establishment of a special Rural Development Subcommittee within the Senate Committee on Agriculture and Forestry. Although no action was taken in 1970 to establish such a subcommittee, Senator TALMADGE made it one of his first official acts when he assumed the chairmanship of the full committee following the opening of the 92d Congress. He not only established the subcommittee, but also led the effort to fund and staff it. He also named me chairman of the subcommittee which I was honored and delighted to accept.

While a great deal of work and hearings were conducted by the subcommittee on rural development legislation over the past year, Senator TALMADGE had the difficult task of forging the final bill in full committee, on the Senate floor and in conference with the other body. His skill and leadership during that period were ample testimony to the fine reputation he enjoys here in the Senate as one of our most outstanding and most able legislators.

The foresight and leadership of this former practicing attorney, distinguished Governor, and now chairman of the Committee on Agriculture and Forestry is once again revealed by his own hand in the article he prepared for Nation's Business. In the article, Senator TALMADGE forcefully makes the case of the imporant inter-relationships that exist between happenings in rural America and urban America. He also eloquently outlines both the requirements and importance of changing past geographic population and economic distribution trends in this Nation.

Mr. President, I wish personally to commend my colleagues and chairman for his excellent leadership and accomplishments on behalf of all the people of this Nation—both rural and urban—in forging and securing passage of this historic and far-reaching piece of rural development legislation. He has provided rural America with its own "Magna Carta" to help guide its future growth and development, a feat many of us only a few short years ago thought near impossible to accomplish.

Mr. President, I ask unanimous consent to have Senator TALMADGE'S article printed in the RECORD. I also urge all Senators to read and study the article thoroughly.

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

[From Nation's Business, September 1972]

A STRATEGY FOR SURVIVAL OF THE COUNTRYSIDE

(By Senator HERMAN TALMADGE)

At the hamburger stand where the high school crowd gathers, you can hear this kind of talk:

"I'm going to leave this place. That diploma's my ticket out. I'm going to forget where I was born."

The birthplace such a youngster is talking about is somewhere in a huge slice of America, a slice that has two thirds of its substandard housing and over half of its poverty—and where health, education and other community services are often inadequate, or even lacking altogether.

A well-worn description of our big city slums? Not at all. It's a contemporary portrait of rural America, long a symbol of the relaxed, comfortable life.

Many of our rural areas, so deeply embedded in our history and traditions, are literally struggling for survival.

There is now reason for hope for them, however.

Congress has passed the Rural Development Act of 1972 and, for the first time, we are beginning to offer that part of the country some of the help it needs on a scale equal to the challenge. It is help which should produce jobs to reverse the rural decline, and should provide a better balance in the use of our land and other resources.

The plan is of major importance to our big cities as well as the countryside. We can't solve the nation's major social and political problems, including the urban crisis, as long as 70 per cent of our people are living on 2 per cent of the land.

Let me discuss the circumstances that created the need for this historic legislation.

MODERN-DAY EXODUS

In the past 25 years, some 30 million people have left our villages, small towns and small cities. The rural emigration that had begun before World War II intensified after the war as the number of family farms began to decline. Increased productivity per acre through modern methods of agriculture, and controls on production, were among factors that eliminated farm jobs.

Communities that had depended on agricultural employment for their economic health also began to decline.

Rural people couldn't find jobs or were woefully underemployed. Youngsters who went off to college had no career opportunities to lure them back.

In Telfair County, Ga., where I was born and raised, about 125 young people graduate from high school every year. A high percentage go on to college, but very few return to their home towns. An occasional doctor, an occasional lawyer, maybe, but the rest have to go elsewhere for job opportunities.

Educating each of those children through the twelfth grade, and providing them with other government services, costs the county about $5,000. When 100 leave, the county loses an investment of $500,000.

So Telfair County is exporting capital expended for education, as well as exporting the best educated and potentially most productive citizens.

At the same time it is exporting the worst educated, those who formerly would have been laborers on farms and elsewhere. They can't get jobs, either.

Lack of jobs is not the only reason people leave the countryside, of course. Maybe they don't have clean drinking water or are fed up living without proper health care, telephone service, sewage disposal systems, good roads or good cultural and recreational facilities.

For one reason or another, millions have joined the exodus—man's largest mass migration in so short a period.

INTO THE PRESSURE COOKER

Now where did all these people go? They flocked into the cities, turned them into overleaded pressure cookers and precipitated the terrible urban crisis that confronts us today.

Some of the better educated found careers in business, or the professions.

But a high percentage wound up on welfare. In fact, there are families who have never known any other way of life in our urban areas but welfare. They add to the great problems of crime, housing, pollution, narcotics, congestion—you name it.

Through a complete lack of planning, we made it impossible for people to remain in the countryside. And, again without an ounce of planning, we shoved them into cities without opportunity or even room for them.

One solution that has been offered is to make the cities livable—to set up program after program of channeling large amounts of money into them to attack their many problems.

Well, in the last nine years alone we have spent $160 billion trying to solve or even cope with the cities' problems, and the urban crisis is worse now than it was before we spent the first dollar.

I do not deplore the expenditure of this money. The problems are there, and they need to be faced.

But we have been trying, in effect, to dam up the Mississippi down around New Orleans with a structure that is certain to break apart eventually—when it might have been easier to build a number of smaller dams upstream.

In rural America, there are thousands of viable small towns, with functioning community facilities, that can be built upon to create a new rural society. This is why Congress passed the Rural Development Act, which is a strategy for the survival of the American countryside.

WHAT INDUSTRY REQUIRES

There is a developing trend in industry to locate in less densely populated areas.

But before a community can even start to try to attract industry, it must have adequate water, sewerage, health and power facilities; educational, cultural and recreational programs; access by highway, rail and air; and perhaps such attractions as industrial parks.

The thrust of the Rural Development Act, the most forward-looking bill of its kind in our history, is to help communities achieve those ends by an infusion of both federal and private capital.

An extensive range of grants and loans are authorized by the bill.

The U.S. Agriculture Department's Farmers Home Administration will make government-backed loans to help finance industrial and commercial development and to install or improve community facilities. There's no general ceiling on the total amount of such loans. In addition, the bill provides $50 million a year to assist communities in developing industrial parks and related facilities; $375 million a year for planning and building water and sewer systems; and $10 million annually for general planning for development.

Funds will be available for maintaining and improving the quality of the environment in a number of ways. The bill provides for a dozen programs for abatement, control and prevention of pollution, not only to water but in the air. Even noise pollution—to the extent that it becomes a problem in rural areas—will be attacked.

The Act defines "rural areas" as those with populations of no more than 10,000, and all of them will be eligible for full participation in its programs. Communities with populations of between 10,000 and 50,000 will be eligible only for loans and grants for actual industrial and commercial development. There are 13,200 communities of 10,000 or less in this country and more than 720 of 10,000 to 50,000.

All told, they contain nearly 80 million people.

This landmark law also provides:

A significant pilot program to test the feasibility and usefulness of nationally coordi-

nated fire protection for rural areas. This will be an extension of the successful forest fire program operated by the U.S. Forest Service, other federal and state agencies, and owners of private forest lands.

A major research program—using the resources of higher education—to analyze and, hopefully, solve the problems of rural development and of people on small farms. Not only the land grant colleges, but all other public and private universities and colleges, including community colleges and technical institutes, will be involved to help local groups and regional councils plan projects. And extension programs that the U.S. Department of Agriculture has operated for many years to serve farm families will be expanded into the rural development field.

Individual loans to farmers so they can comply with new federal health and safety regulations, and to help young persons start agricultural or business enterprises.

The financing aspects are particularly important. Rural areas have traditionally been capital-deficit areas. They do not have enough equity and lending money for housing construction and for business opportunities.

And most of our towns and villages lack the tax base to finance the civic improvements needed.

IN THE MONEY

Money moves out instead of in.

All this can be changed. The Rural Development Act provides a method for channeling funds from the central money markets of the urban areas back to the rural areas.

Having said what the Rusal Development Act is, let me point out what it isn't.

This bill is by no means an effort to relocate people involuntarily. There is no thought of that.

It also is not by any means a plan to "keep 'em down on the farm," nor is it a "back-to-the-farm" concept.

While you cannot have a sound rural economy without a strong agricultural sector, we know there will be even fewer agricultural jobs in the future than there are in this period.

Mechanization and other improved agricultural practices will continue to diminish the need for manpower.

But people do want to stay in the rural areas, and the only thing that will keep them there is adequate job opportunity.

Some of our strongest support in this effort comes from young people who prefer the type of life to be found in the countryside and don't want to be forced into cities.

It is not the intention of this legislation to urbanize our rural areas. If that happens we will have failed. An important goal is to keep the charm and other qualities that make our rural areas so appealing.

HELP FOR "FUN CITY"?

Many who have flocked to the cities have pulled up their roots, broken their old associations, and lost their identities as individuals—they have become just more numbers. This loss of individuality is one cause of the lack of stability that has led to many of our urban problems.

The cities facing those problems could benefit significantly from the Rural Development Act.

Take New York, for instance. It's ungovernable and unlivable, and a big reason for this is the large influx of unproductive people. One of every six residents of New York is on welfare, with many getting more money than they could if they worked.

We can stop such influxes, if we really try, and hopefully can draw back some of those already in cities. A city that has millions of people jammed into it, living as wards of the government, cannot survive.

I'm well aware that there have been programs in the past with the goal of helping industrial development in rural areas. But we have never had a bill which, in the popular jargon, "gets it all together." We have been trying to solve a growing national problem with half-way measures.

At last we have a sensible policy of balanced national growth that should strengthen rural America and maintain its unique appeal, while making better use of the land for all the people.

MILITARY PARTNERS

Mr. BEALL. Mr. President, we in this country are extremely fortunate to have the ability, when disaster strikes, of responding quickly and effectively to aid the victims of such tragic situations. The core of this system is, of course, made up of the men and women who serve their fellow citizen by their involvement in Civil Defense. I would like to take this opportunity to congratulate them on their fine work.

But, Mr. President, it is even more commendable when one learns of Civil Defense officials who are constantly exploring new sources of expertise and talent in order to improve the capability of Civil Defense to respond to emergencies. Such a man is R. Hal Silvers, director of the Prince Georges County Civil Defense and Emergency Planning Agency. Mr. Silvers, recognizing the wealth of trained manpower which exists in the military services to aid civilians in times of emergencies, has initiated a partnership program with the Army 450th Civil Affairs Military Reserve Unit, which will do much to help expand the ability of the county government to react to major disasters. Called "Project County Government," the program included a 3-day exercise in which reservists served at the county's Emergency Operating Center as military assistants to Government in coping with a number of problems in a natural disaster scenario.

I commend Mr. Silver and the Civil Defense and Emergency Planning Agency of Prince Georges County, as well as the officers and men of the 450th Civil Affairs unit, for their exemplary cooperation in this important project. Their work will further insure that, if disaster strikes, Prince Georges County will be ready.

I ask unanimous consent that the article entitled "Military Partners," published in the October issue of Response, be printed in the RECORD.

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

MILITARY PARTNERS

PRINCE GEORGES COUNTY, MD.—A wealth of trained talent exists in the military services to assist civilians in meeting a variety of major emergencies, and more and more Civil Defense directors are taking advantage of it. R. Hal Silvers, Director of the Civil Defense and Emergency Planning Agency in this southern Maryland community, is one of the "early bird" leaders in this civil-military partnership in preparedness.

For some time Mr. Silvers has been working with the Army 450th Civil Affairs Military Reserve Unit, an organization of 60 officers and 120 enlisted men, on a long-range realistic training program that would be beneficial to the military as well as the civil government of Prince George's County, a community just east of Washington, D.C. An on-the-job training program was worked out, involving the Army Civil Affairs reservists with all major elements of the county government. The program, titled "Project County Government," included a three-day exercise in which the reservists served at the county's Emergency Operating Center as military assistants to county government officials in coping with a variety of problems in a natural disaster scenario.

Mr. Silvers' concept in working with the Army Civil Affairs unit is also the central theme behind the Civil Defense Mobilization Designee program started this year by the Defense Civil Preparedness Agency initially with the Army and the Air Force. Under the program, Army and Air Force reservists—officers, warrant officers and enlisted members of the Individual Ready Reserve, both male and female—have the opportunity to serve as Civil Defense Mobilization Designees with training and duty at State or local Civil Defense agencies or at DCPA Regional offices.

The objective of the CD MOBDES program (pronounced "MOBE-DEZ") is to strengthen the emergency capabilities of civil governments by augmenting their Civil Defense agency staffs with trained reserve MOBDES personnel. Benefits for CD MOBDES personnel include the opportunity of earning the required point credit for a satisfactory retirement year by serving at duty stations within commuting distance of their homes, and serving active duty in a wartime mobilization period in the specific jobs for which they have been trained. In a peacetime disaster period, a CD MOBDES would be paid for emergency duty if asked to serve by his Civil Defense director.

ACTION ON GENOCIDE CONVENTION LONG OVERDUE

Mr. PROXMIRE. Mr. President, today I wish to urge the adoption of the Genocide Convention, whose major objective is to preserve man's most precious right—the right to live. Genocide is defined as the deliberate destruction or persecution of national, racial, religious, or ethnic groups. It is therefore obviously contrary to the founding spirit of this Nation, as embodied in the Declaration of Independence, the Constitution, and the Bill of Rights.

The text of the convention confirms that genocide is a crime under international law. Of even greater importance, the convention states that all persons committing genocide shall be punished, be they constitutionally responsible rulers, public officials, or private individuals. Though genocidal crimes are not to be confused with political crimes, those guilty will be subject to the rulings of their competent national court.

Mr. President, over 70 nations have ratified the Genocide Convention since 1948, including Canada, France, Italy, India, and Russia. However, in the United States, the Genocide Convention has languished in the Foreign Relations Committee for over 20 years before being brought before the floor. We can no longer tolerate the possibility of a reenactment of any inhumane annihilation such as that carried out by the Nazi Government of Germany during World War II. We can no longer tolerate the hideous crimes against humanity seen today all over the world.

Mr. President, we can no longer afford not to ratify this Genocide Convention at the earliest possible date.

A UNIQUE CUB SCOUT PACK

Mr. HATFIELD. Mr. President, I invite special attention to the Department of

Health, Education, and Welfare's Office of Child Development publication "Children Today," September–October issue. This issue contains an article describing the activities of a most unique Cub Scout Pack in Oregon. Cascade Area Council Cub Pack 555 is no ordinary Scouting group—for the Cubs are residents of the Fairview Hospital and Training Center for the Mentally Retarded in Salem, Oreg., and the Pack leaders are inmates of the Oregon State Correctional Institution.

As the father of two young sons, this innovative approach to scouting is of particular interest to me. The program not only fills the needs of these young boys; it also gives the den dads a sense of worth and the chance for personal contact with young people. The entire program is an example of what a concerned community, sensitive to the needs of all it residents, can do in utilizing available programs to provide full and rewarding experiences to people of all backgrounds.

I invite the attention of Senators to the article, and ask unanimous consent that the article entitled "Lean on Me," written by C. Alan Hogle, be printed in the RECORD.

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

LEAN ON ME: A UNIQUE SCOUTING PROGRAM
(By C. Alan Hogle)

Twice a month the 20 boys scurry down from their bus and wait impatiently for someone to open the gates for them. Quickly then, they find their Scout leaders, Roger Neumann and Wilbur Moffett, and their den "dads." After their excited greetings, after their shoelaces are tied, and after at least one piggybank ride, the Cubs—and their leaders—pledge their allegiance to the flag, repeat the Scout oath, and move into high gear in their dens. The "Wolves," the "Bears," the "Dan'l Boones," and the "Eagles," men and boys, are busy tying knots, pitching tents, practicing bonfire-making and fire safety, and exploring the mysteries of nature. Cascade Area Council Cub Pack 555 is in session.

But this is no ordinary Cub Pack. For the Cubs are residents of the Fairview Hospital and Training Center for the Mentally Retarded in Salem, Oregon. And the "dads" and other leaders are inmates of the Oregon State Correctional Institution, a medium security prison on the outskirts of Salem.

There is also a companion Boy Scout Troop 555, consisting of 18 boys from Fairview, which meets on alternate weeks. Scouting in Pack and Troop 555, Salem, may very well be the only Scouting in the nation carried on inside the walls of a state prison.

Ray Olson, an Oregon State Boy Scout Executive in 1965, and now an official with the Oregon Correctional Institution (OCI), initiated plans for the Scout groups. He saw that the Fairview boys needed adult male companionship and models, since the Fairview staff was predominantly female. He also realized that the OCI inmates "needed someone they could relate to and give of themselves." With the aid of officials from both State institutions, Olson contacted the National Council of the Boy Scouts of America, and received their approval for penal institution residents to act as Scouting sponsors. The program details were then worked out by officials and staff from OCI and Fairview, and by the inmates themselves.

Together, they established three guidelines: the Fairview boys had to be trainable and in need of this kind of activity; the OCI inmates had to be screened to insure that there was no history of sexual crimes or deviancy; and the Boy Scouts of America guidelines, *Scouting for the Mentally Retarded*, were to be followed.

On alternate Wednesdays the Cubs and Scouts were bused by the Fairview staff to OCI, where they meet in space provided by prison officials and prepared by their leaders. Thirty-eight OCI residents participate in the Scouting program, and there is a waiting list of others ready and willing to take part. The residents serve as Cub and Scout masters and as patrol and den "dads." The men have made den and patrol flags out of available materials and, although their trousers are official institutional khaki, their shirts are official Scouting ones.

OCI is a prison for first adult felony offenders who are under the age of 27. Their average age is 21, and their average stay in prison is 17 months. The operational philosophy of OCI, Superintendent George E. Sullivan says, "emphasizes retraining and resocialization rather than 'tight' custody controls." It involves work/education release and community activity. According to another OCI official, the inmates "demonstrate a willingness to participate in a rehabilitation program, and that's what the Corrections Division is all about. Of the inmates' Scouting activities Ray Olson observes, "It's probably the first time they've stopped worrying about themselves and worried about others."

"I've never been needed before. This is the best thing that's ever happened to me," says one inmate. "I like kids—I have three brothers at home," says another. And still another observes, "The place they live in is something like being here."

In trying to live up to the terms of the Scout oath, which they take very seriously, the inmates have provided important male models for their boys to imitate. As a result of their activity with the boys eight inmates now do volunteer work five days a week with the seriously mentally retarded at Fairview.

Jerry Flug, OCI's liaison staff member, conducts regular meetings to orient inmates to the needs of the boys and their tasks. Flug also conducts the planning sessions for what is now a three-year-old program.

The Scouting sessions last for two hours each week, providing the boys with more than 30 hours of individual help during the year. In addition to their increased knowledge and skills relating to Scouting lore and activities, and their increased independence, the boys enjoy the deeply personal one-to-one relationships they establish.

"When the boys see their den dads, they go bananas," reports Darrel Buttice, Public Affairs Coordinator for the Oregon State Department of Human Resources which administers programs for both correctional and mental health institutions. "They jump on the men, hug them, and talk to them as any excited child would. And of course the men are glad to see them."

No special provisions are made for the boys' achievements and the regular Scouting requirements for rank and merit badges are followed. It may take these boys longer to work through their activities to reach certain levels, but their skills and accomplishments are the same as for all other Scouts once they get there.

Troop 555 has participated in many Cascade Area Council activities, including the Salem Armory Boy Scout Circuses. And the Scouts have enjoyed a number of campouts with their leaders at Little North Fork on the Santian River, where they were joined by Salem Troop 106. Other campouts are being planned.

Mrs. Lawrence Moyer, whose son Scott is in the program, says that his Scouting experiences are frequent topics of Scott's conversation. Like other parents, she and her husband are grateful for the time, interest, and energy the inmates devote to the boys' progress.

John Coffee, Fairview recreation therapist, says that the one-to-one relationships the boys enjoy form a key element in increasing their skills, self-assurance, independence, and social responsibility.

Scouting for the Fairview boys and the OCI was created by far-sighted leaders in response to the needs of those placed in their care. But Scouting in Troop and Pack 555 is really the result of the mutual need of boys and men to lean on each other. Though institutionalized, they help each other to carry on, by sharing each week a few hours filled with warmth, friendship and understanding.

[1] *Scouting for the Mentally Retarded, No. 3078* is available from the Supply Division, Boy Scouts of America, North Brunswick, N.J. 08902 for 75 cents.

NEED FOR FUNDING INDIAN EDUCATION PROGRAM

Mr. FANNIN. Mr. President, on the basis of current information, it would appear that the Office of Education is not planning to request an appropriation for this fiscal year to implement title IV of the Higher Education Act, the Indian education program.

Assuming that this information is correct, I must strongly indicate my disappointment. Since the establishment in 1967 of a Special Indian Education Subcommittee, Congress has steadily worked toward the enactment of a program to correct deficiencies in our present Indian education efforts.

Title IV of the Higher Education Act represented an important step in realizing the desire of Congress to meet the educational needs of our Indian citizens. In a larger sense, the enactment of title IV signified a new beginning, and those of us on both sides of the aisle who had worked for so many years to achieve this legislative mandate, eagerly awaited its implementation.

Yet now we are learning that the Office of Education is planning not to request funds to implement, in this fiscal year, title IV, but will, as I understand it, wait until the 1974 budget cycle.

This postponement, in my estimation, is a serious mistake. I have written to Commissioner Marland requesting information concerning title IV and urging him to reconsider.

Mr. President, I ask unanimous consent that my letter to Commissioner Marland be printed in the RECORD following my remarks.

I hope that the Office of Education will request funds to at least staff this new program for this fiscal year. If we must wait for such funds another 8 months, much time will be lost in preparing for the full implementation of title IV.

I would urge Senators to join me in insisting that the Office of Education reconsider its present plans and support the initial implementation of title IV during this fiscal year.

Mr. President, I also ask unanimous consent to have printed in the RECORD an explanation of title IV as prepared by the Office of Education.

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

WASHINGTON, D.C.,
September 29, 1972.

Hon. SIDNEY P. MARLAND, Jr.,
Commissioner of Education,
Office of Education,
Washington, D.C.

DEAR COMMISSIONER MARLAND: I have learned through various sources that the Office of Education is not planning, at present, to request any appropriation for the Fiscal Year 1973 budget to implement Title IV of the Higher Education Act, the Indian Education Program.

I sincerely hope that this information is incorrect, as Title IV means a great deal to the many Indian tribes of my state, the public school system, and to me personally. I have long sought to see enacted into law a program which would become the foundation for a quality Indian educating program. In my opinion, Title IV is a significant achievement in the development of such a program, and it would be a serious mistake if initial funding of this Act were postponed.

If the present information is true, I should like to know immediately, and in some detail, the justification for this action. If not, I would like to know what the Office of Education does plan in the way of funding the implementation of Title IV in this fiscal year.

I can well appreciate your present budget difficulties, but I think that, at the minimum, sufficient funds should be provided to organize a competent staff to prepare for the implementation of the programs mandated under Title IV, especially Part A, and to serve the National Advisory Council on Indian Education. This initial funding would guarantee that the 1974 budget request for implementing all portions of the Act would represent a sound appreciation of need.

Again, I hope that my current information is incorrect, and that the Office of Education will seek to provide funds for Title IV in this fiscal year.

Sincerely,

PAUL FANNIN,
U.S. Senator.

INDIAN EDUCATION PROVISIONS OF PUBLIC LAW 92-318

The genesis of the Indian title is somewhat complex. The provisions were included in the first version of S. 659 as reported from the Committee on Labor and Public Welfare last August. Due to a jurisdictional dispute with Senator Jackson's Committee on Interior and Insular Affairs, the provisions were broken out from S. 659, introduced as S. 2482, jointly reported by the Committee on Labor and Public Welfare and the Committee on Interior and Insular Affairs, and passed by the Senate in October with no opposition. During the reconsideration of S. 659 to include the Emergency School Aid and Quality Integrated Education Act, the Indian provisions, identical to those in S. 2482, were again included as Title IV of S. 659. The bill was signed into law by the President on June 23, 1972, and became Public Law 92-318.

FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF INDIAN CHILDREN: SUBSTANTIVE AUTHORITY

Title IV part A, of P.L. 92-318 adds a new program to P.L. 874 (Impact Aid) which instructs the Commissioner of Education to carry out a program of financial assistance to local educational agencies to develop and carry out elementary and secondary school programs specially designed to meet the special education needs of Indian children. Grants may be used for the planning, development, establishment, maintenance and operation of programs.

This program provided for an entitlement to the LEA in the amount of the full average per pupil expenditure for the State times the number of Indian children enrolled. An LEA is eligible if it has at least 10 Indian children enrolled, or if such children constitute 50 percent of the enrollment. This requirement does not apply to the States of Alaska, California, or Oklahoma, or to any LEA located on or near an Indian reservation.

In addition to the sum appropriated for grants to LEA's, there is authorized to be appropriated an additional amount not in excess of 5 percent of the entitlement payments for schools on or near reservations which are not LEA's or have not been LEA's for more than three years.

In the event that insufficient funds are appropriated under this part to pay in full the total entitlement to the LEA's, the maximum amounts which all agencies are eligible to receive will be ratably reduced.

In this part, as in other parts of the law, parental participation is stressed. Part A requires "open consultation" of the parents by the LEA in the development of the program; approval of the application by a committee composed of a majority of parents; and continued involvement and evaluation of the program by the parents.

AMENDMENT TO EXISTING PROVISIONS OF PUBLIC LAW 874

The law requires that LEA's receiving funds on the basis of the parents of Indian children under P.L. 874 provide satisfactory assurance that Indian children will participate on an equitable basis in all school programs.

In addition, the Commissioner is directed to exercise authority under section 415 of the General Provisions Act to require parental participation with respect to use of Impact Aid funds earned by Indians.

SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

Part B of the law adds a new section 410 to Title VIII ESEA to authorize a series of broad grant programs to be administered by the Commissioner. Grant programs for the following purposes are authorized: (1) to support planning, pilot, and demonstration projects which are designed to test and demonstrate the effectiveness of programs for improving educational opportunities for Indian children; (2) to assist in the establishment and operation of programs providing services not otherwise available and development and establishment of exemplary programs; (3) to assist in the establishment and operation of preservice and inservice training programs for personnel serving Indian children; and (4) to encourage dissemination of information and evaluations of educational programs for Indian children. It is stated in the Committee Report that development of culturally relevant and bilingual curriculum materials should be emphasized under this part.

State and local education agencies, institutions of higher education, and Indian tribes and organizations are eligible grantees under this part.

For purposes of making grants under this part there are authorized to be appropriated $25 million for FY '73 and $35 million for each of the two succeeding fiscal years.

EXTENSION OF SET-ASIDES TO BIA UNDER THE ELEMENTARY AND SECONDARY EDUCATION ACT AND THE EDUCATION OF THE HANDICAPPED ACT

Funds are set aside by law from certain OE programs to be administered by the BIA under Titles I, II, and III of ESEA and the Education of the Handicapped Act. P.L. 92-318 extends the existing set-aside provisions through FY '73.

For the purposes of Titles II and III ESEA and part B of the Education of the Handicapped Act (Assistance to States), the Secretary of the Interior shall have the same duties and responsibilities regarding these funds as a State education agency.

SPECIAL PROGRAMS RELATING TO ADULT EDUCATION FOR INDIANS: SUBSTANTIVE AUTHORITY

In part C a new section 314 is added to the Adult Education Act directing the Commissioner to administer a program of grants to State educational agencies and LEA's, and Indian tribes, institutions and organizations to support planning, pilot, and demonstration projects which are designed to plan, evaluate, and demonstrate Indian adult education programs. There are authorized to be appropriated $5 million for FY '73 and $8 million for each of the two succeeding fiscal years for this program.

OFFICE OF INDIAN EDUCATION, DEPUTY COMMISSIONER FOR INDIAN EDUCATION, NATIONAL ADVISORY COUNCIL FOR INDIAN EDUCATION

Part D establishes a bureau level Office of Indian Education within OE to administer the Indian provisions of this law. The law requires that the new OIE be headed by a GS-18 Deputy Commissioner for Indian Education.

The Commissioner must select the Deputy Commissioner for Indian Education from a list of nominees submitted by the National Advisory Council on Indian Education.

The National Council consists of 15 Indian members appointed by the President from lists of nominees furnished by Indian tribes and organizations. In addition to furnishing nominees for the Deputy Commissioner post, the Council will engage in such duties as: advising the Commissioner regarding the administration of any program affecting Indians; advising on the budget and funding process; reviewing applications submitted to the OIE for funding; evaluating programs funded by the OIE; and reporting directly to the Congress, with recommendations for improvements of Federal Indian education programs.

EARMARKING OF HIGHER EDUCATION TITLE V, PART D, FUNDS

Part E creates a new section 532 under Part D of the Education Professions Development Act containing a 5 percent set-aside from part D funds for the training of personnel to be teachers in BIA schools. Based on the FY '73 budget request of $77.8 million for the purposes of part D, the earmarking would involve $3.89 million for the training of teachers for the 50,000 pupil BIA system. Indians are to be given preference in such training programs.

AMENDMENTS TO TITLE I ESEA

The set-aside provision of Title I for the Secretary of the Interior is extended through FY '73. A new subparagraph (C) is added to section 103(a)(1) of Title I controlling the amount of, and terms upon which payments are made to the Secretary of the Interior under the set-aside provision. The terms of the new subparagraph are substantially similar to the memorandum of understanding already in effect between OE and BIA concerning the administration of Title I funds.

McGOVERN URBAN POLICY AND PROGRAMS

Mr. HUMPHREY. Mr. President, I am pleased to serve as the vice chairman of the urban affairs policy panel for the McGovern-Shriver campaign. Yesterday, Senator MCGOVERN released the names of distinguished mayors and one other local official who will serve not only on this urban affairs panel but also as members of the Mayors for MCGOVERN.

In doing so, Senator MCGOVERN called attention to the sordid Nixon record on our cities and urban areas. No matter what area is examined, the Nixon urban record is one of benign neglect—neglect of water and sewer programs, a nonexistent urban and national growth policy, and making a public, political playground out of our schools.

Mr. President, I look forward to working with Senator MCGOVERN on the

urban panel. I ask unanimous consent that Senator McGOVERN's remarks in announcing his urban policy panel and Mayors for McGOVERN be printed in the RECORD.

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

SENATOR MCGOVERN'S REMARKS IN ANNOUNCING HIS URBAN POLICY PANEL AND MAYORS FOR MCGOVERN

I have called this press conference today to announce the formation of two campaign organizations which will be concerned directly with the problems of the American cities.

The first is a very important group representing the Mayors of this country, which will be called Mayors For McGovern. I am pleased today to announce that Mayors Joseph Alioto of San Francisco, Roman Gribbs of Detroit, and John Lindsay of New York City have agreed to be the co-chairmen of this panel. Other mayors from around the country, Republicans as well as Democrats, will be joining Mayors For McGovern. I believe this committee will play one of the most crucial roles in my campaign.

The Mayors Committee will be seeking the support for my candidacy of other mayors in small and large American cities around the nation. The Committee will help raise campaign funds and set up and direct speakers' bureaus which will be presenting the message of my campaign to the men and women who live in the urban areas of this country.

I also wish to announce the formation of the Urban Affairs Policy Panel for this campaign. It is a great honor to have as the chairman of this panel, Mayor Ken Gibson of Newark and as vice-chairman, Senator Humphrey, Mayor Kevin White of Boston, and Mrs. Barbara Milkulski, the well known civic leader in Baltimore and a member of its City Council.

The rest of the Urban Panel will be comprised of mayors, urban affairs specialists and community leaders—throughout the country. I have specifically asked Mayor Gibson and his group to draft a suggested urban policy program for the Democratic campaign. This paper will be forthcoming very soon.

Finally, I want to take this occasion to say a few words about the state of our cities today. I want to say why I believe this election will determine the fate of American cities for the next two decades of our history.

The 1972 election is a referendum on the future of American cities.

I have campaigned throughout this country with a call to bring America home to the traditional values of harmony and peace and progress. Nowhere is the need to bring America home again more apparent than in our cities, where 70% of our people live.

The great issues of this campaign are focused on the cities. What is draining our urban centers of money and blighting our metropolitan areas is the unending, senseless war in Vietnam; the ceaseless, escalating defense spending; the terrible toll of inflation; an inequitable tax system; and the unconscionable Nixon-Agnew policy of deliberately putting people out of work as a tool against inflation.

We won't be able to put our cities back together until we turn federal revenues away from the war and away from special tax favors for the wealthy to the needs of our cities—jobs, housing, crime prevention, environmental protection, educational opportunities, mass transportation, nutritional aid, health care and income security for those who need it.

You who have assembled here today are on the firing line of urban problems. Since the 1966 Conference of Mayors, when the distinguished Mayor of Milwaukee, Henry Maier, first called our attention to the need to do first things first and fulfill our urban needs, your unflagging energies have dramatically shifted public opinion on this issue.

And over the past twenty months, you have fought, with courage and with determination, to bring home to the American people the truth about the terrible urban conditions which threaten to tear our cities apart—and the pressing need for Congress to act on the Mills Federal Revenue Sharing Bill and other vital pieces of legislation to reclaim our urban centers.

I acknowledge your help—and thank you for your advocacy.

The concerns we have shared today are the sort that my urban policy panel will be examining and weighing very carefully in the coming weeks.

I am announcing today the composition of that Urban Policy Panel. I will be awaiting their recommendations with great interest.

I did want to take this occasion also to restate the basic commitments of my campaign toward urban America.

REVENUE SHARING

For twenty months, the Democratic mayors of this country have lobbied long and strenuously for the revenue sharing bill. Several weeks ago, the Congress passed this critical piece of legislation to provide substantial and overdue assistance to our starving cities. It is a very welcome step. And I especially want to commend my running mate, Sargent Shriver, and my national campaign chairman, Larry O'Brien, who, at my specific request, lobbied long and hard for the passage of this vital bill. As President, I would increase that program another $4 billion in emergency fiscal relief to cities, out of money saved through tax reform and cuts in unnecessary military spending.

Revenue sharing is a concept which is integral to the McGovern urban program—but it is no substitute for other strong and continuous Federal commitments to the American cities. Recently high Nixon officials like John Erlichman, and Budget Director Casper Weinberger made it clear that once revenue sharing was passed, the Administration would cut back on other urban programs like Model Cities. I have been and continue to be a strong supporter of the Model Cities Program.

I want to state today in the most forceful language that under my Administration I will oppose any automatic reductions in existing urban programs once revenue sharing is passed. I will look to the recommendations of my policy panel on which current urban programs should be supported and strengthened.

URBAN GROWTH POLICY

There is today in this land no national plan for the orderly, balanced and reasoned growth of the urban areas where 70% of our people—and many more in the future—now dwell. The Nixon Administration recently issued its first biennial Report on Urban Growth, which contained 70 pages of statistics, but not one mention of a plan for the future development of our cities. The Republican Platform was also silent this year on an urban growth policy.

My Administration will, as one of its first acts, respond to the commitment made in the Democratic platform for a comprehensive plan for the development of American cities. I will look to the guidance of my urban policy panel for a national plan of Urban Growth. The lives of 100 million children, the increasing flight of rural Americans to the cities, our terrible transportation needs, and the vast decay of the urban centers cry out for immediate, serious, and thoughtful national planning.

JOBS

The Nixon Administration has adopted a deliberate policy of economic neglect toward the human resources of the cities by throwing men and women out of work, and then denying these same people the opportunity to train for new work. Richard Nixon vetoed two Democratic bills to create jobs for the unemployed and finally signed a third one into law when unemployment pressures grew overwhelming. This year Richard Nixon refused to spend over $4 million in funds for manpower training programs.

The jobless have swelled already overburdened welfare rolls, strained to the limit the revenues of city halls, and disrupted the management and orderly development of the American metropolis.

I have publicly committed a Democratic Administration to a $6 billion program to create one million new public service jobs by 1975 in the cities of this country. This broad program will not only dramatically reduce the welfare rolls by producing useful and decent work for hundreds of thousands of men and women, but it will also provide immediate direct services to the city dwellers by giving assistance to the fire, sanitation, police, health and other city departments.

But, beyond a new jobs bill, I am committed to a balanced, full employment economy in which there will be work for every man or woman who wants it. A McGovern Administration will put the cities of America back to work by putting American citizens back to work.

PUBLIC HOUSING

Five public housing authorities in such cities as St. Louis and Chicago and Washington, D.C., may go bankrupt at the end of this month. Twenty more in other cities could go under by the end of this year; forty may go bankrupt within another year, or one quarter of the total national inventory. The collapse of these projects would suddenly put 750,000 people into the streets of our cities, many of them elderly and many of them poor and many of them displaced by urban renewal clearances.

This year, Richard Nixon has impounded some $315 million which could be used to pay the operating subsidies to keep these public authorities alive. The Nixon Administration has apparently embraced the idea that the best public housing policy is the least amount of public housing authorities.

Under my Administration, the impoundment of funds appropriated by Congress because of so-called "inflationary" pressure will cease. These public programs should not be penalized for the mistakes of other sectors of the economy.

The Federal government today is also becoming the nation's largest slumlord. In city after city, Federal indictments and newspaper investigations have disclosed systematic fraud, in Federal housing programs by real estate brokers, mortgage houses, and, in some cases, FHA officials and appraisers. Thousands of home buyers have been cheated, and neighborhoods devastated. It has been estimated that HUD will end up owning 250,000 housing units as a result of foreclosures on federally-insured mortgages. This is a loss of over one billion dollars. The scandalous practices and mismanagement in FHA programs must be stopped.

What is now called for in this nation is a massive, well-planned, well-executed housing program which can produce good and decent units at the rate per year outlined by the Housing Act of 1968.

FOOD

When a city is desperate for food staples for its unemployed, the response of the Federal government should be an automatic grant of food assistance.

But the policy of the Nixon Administration is to delay nutritional aid for as long as possible. In Seattle, Washington, last year, I had to hold hearings of my Subcommittee on Nutrition and Human Needs to prod the Federal Government into providing grants for the hungry and into approving a direct food distribution program for the jobless.

In Detroit the summer before last, Mayor

Gribbs and Mayor Gibson, representing the Nation's Mayors had to go to Washington to plead with Congress to pass the funds for a Special Food Service Program which in past summers had fed up to 25,000 poor youth in Detroit every day—the only period of time when the nine month term of the School Lunch Program was inactive.

Under my Administration, there will be no need for special pleading to feed the poor, or the unemployed or the children of our cities. Ever since my days with the Food for Peace program, I have felt that starving people should receive food as a matter of right. My policy will be to provide nutritional assistance automatically where there is need. No man or woman, old person or youngster, will feel the pangs of hunger in my Administration.

SCHOOLS

In my proposed budget for a new Democratic Administration, one of my major commitments is to a vast program of Federal aid to local public education. I have pledged $15 billion to cities and towns across this land to meet roughly one-third of the cost of local elementary and high schools.

Not only will the aid relieve the school budgets of sorely pressed American cities (which sometimes are forced to close down school terms early), but it will dramatically reduce the unconscionable property taxes which citizens across this country have borne for the costs of education.

This step will represent a major reversal of national priorities since the Nixon Administration has three times vetoed funds for education on the grounds that they would be "inflationary" while at the same time pressing for missiles, ABM systems and supersonic transports as essential to our national life. My Administration will move quickly to reduce defense spending while moving just as quickly to increase domestic educational aid.

Furthermore, probably one of the most damaging vetoes Richard Nixon has made in his three-and-one-half years in office is the killing of the child-care bill. This bill must be passed as soon as possible by the new Congress and I will fight for its reinstatement as President in the first 100 days of my Administration.

TRANSPORTATION

Today 130 communities are providing $450 million for subsidies for transit systems to keep alive adequate and decent public transportation for urban citizens. The Nixon Administration has repeatedly refused to back an operating subsidy to relieve the onerous burden placed on the almost penniless municipalities. The lack of subsidies have forced up fares across the country and since 1950 reduced ridership from 17 billion people to 7 billion people annually, and encouraged more and more reliance on automobiles. We need to allow cities to reduce transit fares and increase ridership—a program which the Mayor of Atlanta, Sam Massell, has pioneered recently by reducing Atlanta's fares to $.15. Ridership in Atlanta has now increased 30% and the projected transit budget has decreased $5 million.

I feel the Federal Government has a commitment in this area. I will be awaiting the full recommendations of our Urban Policy Panel on the critical question of a federal subsidy program.

CRIME

Today there is an irregular warfare at work in our urban centers. Despite the talk of "law and order," the Nixon Administration has permitted a 30% increase over three years in the number of serious crimes; and some 350,000 drug addicts still roam the streets of our cities unaided and unseen by our responsible public authorities.

We must end this undeclared seige between the resident and the streets if we are ever to rebuild the reality and beauty and viability of the American city.

I would propose as President a tough $1.5 billion program to fortify this country in its legal, its curative, and its preventative fight against drugs. The program would provide automatic treatment for all addicts. It would intercept drug shipments from overseas. It would lay out research grants for the full investigation of drugs. It would restructure criminal penalties and rehabilitative goals for drug abusers.

We must recognize, too, that the suburbs are a part of our cities, not separate entities, and that hard drug traffic, particularly the heroin trade, has spread to many suburban communities. The policy of handling drugs must begin to deal with the cities and suburbs together, not individually.

The issue of crime also demands the most comprehensive, full scale national approach. I would first re-invigorate the concept of LEAA so that LEAA funds by-pass Federal red tape and go directly to the police departments of urban centers which need them. Less than 50% of LEAA funds were actually spent last year because of Federal red tape and administrative confusion. Some of the funds were actually spent on useless airplanes, and other gadgets which did not contribute to our efforts to fight crime.

We must shift the emphasis in our judicial systems to breaking the log-jams in the courts. The Ervin-Hart bill, which I support, would permit no more than sixty days between arrest and trial of any man or woman.

We must begin to face the shattering reality that our urban prisons manufacture criminals—they do not rehabilitate them. The rate of recidivism for first offenders is now a staggering 80%. We must strongly support rehabilitation; we must allow men and women to re-enter society with a real job and a just future.

Finally we must re-instill pride and education in the carer of a police officer. I have proposed a Policeman's Bill of Rights which is like the original GI bill. It would offer an incentive to young people for the best police training and vocation and it would subsidize higher education for men already in uniform. This represents the best kind of investment I know to save the streets of our cities.

URBAN CONSULTATION

Washington already dictates too much in the field of urban affairs. Too much time and too much staff on the mayors' part is wasted in getting separate approval of individual projects, and cutting through the jungle of federal regulations. Block grants and annual funding for sets of programs community-wide, on the model we developed in the Model Cities program, should be essential parts of federal urban policy. The mayor of a city should have a voice in all federal grants to the city he serves, because he is the one who takes the heat for the operation.

I would also like to suggest that once a McGovern Administration takes office, that we continue a regular schedule of consultation between the mayors and the President. More than a telephone call, more than a telegram, such direct talks are the most informed way a President has to acquaint himself first-hand with the problems of urban America today.

DISPARITY IN SENTENCING

Mr. PERCY. Mr. President, the New York Times has been publishing a series of articles concerning the very real problem of sentence disparity in New York. These articles have been highlighting a problem which has long been recognized, but about which little or nothing has been done. As long as sentences continue to be handed down in the fashion that is now used, this disparity is likely to continue.

This problem is not peculiar to New York. In the task force report on courts of the President's Commission on Law Enforcement and Administration of Justice, severe disparities were cited in the Federal system. For instance, during 1962, the average sentence for forgery ranged from a high of 68 months in the northern district of Mississippi to a low of 7 months in the southern district of Mississippi. That same report went on to say that "unwarranted sentencing disparity is contrary to the principle of even-handed administration of the criminal law."

It is far past the time when this problem should have been squarely faced and resolved. That is why I focused very heavily on this problem when I drafted and introduced S. 3185. Under the provisions of that bill, a uniform national system of sentencing would be instituted. A national board of experts would set national guidelines for the imposition of sentences in Federal courts. As I said in my testimony before the National Penitentiaries Subcommittee on July 27 when I was discussing this bill:

> This would not be a national body that just arbitrarily imposed its will on every judge in the country. Basic to an understanding of sentencing is that there will probably never be, and perhaps never should be, complete uniformity of sentencing. This would ignore the need for individualized, if not personalized, attention given to a particular offender by a judge. The Circuit Board, however, would help the federal judiciary to function harmoniously as component parts of a coordinated system of justice.

S. 3185 provides that in each Federal district, there will be a local board of experts in the criminal justice field, known as the district board. That district board will recommend to a judge, within the national guidelines set forth by the circuit board, a particular sentence for a particular offender. The difference in this approach is that this district board would have been studying the individual offender from the time of his arrest, and instead of a cursory presentence report by an overworked probation officer, there would be an in-depth analysis and recommendation concerning the sentence to be imposed. As I stated in my testimony of July 27:

> Under the new system, the local board would recommend not only the sentence to be imposed, such as probation, a fine, an alternative to incarceration, or incarceration, but its recommendation would also include two new and very significant additional parts: the purpose or reason for imposing the sentence, and the goals that the offender needs to attain in order to be released from the jurisdiction of the court. In the latter case, if incarceration were imposed, the recommendation would include the goals for the offender to attain while in prison in order for him to be released on parole.
>
> The Supreme Court has noted four purposes for imposing a sentence of imprisonment: 1) deterrence of similar crimes, 2) protection of society, 3) discipline of the offender, and 4) rehabilitation of the offender. There may be more reasons; yet too often these are never articulated. We never know exactly why we as a society and through a judge have imposed a particular sentence. In S. 3185, the District Board would make it clear why we are doing what we are doing.

The second important addition would be the recommendation as to the goals to be attained by the offender. The sentence should be shaped to the offender. By making the punishment fit the criminal, the chances are much better for true rehabilitation. Consequently, sentencing should be a goal-oriented process. Not only would the District Board set out very clearly what the offender has to do to be released from prison if incarceration were recommended, but "a detailed judicial determination of the specific goal to be attained by supervised confinement would provide administrators with guides for shaping the individual's correctional experience as well as serve as a benchmark by which the progress and nature of each prisoner's treatment within the institution could be judged."

The new procedures in S. 3185 would give to the sentencing process the attention and professionalism it has long deserved. In a society interested in the rights of the accused, we have tended to focus all of our attention on the trial procedure. However, it is probably more important to society, in the long run, what we do with a criminal after we have convicted him. The Courts themselves have recognized this by focusing more directly on the sentencing procedure, prison conditions and parole procedures. It is long past the time when the process of sentencing should have been raised to a more professional status.

The reaction to the article in the Times has been enlightening. Some have suggested the establishment of a review board to examine sentences after they have been imposed by a judge. On the other hand, Judge Stanley H. Fuld has recommended that what might be needed is some other authority, apart from the judge, which would have the responsibility of imposing the sentence. I must admit that during my deliberation on this problem, I consider both of these alternatives. However, I do not feel that they are the best way to solve the problem. Admittedly, judges are skilled in the law, but often have very little background with which to make the right sentencing decision. Thus, they need some help in making their determination. On the other hand, a judge is close to the case, and judges are somewhat jealous of their sentencing prerogative, one that historically has always been their function. Today, judges are seeking advice on particular sentences, but that advice is sought from the wrong people. This informal and haphazard procedure should give way to a new system.

In my bill, there is an emphasis on the unification of administrative functions. Thus, the district board handles bail recommendations, the recommendations as to the possibility of alternatives to prosecution, sentencing recommendation, parole release decisionmaking, and community supervision. Having set up one body to do the work that so many different bodies currently perform, it is only logical that you staff it well and then rely on it for the type of information, recommendations, and decisions that the other parts of the criminal justice system can rely on.

Mr. President, I think that my proposal in S. 3185 is a possible solution to the problem that the Times has brought to light. I suggest that this problem of disparity in sentencing not be viewed as an aberration of an otherwise perfect system. On the contrary, it is symptomatic of lack of coordination that the whole system continually exhibits, to the detriment of the welfare of society. For this reason, I hope that discussion can continue on the very pressing need for a complete reorganization of the criminal justice system, and that action in this regard can then be forthcoming.

Mr. President, I ask unanimous consent that the articles from the New York Times to which I have referred be printed in the RECORD.

I ask unanimous consent also that an article published in the Washington Evening Star-News of September 28, which illustrates action taken by District of Columbia judges on this problem, be printed in the RECORD.

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

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

SENTENCING INCONSISTENCY IS FOUND IN CITY'S COURTS

(By Leslie Oelsner)

Sentencing in the city's courts has fallen into confusion, with judges by their own account regularly handing out sentences they consider either too lenient or too harsh.

A four-week study by The New York Times shows that sentences in the state courts generally and in the city particularly have decreased markedly in recent years, so that the number of convicts serving prison terms in state prisons has been reduced from 18,000 in 1966 to 12,500 today.

Homicide convictions often bring four-year terms, armed robbers are sent away for one year, and at least until recently, the majority of convicted drug pushers did not go to jail at all.

This is a result, the Times study found, of the following factors:

The inability of the courts and the prosecutors to handle their case loads. To clear the dockets, they allow a great deal of "plea bargaining," in which a defendant is offered a reduced charge and a light sentence in return for a guilty plea. "The courts," says State Supreme Court Justice Irwin Brownstein of Brooklyn, "are being raped by these defendants."

A loss of faith in the prison system by some judges so that results in their refusal to send all but the most dangerous defendants to prison. And in the cases where they do send men to prison, they do so unwillingly, they say, believing they are creating an even worse criminal.

A belief by some judges who say they knowingly give light sentences, that sentences—whether light or harsh—do nothing to cut down crime. "Not only you don't know if you're doing right," said State Supreme Court Justice Sidney H. Asch, "you know you're never doing right. Very rarely doing right."

The sentences meted out by the judges are often reduced further by other factors. A one-year-probation term is a typical sentence in the city's Criminal Court for both violent and nonviolent crimes: the Office of Probation unilaterally cuts this to a six-month term on the ground that it lacks sufficient personnel.

CONCERN GROWS

Sentencing practices are causing increasing concern among judges, lawyers, penologists and legislators. Some say, as does Manhattan District Attorney Frank S. Hogan, that they are "not dissatisfied"; a growing number of others, though, believe that sentencing, as one lawyer put it, is "the new crisis in the courts."

The Assembly Codes Committee will hold a hearing on the general subject of sentencing Thursday, with other hearings likely to follow. The purpose, says Assemblyman Dominick L. DiCarlo, the chairman, is to "get some consensus, so that we don't pass a bill that makes the situation worse."

The Joint Legislative Committee on Crime, for its part, is studying the drop in sentences. The Kings County Grand Jurors Association, for another, has asked its counsel, former State Supreme Court Justice Samuel Liebowitz, to see if the sentences given defendants whom the grand juries indict can somehow be increased.

A TOUGH SENTENCE

And in one of the few recent cases where unusually tough sentence was imposed—and where the defense and prosecution have joined in an appeal of the sentence, asking that it be reduced—four community organizations are seeking to intervene on behalf of the judge. The sentence, those organizations say, was eminently appropriate.

That case involving a small-time addict pusher, Jerry Williams, illustrates the forces that have led to the present sentencing morass.

Williams, who had a record of previous arrests, was convicted after a jury trial on six charges arising from two drug sales last summer—two Class C felonies, two Class D felonies, and two Class A misdemeanors. State Supreme Court Justice Paul A. Fino of the Bronx ("I'm considered a judge that has been pretty stern") sentenced Williams to two consecutive 15-year terms.

Addict-pushers with records are frequently seen in the city's courtrooms. Most are sentenced either to a few years in prison or probation, with the court instructing them to enroll in a treatment program. And after the Williams decision, a number of judges who were asked what they would have done suggested terms ranging from four years down to probation.

JUDGES COMMENT

"An addict is a sick man," explained one judge. "He needs help, and he isn't going to get it in prison."

Judge Fino said: "Some of my colleagues have a tendency to be sympathetic. I think we should adopt a get-tough policy toward criminals who threaten us and our society."

And even those judges who would be likely to sentence a defendant in a similar case to one-tenth the amount of time Judge Fino did, declined to criticize Judge Fino. Justice Asch said: "By God, what I'm doing isn't solving the problem—maybe what he's doing will."

The sentencing crisis here includes the problem of sentence disparities—of similar defendants charged with similar crimes getting vastly different sentences; with the differences caused in part by such factors as geography or the judge's personality.

But the decline in the severity of sentences is considered the more confused aspect of the sentencing problem: Officials in the criminal justice system are unable to pinpoint the extent of the decline, much less the extent to which the decline is dangerous.

The Judicial Conference is charged with administrative powers in the state court system. When asked for statistics on the subject, a spokesman for the conference responded: "No one ever asked us for that before."

The city's Criminal Court said that it had sentence figures for 1971 and 1972 "in the computer," but that it could not "get them out."

Yet the easing of sentences is recognized by all. "You used to see 10-, 20-, 30-year sentences here," recalled Assistant Manhattan District Attorney David Worgan. And now, as Acting State Supreme Court Justice Irving Lang put it, "five years is a long sentence around here."

SOME STATISTICS

State Correctional Services Department's figures show that the average length of time

served has dropped from 31 months in 1965 to 22 months now.

The city's Department of Correction, which handles defendants sentenced to up to a year in jail (those with longer terms go to state prison), said almost 40,000 people were sentenced to city jails in 1964. In 1971, the number dropped to just over 20,000.

In addition to that, the type of inmate in the jails has also changed. The jails are getting more and more people who in an earlier day would have been given longer terms and who would thus have been sent to state prison.

"The county jails were [previously] pretty much filled up with people convicted of public intoxication," said Peter Preiser, the State Director of Probation. Now, in jails where one year is the maximum term, there are people convicted of assault and robbery and forgery. Drunks are rarely even arrested.

LAWMAKERS CUT TERMS

Legislative changes caused some of the easing of sentences—once, for instance, people convicted of misdemeanors in New York Ctiy, though not upstate, could receive three-year terms. Now the limit is one year.

The new penal law that went into effect in September, 1967, lowered the maximum penalty permissible in many categories of crime. Beyond that, it ended the old practice in which the judge usually also specified, as part of the sentence, the minimum amount of time a person would have to serve before being paroled.

As a practical matter, the Board of Parole now sets the minimum in all but the most serious offenses, such as murders. The theory is that convicts go to prison for "rehabilitation," and that the parole authorities are in the best position to know when the inmates are ready for release.

But the statutes account for only part of the decline. Many other factors have their effect.

For one thing, said Justice Asch, "we know that the prison system doesn't work." So many judges send people to prison only when they think in his words, that "the community should be relieved of the person" for reasons of safety. Similar comments were made by many of the judge's colleagues.

Another reason for the decline in prison terms, some judges said, was that crime had been "devalued."

"We're getting homicide cases with three-, four-, and five-year terms," Mr. Worgan. "The District Attorney in a heavy [nonhomicide] case asks the judge for a harsh sentence. The judge says, 'How can I? The judge next door just gave four for homicide.'"

But the biggest factor of all, to many, is the ballooning case load. The decrease in sentences is "basically a reflection of sheer volume," Judge Lang said, and many agreed.

HOLD OUT FOR BARGAINS

The courts are now geared to dispose of cases by pleas rather than by trials. As the case load grows, the defendants know that the judges and prosecutors become even more eager to avoid the time and effort a trial entails. So, defendants hold out for better and better offers from the prosecution.

"You don't get a plea unless you get a bargain," Justice Asch said. And part of the bargain is the sentence to be imposed. Judges can refuse to accept the plea, but generally do not. As one judge explained, the prosecutor would simply go to another judge the next week. "Our hands are tied," Justice Brownstein said.

Most people involved with the courts do not want a return to the days when 30-year sentences were common. There is wide acceptance of the American Bar Association's principles stated in 1968, that probation is to be preferred to prison where possible, and that sentences for all but heinous crimes should generally not exceed five years.

Yet the present situation exceeds the bar association's standards. "Where's the deterrent?" asked Jeremiah B. McKenna, a counsel to the Joint Legislative Committee on Crime.

Justice Brownstein asked the same question. The purposes of sentencing, he said, are "deterrence, getting the guy off the street and (fostering) respect for the law—and we don't have any of that now."

PAROLE DELINQUENCY UP

The chairman of the State's Board of Parole, Paul J. Regan, approves the trend to lesser pleas. Yet parole-delinquency figures show that the delinquency rate went from 15.6 for each 100 parolees in 1962 to 18.9 in 1971—not a huge increase, but still a rise of probation violations have also risen slightly.

The prosecutors, for their part, evince somewhat less concern about the easing of sentences than many judges. Mr. Hogan explains this by pointing out that sentences years ago were "probably excessive."

Yet he notes a few areas where he would like to see stiffer penalties, such as gambling. And he concedes that in cases involving the violation of gunlaws, "I think perhaps we should be tougher on those pleas."

District Attorney Burton B. Roberts of the Bronx said that he "monitors" the "heavy" cases to ensure that no low pleas are offered. He has records to prove it, showing some of the longest sentences imposed in the city. Yet, he, too, sees some areas where pleas have "possibly" been too low: "in robbery cases, because of the press of circumstances, and burglary cases, quite often."

SUGGESTIONS ABOUND

The system's critics offer varied and often contradictory proposals for reform.

Some judges favor a return to "mandatory minimums," with which they could ensure that defendants remain in prison for a specified period. "We're so damned frustrated with the recidivism," Justice Brownstein said, "that many of our judges including me are now thinking of mandatory minimums as the only way to restore respect for society for the judiciary and some dignity for the way we live."

He and others would also like some type of restriction on plea bargaining—a law which might say, for instance, that a man with a prior record who was indicted for a felony could not be offered a plea to a misdemeanor.

Such a law could tie up the courts, but Justice Brownstein said "that's just too damn bad. We've got to stop that nonsense," he added.

Yet plea bargaining, whatever its excesses, serves a useful purpose, as some see it, in achieving convictions. Often a man committed a crime, but was indicted for the wrong one. Or, he committed the one for which he was indicted, but the evidence is insufficient. Plea bargaining lets the prosecution get a conviction nevertheless.

Mandatory minimums, for their part, cut into the modern-day theory that the punishment should fit the criminal as well as the crime; and into the concept of rehabilitation as well.

So other critics suggest better facilities—for the courts, the prisons and the probation agencies.

With more courts and personnel some judges argue, the prosecution would be under less pressure to offer low pleas. And the recent experience in the city's narcotics newly created special courtrooms seems to prove the point.

In the early stages of the program last spring, of all the defendants indicted in Manhattan on felony charges and who subsequently pleaded guilty, only 56 per cent of them pleaded guilty to felonies, and 44 per cent to misdemeanors. Now that the program is fully operational Assistant District Attorney Frank Rogers, who is in charge of the program, said they were pleading to felonies 73 per cent of the time—with a resultant increase in the percentage of prison terms.

Pending such changes? More and more judges say, as does Justice Brownstein, "I don't know what to do."

This is the first of two articles on the sentencing problem in New York City's courts. Tomorrow's article will concentrate on disparities in sentencing in both state and Federal courts here.

WIDE DISPARITIES MARK SENTENCES HERE

(By Lesley Oelsner)

Jack Greenberg took $15 from a post office; last May in Federal Court in Manhattan he drew six months in jail. Howard Lazell "misapplied" $150,000 from a bank; in the same month in the same courthouse he drew probation.

Such are the contradictions in the sentencing system here, in both Federal and state courts. A study by The New York Times has found a host of such contradictions and a host of differences in sentencing. These reflect differences in the defendant's finances, in race, geography and in the judge's personalities.

Defendants charged with the same crimes get widely disparate sentences. Crimes that tend to be committed by the poor get tougher sentences than those committed by the well-to-do. Sentences for serious offenses sometimes show no hint of the seriousness.

The problem of sentence disparities has increased as judges have been given more and more discretion. It has gotten to the point where many in the courts call sentencing "chaotic," and Federal Judge Marvin E. Frankel, an acknowledged expert on the subject, calls it "lawless."

The Times found that the sentencing system includes such elements as the following:

Stiffer sentences for defendants with assigned counsel than for defendants with private counsel. According to a report by the Administrative Office of the United States Courts for the fiscal year 1969, defendants who could not afford private counsel were sentenced nearly twice as severely as defendants with private or no counsel.

A new study by the Vera Institute of Justice of courts in the Bronx indicates a similar pattern in the state courts.

Longer prison terms for nonwhites than for whites. The Federal Bureau of Prisons' records of inmates sentenced to Federal prisons in fiscal 1970 show that the average sentence of whites was 42.9 months and for nonwhites, 57.5 months. Whites convicted of income tax evasion were committed for an average of 12.8 months and nonwhites for 28.6 months. In drug cases, the average for whites was 61.1 months and for nonwhites, 81.1.

Stiffer sentences for those who are convicted after trial than for those who plead guilty ahead of time, thus saving the state the expense of trying them. In the state courts this difference is simply accepted and is a major consideration in plea negotiations between defense and prosecution. In the Federal system, with better record keeping, there are even statistics to prove it.

In fiscal 1969, the Administrative Office of the United States Courts reports, those who were convicted after trial were sentenced more than twice as severely as those who pleaded guilty ahead of time.

Differences in sentences between those convicted in New York City's local courts and those convicted for the same crimes upstate, with those upstate getting tougher sentences.

Differences in sentences between those convicted in Federal Court in Manhattan and those convicted in Federal Court in Brooklyn, with those in Brooklyn averaging longer terms.

Disagreement between judges as to wheth-

er the disparities are justified or not, with some, such as Chief Judge David N. Edelstein of Manhattan Federal Court, saying the problem is not serious, and others, such as Judge Frankel in the same court, taking the opposite stance.

The problem of sentence disparities surfaced decades ago and affects courts across the country. As District Attorney Frank S. Hogan of Manhattan says, "We've always been concerned with the disparate sentence."

It is a matter of increasing concern to lawyers, judges penologists and legislators. Among other things, it is combined in the state's courts here with another sentencing problem: a general decline in sentencing that is caused in part by the courts' and the prosecutors' inability to handle their case loads.

A United States Senate subcommittee that is studying the proposed new Federal penal code has begun amassing figures on sentence disparities in the Federal district courts and the State Assembly Codes Committee will hold a hearing tomorrow on the sentencing system, covering disparities and eased-up sentences.

Beyond that, the system's critics are broadening their attack. Once they concentrated on the fact that a man charged with murder could get 10 years from one judge and 40 from another. Now they also wonder how to justify or rationalize a system that provides a jail term for a man who took $15 from the post office but neither jail term nor a fine to defendants in a $4-million stock fraud.

"There's a traditional difference in sentences for different types of crime, and it tends to discriminate against the uneducated, unloved social reject," says the United States Attorney, Whitney North Seymour Jr.

"The guy who steals packages from the back of the truck is going to get four years, and the guy who steals $345,000 is going to get three months."

DIFFERENCE IN CRIMES

The difference is more than the traditional distinction between violent and non-violent crime. The difference now, by Mr. Seymour's reckoning, is between "common crimes," which may or may not be violent, and white collar crimes.

The "common crime" of auto theft is an example. Some 71 per cent of the people convicted of the offense in the last Federal fiscal year went to prison, Mr. Seymour noted, for an average term of three years. But with the white-collar crime of securities fraud, by his count, only 16.3 per cent went to prison—for an average term of less than a year.

Mr. Seymour has been making his point in speech after speech here and has started a study, headed by an aide named Poppy Quattlebaum, of recent dispositions of his office's cases. Some of those dispositions are graphic proof of his contention.

The case of the U.S. v. Jerome Deutsch and Frank Mills, for example, involved a $530,000 kickback. Deutsch, executive vice president of one company, gave the kickback to Mills, portfolio manager of a group of mutual funds, in return for Mills's purchase for the mutual funds of stock in Deutsch's company. Deutsch was fined $10,000 and Mills, $7,500. Neither received jail terms.

Or the Projansky case last fall, in which 13 defendants pleaded guilty or were convicted of a $4-million stock fraud—what Assistant United States Attorney Gary Naftalis, the prosecutor, called "the largest known manipulation of American Stock Exchange stock."

Of the 13, eight received no prison terms. While some of those eight were fined, others were not. The terms meted out to the remaining five defendants ranged from 30 days up to a year, for the mastermind of the scheme.

"VICTIM IS THE ECONOMY"

There were no victims in the sense of a man whose house was burglarized or a woman who was raped. As Mr. Naftalis notes, though, "the victim is the economy."

In many white-collar cases, the defendants violated laws that were passed after the Depression, mainly to insure that they would not end up like other victims of the Depression.

Most judges justify the minimal sentences they give to businessmen-criminals—fines, probation or exceedingly short jail terms—on the grounds that when such a man is convicted, he generally loses his job, his standing in the community and his family's respect.

"A conviction is still a conviction even if there is a suspended sentence," says Judge Edelstein. "He stands before the court and the community for all his life as a convicted defendant . . . A suspended sentence is a sentence."

Yet such prosecutors as Mr. Seymour—and Mr. Hogan—reject such reasoning.

"Is it really hard to accept the fact that a poor black also can lose his job, also can lose his family's respect?" asks Mr. Seymour. "It's that argument, really, that shows dramatically the fact that the present system of criminal justice can identify with that kind of defendant [the businessman] but not with that poor black school dropout."

The penalties meted out for irregularities involving buildings also seem rather minimal. According to an audit last summer by Controller Arthur Levitt, the average fine imposed for elevator violations in Manhattan for 1970–1971 was $18.

Some of the violations may be minor, but the Controller's office lists two such violations involving elevators that went unrepaired after prosecution and subsequently caused fatal accidents.

One involved an electrical interlock in a passenger elevator at 22 East 29th Street. The interlock had not been approved. When the matter came to court, in December of 1970, the owner was fined a total of $15. The accident occurred eight months later.

FIT PUNISHMENT TO CRIMINAL

In the other case, involving a loose operating cable in a freight elevator at 23 Park Place, there had been no fine at all.

"From the recalcitrant owners' point of view," said the Levitt audit, "we conclude that it is less expensive to defy the law than comply with it."

In addition to this, of course, is the traditional problem of defendants charged with the same crime who get different sentences.

The modern theory of sentencing is to fit the punishment to the criminal as well as to the crime (as opposed to the old-fashioned rule of fitting it merely to the crime), thus necessitating at least some disparity. But The Times survey found that disparities crop up over and over in the city's courts that are not entirely explicable on the grounds of differences between either the crimes or the criminals. The explanation lies elsewhere.

In the judge, for instance. State Supreme Court Justice Paul A. Fino recently gave a small-time addict-pusher a 30-year sentence, explaining that drugs were ravaging the young and that pushers had to be kept off the streets. Many of his colleagues regularly hand out three-year sentences or even probation in such cases, explaining that the addict is sick and that prison will not do him any good.

Or, geography. "There's no question about it," says Paul J. Regan, chairman of New York State's Board of Parole, whose job entails seeing hundreds of sentences from all across the state. "In the city of New York a man may get four years, and for the same crime upstate he may get 10 years."

So too in the Federal system. Defendants sentenced to prison from Brooklyn Federal Court in 1970 for the crime of transportation of stolen motor vehicles, for example, received an average sentence of 51 months, according to the Federal Bureau of Prisons. Defendants sentenced in Manhattan Federal Court for the same offense received an average of 30.7 months. In the Federal District Courts for northern New York, the average was 20.9.

The laws contribute to sentence disparities: they set tougher penalties for bank robbery than for tax evasion; and state laws are different from Federal laws.

Also, as some judges point out, the value of a crime may be different in one area than in another. Burglary is almost an accepted risk of city life here, for example, while in a small town it may terrify a community.

GUIDELINES ARE LACKING

To many observers the crucial factor is that sentences are determined by individual men with differing backgrounds and differing theories—and with no precise guidelines.

While the general purposes of sentencing are to rehabilitate the criminal, protect society, deter crime and create respect for the law, there are no rules spelling out how these purposes are to be achieved. Nor are their any rules saying, for instance, how much credit a man should get for pleading guilty rather than insisting on his right to a trial.

"The basic evil of sentencing is its lawlessness," says Judge Frankel, author of a forthcoming booklet on the subject. "There's too little law and too much discretion. There aren't enough rules of general application that tell everyone where he stands—the defendant, the judge."

Disparate sentences also stem from philosophical differences between judges about such things as society's right to punish.

Those who believe that punishment is a proper function of sentencing can logically be expected to be tougher than those who agree with District Attorney Burton B. Roberts of the Bronx, a candidate for the State Supreme Court. Mr. Roberts said that "the word 'punishment' shouldn't be used at all," and that the purposes of sentencing should be limited to protecting society, deterring crime and rehabilitating the criminal.

So too with the question of whether or not, or to what extent, sentences deter crime. Judges disagree, and sentence accordingly.

Beyond that there is, in the Federal courts, no right to appeal one's sentences—and thus no evening out of any disparity, however gross. In New York's state courts, sentences can be appealed to the Appellate Division. But since there are four Appellate Divisions, no real uniformity results.

Proposals for solving the problem of excessive disparities vary from interest group to interest group and from judge to judge. To an extent, the debate is between those who want to make it more common for a judge to send people to prison and those who want to make it less common.

STIFF CRITERIA SOUGHT

Thus Mr. Seymour and Peter Preiser, director of the state's probation services, argue that there should be stiff criteria that would have to be met before anyone could be sent to prison—an argument that would undoubtedly mean an additional hearing in each case.

On the other extreme are those who want the state law changed back to the practice under which judges set minimum terms that a convict would have to serve before being released from prison. (At present, for most cases, the minimum is set by parole authorities.)

Acting State Supreme Court Justice Irving Lan suggests another possible change that would probably induce judges to send white-collar criminals to jail more often; a

system in which the convict spends weekends in jail but weekdays at his job and with his family.

Many judges favor an increase in appeals of sentences (though they disagree as to whether there should be a special appeals court, solely for sentence cases). Judge Edelstein says: "I think I would like to have the thought that in the event I went haywire, there would be somebody above me. * * * I would sort of like that guardian angel."

FULD SUGGESTS SENTENCINGS BY AN AGENCY, NOT JUDGES

DECRIES DISPARITIES AND DISCLOSES A STATE STUDY OF JUSTICE SYSTEM

(By Leslie Oelsner)

The chief judge of the state suggested yesterday that it might be "desirable" to take the job of sentencing away from judges and give it to correction authorities or "some other agency."

In a statement prompted by articles on disparate sentences published this week in The New York Times, Chief Judge Stanley H. Fuld said that "disparity in sentencing is most unfortunate."

The Times articles detailed the confusion in the sentencing system in the courts, specifying two distinct problem areas: a marked decrease in the sentences handed out in state courts, caused in part by the courts' and the prosecutors' inability to handle their caseloads, and wide disparities in sentencing in state and Federal courts, with differences in sentences reflecting differences in such things as the defendant's race and the judge's personality.

He said that the state's Judicial Conference had begun a study of sentencing in order to "furnish the basic information upon which sound judgments and recommendations" can be made.

"To minimize disparity in sentencing," he said, "it may ultimately be demonstrated that it is desirable to commit to a correction authority or some other agency the responsibility and duty of determining the treatment to be accorded those convicted."

It might be desirable, he said, to "vest such agency with the power to determine whether the offender be placed on probation, be confined under conditions deemed to be in the public interest, to release him or parole him under such supervision and upon such conditions as it believes conducive to law-abiding conduct or to discharge him when, in its judgment, further confinement or control is no longer required in the public interest."

Judge Fuld, reading his statement over the phone yesterday afternoon from his post at the Court of Appeals in Albany, said also that the "emphasis" of the justice system should be shifted from "punishment to fit the crime" to "treatment to fit the offender."

But, he declared, "lack of funds has made it impossible to translate his ideal into practice."

OTHER OFFICIALS REACT

While Judge Fuld's response was the most dramatic—judges traditionally consider sentencing one of their chief duties—other officials here reacted as well.

Presiding Justice Harold A. Stevens of the Appellate Division summoned an undisclosed number of State Supreme Court Justices in Manhattan and the Bronx to a meeting early next week on the sentencing system.

He will meet with Criminal Court judges at a later date, he said, adding: "I hope shortly to get something moving."

Asked if the disclosures in The Times had come as a surprise, Justice Stevens said, "Some parts were and some weren't." He noted that "some of the judges" had previously mentioned sentencing problems to him, and said he hoped that he now had the impetus to "get it moving."

Russell G. Oswald, the State Correction Commissioner—whose institutions must deal with the prison unrest that disparate sentences can cause—called for the creation of a sentencing review board.

In a telephone interview, he suggested that the board would probably generally reduce sentences that were excessive, but that on occasion it might raise sentences. "I think it would be very good," he said, as a means of reducing disparities.

He also suggested that the board, "in order to have currency with the judiciary," would probably have to be composed of judges—an assumption on which Judge Fuld's statement casts doubt.

Commissioner Oswald also recommended that the state's penal law be revised to provide minimum sentences that defendants must serve before being released from prison. At the moment, in all but such crimes as murder and kidnapping, the judge generally sets only a maximum sentence. The Board of Parole, in effect, sets the minimum.

"I am distressed with the short sentences which all too many people are receiving for serious crime," he said.

DISPARITY "IMPORTANT FACTOR"

Disparity in sentencing, Commissioner Oswald noted, "certainly is an important factor in the generally unhappy mood of prisoners."

"Prisoners sitting in contiguous cells or in the same cellblocks or even the same institutions compare crimes and sentences and the one which has the longer sentence for the identical or very similar crime undoubtedly is embittered about it."

The disparities in prison sentences arise in a number of ways, but two of the more common are those between defendants sentenced in New York City and defendants sentenced under the old penal law and those sentenced since the law was revised effective September of 1967.

Upstate defendants generally get longer terms than those from New York City, The Times found in its study, and defendants sentenced under the old law have far longer terms than those sentenced under the new.

The latter type of disparity is particularly distressing to corrections officials. What happens, they say, is that a defendant comes into prison now with a certain term and is eligible for parole at an earlier date than other prisoners convicted of the same crime and already serving sentences.

Legislation passed in the last session in Albany reduced the problem somewhat, by speeding up the parole eligibility dates for convicts sentenced under the old law, but a substantial difference still remains.

There are problems in devising a way to handle disparities. One of them, Commissioner Oswald and Judge Fuld said is that at least some disparity is necessary: the ideal is to fit the punishment to both the criminal and the crime, and different criminals have different needs.

Another problem is the general lack of information about the precise extent and occurrence of disparities.

Beyond that, there is little information, either, concerning some of the basic premises of sentencing.

Although a major goal of the sentencing system is rehabilitation of the criminal, more and more judges and penologists are conceding that little if anything is known about the subject—and that as the McKay Commission said in its report on last year's Attica prison rebellion, the "promise of rehabilitation" is but a "cruel joke."

Hence, the proposals and ideas about how to clear up the sentencing morass are varied and often contradictory. The Assembly Codes Committee will hold hearings on the subject today (beginning at 10 A.M., at 270 Broadway), and already it is clear from the speakers' list that the suggestions will be diverse.

It is clear, too, that whatever changes are made will take some time. Presiding Justice Samuel Rabin of the Second Department whose jurisdiction includes Brooklyn and Queens, said yesterday that several of his judges had been studying the problem of sentencing since April and that he hoped to meet with them in mid-October to discuss their findings.

But, he said, "any solution to it—if there is any—if it's done in a matter of months or the near future, that will be something."

So far no local official other than Judge Fuld has suggested that judges totally turn over the job of sentencing to someone else. Some judges who were asked about such an idea during The Times' investigation noted, as one put it, that "That would make life a lot easier."

JUDGES CLOSE TO CASE

Various people, however, have suggested that sentences be meted out by a board or committee, partially or totally composed of judges. To many in the judiciary, this idea is anethema. The trial judge is closest to the defendant and knows the most about the circumstances of the case, judges argue, and hence should be the one to determine his future treatment.

In Brooklyn Federal Court—in one of the few such programs in the country—a judge hands out a sentence after discussing the case in a "sentencing conference" with two other judges. Thus, while the trial judge still makes the decision, he has the advice and comments of his colleagues.

In the 10 years that the program has been in effect, according to Chief Judge Jacob Mishler, the trial judge generally pays more attention to such things as the defendant's probation report, because "he knows there will be discussion" of the report at the conference.

Beyond that, Judge Mishler says, sentences meted out by the court's various judges have become more uniform.

[From the Evening Star-News, Sept. 28, 1972]

BOARD IS ESTABLISHED FOR FELONY SENTENCING

(By Tromas Crosby)

The D.C. Superior Court board of judges voted last night to establish three-judge sentencing councils to promote uniformity in sentences meted out to persons convicted of felonies.

The disparity in sentences given by various judges has led many lawyers at Superior Court to attempt getting their clients' cases assigned to those judges considered lenient.

Under the current situation one defendant may receive a lengthy jail sentence from one judge while a co-defendant, appearing before another judge, receives probation for the same offense. Among the court's 44 judges at least five are considered lenient in sentencing, with an equal number considered to be exceptionally tough.

Chief Judge Harold H. Greene said that under the new procedure, there will be three councils divided among the nine judges currently hearing felony cases. The councils are temporary, Greene said, but if the process is successful it will be permanently adopted.

The councils are expected to "promote fairness and uniformity" in sentencing, Greene said. Hopefully, they also would eliminate the defense practice of "judge shopping" to get a lenient judge.

The sentencing councils will meet once a week to discuss the pre-sentence reports on defendants prepared by the court's Social Services Division.

Greene said the councils will be "advisory only" and the final responsibility for the sentence will rest with the judge before whom the finding or plea of guilty was entered.

The board of judges also decided for the first time to allow third-year law students from area universities to handle trials in Superior Court for both the prosecution and defense in misdemeanor cases.

THE INTERNAL SECURITY OF THE UNITED STATES

Mr. THURMOND. Mr. President, the Washington Evening Star and Daily News of Wednesday, September 27, 1972, contains a timely column entitled "Viet War Bill That Was Overdue."

The article refers to legislation which has been reported by the House of Representatives Internal Security Committee to restrict the travel of U.S. citizens and nationals to any country engaged in armed conflict with the United States.

Several American citizens have recently gone to North Vietnam and, regardless of their intent, become tools for Communist propaganda purposes. A horrible situation exists when any American is used by the enemy to spread doubt and discord in the minds of our young men while they are in combat.

Mr. David Lawrence points out that such adverse statements and broadcasts, made by U.S. citizens about their own government, have stirred up a great deal of ill feelings in Congress and throughout the country.

On Tuesday, September 26, 1972, I introduced a bill almost identical to the House bill, and I certainly agree with Mr. Lawrence that it is time something is done to stem such misguided actions. This problem should be considered by this Congress, and I urge Senators to support any measure that corrects such activities. These comments deserve the consideration of the Congress.

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

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

VIET WAR BILL THAT WAS OVERDUE

(By David Lawrence)

At last a committee of Congress has taken a step to stop Americans from dealing with the enemies of the United States in the midst of a war.

The House Internal Security Committee has approved a bill which could prohibit any citizen of this country from traveling to nations engaged in armed conflict with the United States unless authorized by the President after he had determined whether the trip was in the national interest. Violators would be subject to a prison sentence, a fine, or both.

The action by the committee, which would be followed soon by passage in the House and Senate, is aimed at those who have been in communication with officials in North Vietnam and who have been told by their friends or misguided advisers that it is proper to go there. Unquestionably North Vietnam has used innocent persons as instruments for its propaganda and has convinced some members of the families of prisoners of war that there was nothing improper about their trips.

Richard H. Ichord, Democrat of Missouri, who is chairman of the House Internal Security Committee, has expressed the hope that passage of the bill would stem the venomous flow of statements emanating from the mouths of American citizens on the soil of the enemy. While the measure is aimed at the activists in the anti-war groups, it could be an obstacle to further traveling to North Vietnam by relatives of prisoners of war.

The Hanoi government arranged for some relatives of prisoners to come to North Vietnam and secured statements which are filled with unwitting propaganda that the visiting individuals probably thought would do no harm but might secure the release of the prisoners. The Communists, however, through their news agency spread the comments throughout the world and quote Americans as criticizing their own government.

The propaganda machine of the Communists, moreover, has had opportunities to use the names of prominent Americans who have visited there and openly condemned their own country. The effort to divide American public opinion by the use of propaganda has been going on for some time, but it has not been until recently that so many opportunities were afforded the North Vietnamese to get the benefit of interviews with well-known Americans. All this has produced resentment in Congress and hence the bill was approved by the committee after a brief hearing.

To denounce the United States while a prisoner under compulsion in Hanoi would be one thing, but some visitors have returned to America and continued their defense of North Vietnam with arguments supporting the military adversary of their own country in a war that has been going on for several years. This has rarely occurred in previous conflicts.

It is surprising that Congress has not moved on this issue before. For the impression conveyed by those Americans who have deliberately gone to North Vietnam, talked with officials there about the problem of the prisoners or other matters related to the war and then gave interviews with adverse comments about their own government is something that has stirred up a lot of ill-feeling throughout the nation as well as in Congress.

It is questionable whether all this will help the release of the prisoners when the negotiations in Paris are resumed in earnest. Hanoi has mistakenly assumed that the American people were swinging away from administration and would not be willing to continue the war, but the South Vietnamese are still growing stronger and the advisory aid given by the United States and its air power will be available if any new offensives are started against South Vietnam.

SALES OF AMERICAN GRAIN TO RUSSIA

Mr. BELLMON. Mr. President, the entry of the Russians into the American wheat market on a massive scale has produced many impressions. Perhaps the most prevalent is the certain knowledge that in spite of the noncapitalistic nature of the socialist society in Russia, the representatives of that country who came to the United States to buy grain proved to be shrewd and tough bargainers. The methods used by Soviet grain dealers in the purchase of American wheat, feed grain, and soybeans, are fully, and I believe accurately described in an article which appeared in the Friday, September 29, 1972, New York Times.

The article, entitled "Soviet Purchase of Wheat Called a Financial Coup," emphasizes the capitalistic skill employed by the Russians in this transaction. The article further points out the clever method used by the Russians to conceal the total size of their purchases, which did not become general knowledge to the trade or to the public until the Russians had purchased most of the needed grain.

Considerable controversy has grown up because of the lack of understanding of the American grain trade and of the Russians' business techniques. I believe that Senators would benefit by reading this article.

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:

SOVIET PURCHASE OF WHEAT CALLED A FINANCIAL COUP

(By Michael C. Jensen)

The Soviet Union's recent purchase of more than $1-billion worth of American wheat, feed grains and soybeans, the biggest grain deal in history, appears to have been a remarkable coup for the buyers from Moscow.

By using tough bargaining tactics and keeping its over-all intentions secret, the Soviet buying team saved millions of dollars during midsummer buying trips to New York, Washington, Memphis and Minneapolis, among other places.

In two visits to the United States, the Russians bought up about 25 per cent of the total American wheat crop for the year at bargain prices. World and domestic prices have soared by more than 50 per cent since the Soviets started buying.

[In Washington, the wheat sale controversy heated up as questions were raised concerning possible use of inside information and violation of conflict-of-interest laws.]

ONE AFTER ANOTHER

The Russian team, led by the seasoned negotiator Nicolai Belousov and operating out of a 42d-floor suite at the New York Hilton hotel, closed one deal after another with United States grain dealers.

"They know our grain market as well as anyone I've ever seen," said Walter B. Saunders, vice president of Cargill, Inc., one of the world's largest grain dealers. "They bought grain * * * other grain products in coming months as a result of the massive Soviet buying and increased orders from other countries.

The Russian success has been largely obscured by the political turmoil that has swirled around the grain sale, and it has become a controversial issue in the Presidential campaign.

Democrats have charged that some grain dealers made windfall profits at the farmers' expense, with help from the Nixon Administration. Republicans are defending their handling of the deal.

There has been, however, general agreement that the Russians did a quick and effective job of filling their needs.

The grain business, dominated by privately-owned companies, is secretive by nature. Neither the Russians nor the dealers are volunteering much information about the summer negotiations.

It was possible, however, to reconstruct the chain of events from fragments of Congressional testimony and interviews with Government and corporate officials.

GOVERNMENT ROLE

The huge deal, which the Russians needed desperately to overcome a wheat shortage in their country, was facilitated by loan arrangements with the United States Government.

Agreement on a $500-million line of credit was reached by M. R. Kuzmin, Soviet First Deputy Foreign Trade Minister, and Secretary of Commerce Peter G. Peterson following a series of meetings in Washington that began on June 29 and ended with announcement of the loan by President Nixon on July 8.

The Russians were able to continue to buy wheat at the prevailing world price of $1.68 to $1.65 a bushel because a United States Government subsidy to dealers made up the difference between world and domestic prices.

The subsidy was later dropped, but not until the Russians had completed their buying. The world price has subsequently risen to well over $2 a bushel.

The Soviet team negotiated with grain dealers through the first week of August, and stayed in the United States until Aug. 18, when they again departed for Moscow.

During the second visit, the Russians closed new deals with all the companies in the first round except Continental and added the Bunge Corporation of New York to the list of their suppliers.

"We consider them careful, informed and shrewd," said Carl C. Brasmer, Bunge's vice president for trading. "When Belousov called us the second time, we figured we were just going for a handshake, so we said we were sorry we didn't sell him any [wheat] the first time, that we had just come to say goodby. He said 'Do not be sorry . . . Come on, let's see that American efficiency.' "

Cook Industries, president Edward W. Cook, said that his company got its first call from the Russians on June 29 but that "my guy came back from Washington empty-handed."

"Then we lost them [the Russians], but we finally found out on the 10th that they were at the Hilton in New York," he said, "I called and said I'm coming up to see you.

"On the 11th I got in my airplane at 5 A.M., and got to the Hilton at 9:15 A.M. I cooled my heels until 4:30 P.M. Then I walked into the room, and they said, 'Offer us wheat.' "

It now appears that in addition to over 11 million tons of wheat, valued at about $660-million, and 1 million tons of soybeans, worth about $130-million, the Russians bought 6 million tons of corn, worth about $300-million.

Total estimated purchases from United States companies so far: over $1-billion.

It is believed that the Russians also bought an additional 10 million or 11 million tons of grain in other countries such as Canada, France and Australia during the same period.

Even as the loan was being negotiated, however, a separate team of Russian officials was quietly bargaining with grain company officers, first in Washington, at The Madison, a luxurious downtown hotel, and then in New York.

The buying group was headed by Mr. Belousov, president of Exportkhleb, the Soviet state trading organization. The team also included Leonid Kalitenko, the most fluent English-speaker of the group and its detailman, and Paul Sakun of the Ministry of Foreign Trade, who was described by one American as "the watchdog from Moscow."

"GOOD CAPITALISTS"

"The Russians were very clever," said George S. Shanklin, a Department of Agriculture expert on commodity exports, in an interview. "They were able to buy large quantities without bidding the price up." I give them credit for being very good capitalists."

A more critical look was taken by Representative Neal Smith, an Iowa Democrat, who told a House subcommittee that the Nixon Administration had been duped by the Russians.

At a time when the Russians faced a major shortage of wheat, he said, they "employed an old tactic of diverting attention.

"They talked about buying large amounts of corn, which we have in considerable surplus. They talked of long-term dependence upon us for grain. And they haggled over credit terms on relatively small amounts of mixed grains while secretly closing cash deals on large amounts of wheat. . . . Apparently [Secretary of Agriculture Earl Butz] fell for their simple game hook, line and sinker," the Representative said.

A New York grain company executive who bargained with the Russians said:

"It was the first time they were dealing on this scale in a free market, and they realized very well that it was a brand new ball game for them—not like Canada or Australia where they deal with one central agency.

"They realized that if the quantities got to be known, it would hurt their chances of getting a good price, so they were constantly fooling around, switching from one item to another. They would say, 'We are not buying more than we are ordering from you.' "

AN APPROACH DETAILED

The largest single seller to the Russians was the Continental Grain Company, a New York concern that has had extensive prior dealings with the Russians.

Officials of Exportkhelb telephoned Continental in New York City on Thursday, June 29—at the same time that the official Washington negotiations began—and met with the company's officers in Washington the following evening.

Over the weekend, a Continental official took some of the Russians on a sightseeing tour of the city and to lunch in nearby Alexandria, Va.

Then, on Monday negotiations were shifted to the New York Hilton, although they were periodically held in other places as well.

The talks continued until July 5, when Continental signed a preliminary contract for 4 million tons of wheat. That in itself was the biggest single purchase the Russians made from one company in this country and it was later supplemented by another, 1 million ton, contract with the same company.

The United States-Soviet credit was not announced until three days after Continental's first sale.

PRICE ESTIMATED

The company said its price to the Russians was "very close" to the prevailing market price of $1.63 to $1.65 a bushel, although some trade sources said the Russians were shaving market prices a bit at the beginning.

Besides wheat, Continental sold the Russians 4 million tons of corn to be used as feed grain.

During the two weeks following the completion of its major deal with Continental, the Russian team, made additional large purchases of wheat from Cargill, Inc., of Minneapolis; the Louis Dreyfus Corporation of New York; Cook Industries, Inc., of Memphis; and the Garnac Grain Company of New York.

All the purchases apparently were made at levels near the prevailing market price.

CARGILL CASE

The Russians' secretive style of negotiating was typified in their dealings with Cargill, whose officials met with the Soviet team in Washington on Saturday, July 1. Barley and corn were mentioned by the Russians at the first meeting, according to Cargill, but not wheat.

On July 10, two days after President Nixon's announcement of the grain credit, Cargill officials again met with the Exportkhleb team, this time in New York.

The discussion turned to wheat, and agreement was made to sell the Russians 1 million tons. A contract was signed two days later.

The Russians continued to meet with other grain companies, and did not leave New York for Moscow until about July 21.

Meanwhile, as the Soviet buying became known in the trade, the domestic market price of wheat rose to $1.76 a bushel by mid-July and reached $1.78 by the time the Russians returned to Moscow. It subsequently rose to the $2.50-a-bushel level when the full extent of the Soviet purchases became apparent.

RETURN VISIT

The Soviet team's return visit, about 10 days later, was a surprise, and led to speculation that the Russians had underestimated their domestic shortfall.

REVENUE-SHARING FUNDS FOR GEORGIA

Mr. TALMADGE. Mr. President, the committee of conference, convened between the House of Representatives and the Senate to resolve differences in the two versions of the revenue-sharing bill, H.R. 14370, has completed its work.

The Department of the Treasury has released its official tabulation of revenue-sharing funds which each local government will receive, based on the conference committee's decisions.

Unfortunately, there are errors in the Department's data for certain local governments in Georgia. These involve placing the city of Homerville in Clayton County rather than Clinch County and placing the city of Fort Valley in Paulding County rather than Peach County.

Having pointed out these inaccuracies, I believe it is important that local government officials in my State receive this latest information regarding their allocations of revenue-sharing funds.

I ask unanimous consent that the official Treasury tabulation of revenue-sharing funds for local governments in the State of Georgia be printed in the RECORD.

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

Revenue sharing funds for Georgia

[In dollars]

Total State grant to all locals	73,292,941
Amount returned to Georgia State government is	330,475
Appling County area	204,249
Appling County government	199,809
Total to all cities over 2,500	3,312
Total to all cities under 2,500	1,128
Total to all townships	0
Baxley City	4,448
Atkinson County area	136,132
Atkinson County government	95,293
Total to all cities over 2,500	0
Total to all cities under 2,500	40,840
Total to all townships	0
Bacon County area	190,064
Bacon County government	153,717
Total to all cities over 2,500	36,347
Total to all cities under 2,500	0
Total to all townships	0
Alma City	36,347
Baker County area	89,728
Baker County govt	77,100
Total to all cities over 2,500	0
Total to all cities under 2,500	12,628
Total to all townships	0
Baldwin County area	567,000
Baldwin County govt	363,500
Total to all cities over 2,500	203,500
Total to all cities under 2,500	0
Total to all townships	0
Milledgeville City	203,500
Banks County area	111,871
Banks County govt	104,511
Total to all cities over 2,500	0
Total to all cities under 2,500	7,360
Total to all townships	0
Barrow County area	181,698
Barrow County govt	99,064
Total to all cities over 2,500	62,743
Total to all cities under 2,500	19,891
Total to all townships	0
Winder City	62,743

Revenue sharing funds for Georgia—Con.

[In dollars]

Bibb County area	3,320,942
Bibb County govt	1,352,019
Total to all cities over 2,500	1,965,134
Total to all cities under 2,500	3,788
Total to all townships	0
Macon City	1,965,134
Bartow County area	514,208
Bartow County govt	253,273
Total to all cities over 2,500	187,104
Total to all cities under 2,500	73,831
Total to all townships	0
Cartersville City	187,104
Ben Hill County area	192,529
Ben Hill County govt	118,784
Total to all cities over 2,500	73,745
Total to all cities under 2,500	0
Total to all townships	0
Fitzgerald City	73,745
Berrien County area	267,587
Berrien County government	196,456
Total to all cities over 2,500	50,592
Total to all cities under 2,500	20,539
Total to all townships	0
Nashville City	50,592
Bleckley County area	164,205
Bleckley County govt	133,303
Total to all cities over 2,500	30,902
Total to all cities under 2,500	0
Total to all townships	0
Cochran City	30,902
Brantley County area	115,470
Brantley County govt	104,666
Total to all cities over 2,500	0
Total to all cities under 2,500	10,804
Total to all townships	0
Brooks County area	234,621
Brooks County govt	190,308
Total to all cities over 2,500	40,500
Total to all cities under 2,500	3,813
Total to all townships	0
Quitman City	40,500
Bryan County area	99,057
Bryan County govt	71,851
Total to all cities over 2,500	0
Total to all cities under 2,500	27,206
Total to all townships	0
Bulloch County area	443,117
Bulloch County government	252,224
Total to all cities over 2,500	174,500
Total to all cities under 2,500	16,393
Total to all townships	0
Statesboro City	174,500
Burke County area	422,707
Burke County government	333,860
Total to all cities over 2,500	67,500
Total to all cities under 2,500	21,347
Total to all townships	0
Waynesboro City	67,500
Butts County area	188,662
Butts County government	125,965
Total to all cities over 2,500	53,241
Total to all cities under 2,500	9,456
Total to all townships	0
Jackson City	53,241
Calhoun County area	152,966
Calhoun County government	99,122
Total to all cities over 2,500	0
Total to all cities under 2,500	53,844
Total to all townships	0
Camden County area	206,534
Camden County government	107,538
Total to all cities over 2,500	54,058
Total to all cities under 2,500	44,937
Total to all townships	0
St. Marys City	54,058
Candler County area	148,474
Candler County government	105,310
Total to all cities over 2,500	40,000
Total to all cities under 2,500	3,164
Total to all townships	0
Metter City	40,000
Carroll County area	684,342
Carroll County government	329,687
Total to all cities over 2,500	290,689
Total to all cities under 2,500	63,965
Total to all townships	0
Bremen City (part)	98
Carrollton City	256,648
Villa Rica City (part)	33,943
Catoosa County area	235,501
Catoosa County government	207,402
Total to all cities over 2,500	19,695
Total to all cities under 2,500	8,405
Total to all townships	0
Fort Oglethorpe Town (part)	19,695
Charlton County area	129,156
Charlton County government	98,102
Total to all cities over 2,500	0
Total to all cities under 2,500	31,054
Total to all townships	0
Chatham County area	4,347,874
Chatham County government	2,156,198
Total to all cities over 2,500	2,136,000
Total to all cities under 2,500	55,676
Total to all townships	0
Garden City Town	18,493
Savannah City	2,089,189
Town of Thunderbolt	11,414
Port Wentworth City	16,904
Chattahooche County area	57,992
Chattahooche County government	46,000
Total to all cities over 2,500	0
Total to all cities under 2,500	11,992
Total to all townships	0
Chattooga County area	284,988
Chattooga County government	207,051
Total to all cities over 2,500	48,965
Total to all cities under 2,500	28,973
Total to all townships	0
Summerville City	48,965
Cherokee County area	272,176
Cherokee County government	197,637
Total to all cities over 2,500	43,909
Total to all cities under 2,500	30,631
Total to all townships	0
Canton City	43,909
Clarke County area	898,427
Clarke County government	356,793
Clarke County government	356,793
Total to all cities over 2,500	534,986
Total to all cities under 2,500	6,648
Total to all townships	0
Athens City	534,986
Clay County area	22,512
Clay County government	15,626
Total to all cities over 2,500	0
Total to all cities under 2,500	6,886
Total to all townships	0
Clayton County area	746,388
Clayton County government	516,745
Total to all cities over 2,500	204,363
Total to all cities under 2,500	25,280
Total to all townships	0
College Park City	6,768
Forest Park Town	115,567
Jonesboro City	38,877
Morrow Town	11,843
Riverdale City	8,052
Homerville City	232,257
Clinch County area	148,312
Clinch County government	114,250
Total to all cities over 2,500	0
Total to all cities under 2,500	34,062
Total to all townships	0
Cobb County area	1,188,984
Cobb County government	1,061,601
Total to all cities over 2,500	110,633
Total to all cities under 2,500	16,750
Total to all townships	0
Austell City	12,955
Acworth City	8,326
City of Kennesaw	9,259
Marietta City	24,826
Powder Springs City	4,130
Smyrna City	67,887
Coffee County area	435,831
Coffee County govt	281,098
Total to all cities over 2,500	125,647
Total to all cities under 2,500	29,086
Total to all townships	0
Douglas City	125,647
Colquitt County area	598,779
Colquitt County govt	395,182
Total to all cities over 2,500	164,773
Total to all cities under 2,500	38,825
Total to all townships	0
Moultrie City	164,773
Columbia County area	181,073
Columbia County govt	165,382
Total to all cities over 2,500	8,000
Total to all cities under 2,500	7,690
Total to all townships	0
Groveton City	8,000
Cook County area	280,855
Cook County govt	206,750
Total to all cities over 2,500	49,000
Total to all cities under 2,500	25,106
Total to all townships	0
Adel City	49,000
Coweta County area	638,428
Coweta County govt	493,021
Total to all cities over 2,500	114,973
Total to all cities under 2,500	30,434
Total to all townships	0
Newnan City	114,973
Crawford County area	110,112
Crawford County govt	103,000
Total to all cities over 2,500	0
Total to all cities under 2,500	7,112
Total to all townships	0
Crisp County area	379,912
Crisp County govt	200,560
Total to all cities over 2,500	174,397
Total to all cities under 2,500	4,956
Total to all townships	0
Cordele City	174,397
Dade County area	111,275
Dade County govt	104,232
Total to all cities over 2,500	0
Total to all cities under 2,500	7,043
Total to all townships	0
Dawson County area	62,682
Dawson County govt	59,927
Total to all cities over 2,500	0
Total to all cities under 2,500	2,755
Total to all townships	0
Decatur County area	516,603
Decatur County govt	264,507
Total to all cities over 2,500	252,096
Total to all cities under 2,500	0
Total to all townships	0
Bainbridge City	252,096
De Kalb County area	3,283,446
De Kalb County govt	2,727,936
Total to all cities over 2,500	519,406
Total to all cities under 2,500	36,103
Total to all townships	0
City of Atlanta (part)	342,957
Chamblee City	35,279
Claskston Town	9,987
Decatur City	101,937
Doraville City	29,246

Dodge County area	217,039
Dodge County govt	178,464
Toal to all cities over 2,500	30,816
Total to all cities under 2,500	6,759
Total to all townships	0
Eastman City	30,816
Dooly County area	236,085
Dooly County govt	172,500
Total to all cities over 2,500	0
Total to all cities under 2,500	63,586
Total to all townships	0
Dougherty County area	1,552,982
Dougherty County govt	859,899
Total to all cities over 2,500	893,083
Total to all cities under 2,500	0
Total to all townships	0
Albany City	683,083
Douglas County area	283,210
Douglas County govt	259,978
Total to all cities over 2,500	23,232
Total to all cities under 2,500	0
Total to all townships	0
Douglasville city	22,572
Villa Rica City (part I)	660
Early County area	293,660
Early County govt	233,868
Total to all cities over 2,500	55,000
Total to all cities under 2,500	4,793
Total to all townships	0
Blakely City	55,000
Echols County area	44,552
Echols County govt	9,361
Total to all cities over 2,500	0
Total to all cities under 2,500	35,191
Total to all townships	0
Effingham County area	108,234
Effingham County govt	90,106
Total to all cities over 2,500	0
Total to all cities under 2,500	18,128
Total to all townships	0
Elbert County area	372,108
Elbert County government	245,384
Total to all cities over 2,500	113,914
Total to all cities under 2,500	12,810
Total to all townships	0
City of Elberton	113,914
Emanuel County area	421,179
Emanuel County government	257,796
Total to all cities over 2,500	125,672
Total to all cities under 2,500	37,710
Total to all townships	0
Swainsboro City	125,672
Evans County area	150,995
Evans County government	111,403
Total to all cities over 2,500	29,500
Total to all cities under 2,500	10,091
Total to all townships	0
Claxton City	29,500
Fannin County area	287,898
Fannin County government	242,327
Total to all cities over 2,500	0
Total to all cities under 2,500	45,572
Total to all townships	0
Fayette County area	87,253
Fayette County government	38,092
Total to all cities over 2,500	0
Total to all cities under 2,500	49,161
Total to all townships	0
Floyd County area	1,413,219
Floyd County government	758,126
Total to all cities over 2,500	628,431
Total to all cities under 2,500	26,662
Total to all townships	0
Rome City Sectys	628,431
Forsyth County area	176,164
Forsyth County government	163,644
Total to all cities over 2,500	0
Total to all cities under 2,500	12,519
Total to all townships	0
Franklin County area	194,758
Franklin County government	117,679
Total to all cities over 2,500	0
Total to all cities under 2,500	77,079
Total to all townships	0
Fulton County area	10,150,815
Fulton County government	5,424,415
Total to all cities over 2,500	4,684,046
Total to all cities under 2,500	42,354
Total to all townships	0
City of Atlanta (part)	4,240,214
College Park City (part)	54,969
East Point City	182,798
Fairburn City	17,685
Hapeville City	126,156
City of Roswell	44,528
Union City City	17,696
Gilmer County area	161,053
Gilmer County government	136,731
Total to all cities over 2,500	0
Total to all cities under 2,500	24,322
Total to all townships	0
Glascock County area	21,815
Glascock County government	19,558
Total to all cities over 2,500	0
Total to all cities under 2,500	2,257
Total to all townships	0
Glynn County area	1,136,549
Glynn County government	724,360
Total to all cities over 2,500	412,188
Total to all cities under 2,500	0
Total to all townships	0
Brunswick City	412,188
Gordon County area	269,096
Gordon County government	246,636
Total to all cities over 2,500	18,689
Total to all cities under 2,500	3,771
Total to all townships	0
Calhoun City	18,689
Grady County area	412,773
Grady County government	276,034
Total to all cities over 2,500	129,500
Total to all cities under 2,500	7,239
Total to all townships	0
Cairo City	129,500
Greene County area	225,398
Greene County government	148,160
Total to all cities over 2,500	38,304
Total to all cities under 2,500	37,933
Total to all townships	0
Greensboro City	38,304
Gwinnett County area	585,935
Gwinnett County government	515,129
Total to all cities over 2,500	45,535
Total to all cities under 2,500	26,271
Total to all townships	0
Buford City (part)	10,775
Lawrenceville City	26,602
Norcross City	8,158
Habersham County area	390,002
Habersham County government	230,736
Total to all cities over 2,500	63,500
Total to all cities under 2,500	95,766
Total to all townships	0
Cornelia City	63,500
Hall County area	1,190,691
Hall County government	650,483
Total to all cities over 2,500	358,189
Total to all cities under 2,500	182,019
Total to all townships	0
Buford City (part)	225
Gainesville City	357,964
Hancock County area	208,841
Hancock County govt	161,936
Total to all cities over 2,500	0
Total to all cities under 2,500	46,905
Total to all townships	0
Haralson County area	326,052
Haralson County govt	219,631
Total to all cities over 2,500	88,296
Total to all cities under 2,500	18,125
Total to all townships	0
Bremen City (part)	44,296
Tallapoosa City	44,000
Harris County area	203,273
Harris County govt	163,063
Total to all cities over 2,500	9,883
Total to all cities under 2,500	30,327
Total to all townships	0
West Point City (part)	9,883
Hart County area	251,567
Hart County govt	175,371
Total to all cities over 2,500	71,756
Total to all cities under 2,500	4,440
Total to all townships	0
Hariwell City	71,756
Heard County area	75,325
Heard County govt	51,538
Total to all cities over 2,500	0
Total to all cities under 2,500	23,787
Total to all townships	0
Henry County area	196,572
Henry County govt	159,797
Total to all cities over 2,500	15,302
Total to all cities under 2,500	21,474
Total to all townships	0
McDonough City	15,302
Houston, County area	619,235
Houston, County govt	252,587
Total to all cities over 2,500	351,935
Total to all cities under 2,500	14,713
Total to all townships	0
Perry City	110,969
Warner Robins City	240,966
Irwin County area	186,079
Irwin County govt	112,328
Total to all cities over 2,500	73,751
Total to all cities under 2,500	0
Total to all townships	0
Ocilla City	73,751
Jackson County area	275,566
Jackson County govt	198,314
Total to all cities over 2,500	40,500
Total to all cities under 2,500	36,753
Total to all townships	0
Commerce City	40,500
Jasper County area	105,834
Jasper County govt	89,321
Total to all cities over 2,500	0
Total to all cities under 2,500	16,513
Total to all townships	0
Jeff Davis County area	201,753
Jeff Davis County govt	150,500
Total to all cities over 2,500	46,500
Total to all cities under 2,500	4,753
Total to all townships	0
Hazlehurst City	46,500
Jefferson County area	324,216
Jefferson County govt	182,144
Total to all cities over 2,500	48,865
Total to all cities under 2,500	93,208
Total to all townships	0
Louisville City	48,865
Jenkins County area	192,933
Jenkins County govt	146,933
Total to all cities over 2,500	46,000
Total to all cities under 2,500	0
Total to all townships	0
City of Millen	46,000

Revenue sharing funds for Georgia—Con.

[In dollars]

Johnson County area	178,924
Johnson County govt	121,442
Total to all cities over 2,500	0
Total to all cities under 2,500	57,482
Total to all townships	0
Jones County area	106,155
Jones County govt	90,858
Total to all cities over 2,500	0
Total to all cities under 2,500	15,302
Total to all townships	0
Lamar County area	150,194
Lamar County govt	83,123
Total to all cities over 2,500	59,887
Total to all cities under 2,500	7,184
Total to all townships	0
Barnesville City	59,887
Lanier County area	68,080
Lanier County govt	48,080
Total to all cities over 2,500	20,000
Total to all cities under 2,500	0
Total to all townships	0
Lakeland City	20,000
Laurens County area	722,715
Laurens County govt	433,628
Total to all cities over 2,500	231,192
Total to all cities under 2,500	57,893
Total to all townships	0
Dublin City	231,192
Lee County area	78,504
Lee County government	61,257
Total to all cities over 2,500	0
Total to all cities under 2,500	17,247
Total to all townships	0
Liberty County area	253,146
Liberty County government	163,965
Total to all cities over 2,500	80,500
Total to all cities under 2,500	8,682
Total to all townships	0
City of Hinesville	80,500
Lincoln County area	86,964
Lincoln County government	58,934
Total to all cities over 2,500	0
Total to all cities under 2,500	28,030
Total to all townships	0
Long County area	86,741
Long County government	70,933
Total to all cities over 2,500	0
Total to all cities under 2,500	15,808
Total to all townships	0
Lowndes County area	1,174,095
Lowndes County government	647,041
Total to all cities over 2,500	489,841
Total to all cities under 2,500	37,212
Total to all townships	0
Valdosta City	489,841
Lumpkin County area	184,063
Lumpkin County government	125,063
Total to all cities over 2,500	59,000
Total to all cities under 2,500	0
Total to all townships	0
Dahlonega City	59,000
McDuffie County Area	136,240
McDuffie County government	98,987
Total to all cities over 2,500	34,324
Total to all cities under 2,500	2,929
Total to all townships	0
Thomson City	34,324
McIntosh County Area	141,853
McIntosh County government	118,499
Total to all cities over 2,500	0
Total to all cities under 2,500	23,364
Total to all townships	0
Meriwether County Area	380,458
Meriwether County government	262,947
Total to all cities over 2,500	61,115
Total to all cities under 2,500	56,397
Total to all townships	0
Manchester City (part)	61,115
Macon County Area	299,472
Macon County government	149,231
Total to all cities over 2,500	90,500
Total to all cities under 2,500	69,741
Total to all townships	0
Montezuma City	80,500
Madison County Area	188,399
Madison County government	94,707
Total to all cities over 2,500	0
Total to all cities under 2,500	13,693
Total to all townships	0
Marion County Area	118,071
Marion County government	89,470
Total to all cities over 2,500	0
Total to all cities under 2,500	28,601
Total to all townships	0
Miller County area	148,127
Miller County government	126,134
Total to all cities over 2,500	0
Total to all cities under 2,500	21,993
Total to all townships	0
Mitchell County area	438,939
Mitchell County government	298,282
Total to all cities over 2,500	124,000
Total to all cities under 2,500	16,657
Total to all townships	0
Camilla City	53,000
Pelham City	71,000
Monroe County area	125,337
Monroe County government	97,646
Total to all cities over 2,500	25,812
Total to all cities under 2,500	1,879
Total to all townships	0
Forsyth City	25,812
Montgomery County area	79,200
Montgomery County government	58,113
Total to all cities over 2,500	40
Total to all cities under 2,500	21,048
Total to all townships	0
Vidalia City (Part)	40
Morgan County area	229,334
Morgan County government	158,770
Total to all cities over 2,500	51,187
Total to all cities under 2,500	19,377
Total to all townships	0
Madison City	51,187
Murray County area	87,907
Murray County government	73,575
Total to all cities over 2,500	12,963
Total to all cities under 2,500	1,370
Total to all townships	0
Chatsworth City	12,963
Muscogee County area	3,089,021
Muscogee County government	887,646
Total to all cities over 2,500	2,201,375
Total to all cities under 2,500	0
Total to all townships	0
Columbus City	2,201,375
Newton County area	352,612
Newton County government	216,293
Total to all cities over 2,500	99,636
Total to all cities under 2,500	36,683
Total to all townships	0
Covington City	99,636
Oconee County area	54,789
Oconee County government	37,931
Total to all cities over 2,500	0
Total to all cities under 2,500	16,858
Total to all townships	0
Oglethorpe County area	59,254
Oglethorpe County government	51,847
Total to all cities over 2,500	0
Total to all cities under 2,500	7,407
Total to all townships	0
Paulding County area	209,002
Paulding County government	177,678
Total to all cities over 2,500	29,547
Total to all cities under 2,500	1,778
Total to all townships	0
Fort Valley city	29,547
Peach County area	222,781
Peach County government	76,032
Total to all cities over 2,500	0
Total to all cities under 2,500	146,748
Total to all townships	0
Pickens County area	119,946
Pickens County government	95,342
Total to all cities over 2,500	0
Total to all cities under 2,500	24,604
Total to all townships	0
Pierce County area	194,000
Pierce County government	135,000
Total to all cities over 2,500	59,000
Total to all cities under 2,500	0
Total to all townships	0
Blackshear City	59,000
Pike County area	106,799
Pike County government	95,482
Total to all cities over 2,500	0
Total to all cities under 2,500	11,316
Total to all townships	0
Polk County area	622,948
Polk County government	358,834
Total to all cities over 2,500	264,114
Total to all cities under 2,500	0
Total to all townships	0
Rockmart City	57,633
Cedartown City	206,431
Pulaski County area	176,995
Pulaski County government	112,467
Total to all cities over 2,500	58,529
Total to all cities under 2,500	0
Total to all townships	0
Hawkinsville City	58,529
Putnam County area	173,181
Putnam County government	138,453
Total to all cities over 2,500	34,729
Total to all cities under 2,500	0
Total to all townships	0
Eatonton City	34,729
Quitman County area	39,231
Quitman County govt	32,500
Total to all cities over 2,500	0
Total to all cities under 2,500	6,731
Total to all townships	6
Rabun County area	192,817
Rabun County govt	164,688
Total to all cities over 2,500	0
Total to all cities under 2,500	28,130
Randolph County area	202,242
Randolph County govt	134,479
Total to all cities over 2,500	49,000
Total to all cities under 2,500	18,762
Total to all townships	0
Cuthbert City	49,000
Richmond County area	3,279,907
Richmond County govt	1,892,905
Total to all cities over 2,500	1,386,192
Total to all cities under 2,500	0
Total to all townships	0
Augusta City	1,386,192

Rockdale County area	265,090
Rockdale County govt	208,150
Total to all cities over 2,500	56,040
Total to all cities under 2,500	0
Total to all townships	0
Conyers City	56,940
Schley County area	71,713
Schley County govt	55,700
Total to all cities over 2,500	0
Total to all cities under 2,500	16,014
Total to all townships	0
Screven County area	271,819
Screven County government	224,000
Total to all cities over 2,500	35,053
Total to all cities under 2,500	12,765
Total to all townships	0
Sylvania City	35,053
Seminole County area	149,156
Seminole County government	86,053
Total to all cities over 2,500	56,000
Total to all cities under 2,500	7,104
Total to all townships	0
Donaldsonville City	56,000
Spalding County area	633,964
Spalding County government	420,096
Total to all cities over 2,500	211,919
Total to all cities under 2,500	1,948
Total to all townships	0
Griffin City	211,919
Stephens County area	225,519
Stephens County government	130,874
Total to all cities over 2,500	89,449
Total to all cities under 2,500	5,197
Total to all townships	0
Toccoa City	89,449
Stewart County area	139,200
Stewart County government	60,742
Total to all cities over 2,500	0
Total to all cities under 2,500	78,458
Total to all townships	0
Sumter County area	567,173
Sumter County government	305,673
Total to all cities over 2,500	234,666
Total to all cities under 2,500	26,834
Total to all townships	0
Americus City	234,666
Talbot County area	110,810
Talbot County govt	94,259
Total to all cities over 2,500	988
Total to all cities under 2,500	15,563
Total to all townships	0
Manchester City (part)	988
Taliaferro County area	56,106
Taliaferro County govt	36,123
Total to all cities over 2,500	0
Total to all cities under 2,500	19,983
Total to all townships	0
Tattnall County area	295,685
Tattnall County govt	192,000
Total to all cities over 2,500	44,000
Total to all cities under 2,500	59,685
Total to all townships	0
Glennville City	44,000
Taylor County area	181,296
Taylor County govt	143,000
Total to all cities over 2,500	0
Total to all cities under 2,500	38,296
Total to all townships	0
Telfair County area	231,410
Telfair County govt	134,500
Total to all cities over 2,500	41,660
Total to all cities under 2,500	55,251
Total to all townships	0
McRae City	41,660
Terrell County area	231,378
Terrell County govt	153,182
Total to all cities over 2,500	61,500
Total to all cities under 2,500	16,696
Total to all townships	0
Dawson City	61,500
Thomas County area	713,674
Thomas County government	364,442
Total of all cities over 2,500	271,429
Total to all cities under 2,500	77,803
Total to all townships	0
Thomasville City	271,429
Tift County area	525,017
Tift County government	237,645
Total to all cities over 2,500	260,081
Total to all cities under 2,500	27,292
Total to all townships	0
Tifton City	260,081
Toombs County area	443,455
Toombs County government	250,921
Total to al cities over 2,500	191,544
Total to all cities under 2,500	990
Total to all townships	0
Lyons city	80,500
Vidalia City (part)	111,044
Towns County area	64,713
Towns County government	50,332
Total to all cities over 2,500	0
Total to all cities under 2,500	14,381
Total to all townships	0
Treutlen County area	110,000
Treutlen County government	85,500
Total to all cities over 2,500	24,500
Total to all cities under 2,500	0
Total to all townships	0
Soperton City	24,500
Troup County area	656,758
Troup County govt	365,075
Total to all cities over 2,500	291,683
Total to all cities under 2,500	0
Total to all townships	0
Hogansville City	46,000
La Grange City	182,603
West Point City (part)	63,079
Turner County area	203,538
Turner County govt	144,916
Total to all cities over 2,500	49,000
Total to all cities under 2,500	9,623
Total to all townships	0
Ashburn City	149,000
Twiggs County area	139,842
Twiggs County govt	123,000
Total to all cities over 2,500	0
Total to all cities under 2,500	16,842
Total to all townships	0
Union County area	122,827
Union County govt	117,024
Total to all cities over 2,500	0
Total to all cities under 2,500	5,803
Total to all townships	0
Upson County area	433,272
Upson County govt	247,333
Total to all cities over 2,500	176,117
Total to all cities under 2,500	9,821
Total to all townships	0
Thomaston City	176,117
Walker County area	561,144
Walker County govt	454,534
Total to all cities over 2,500	85,906
Total to all cities under 2,500	20,705
Total to all townships	0
Fort Oglethorpe Town (part)	188
La Fayette City	25,994
Rossville City	59,723
Walton County area	398,849
Walton County govt	274,720
Total to all cities over 2,500	85,394
Total to all cities under 2,500	38,735
Total to all townships	0
Monroe City	85,394
Ware County area	698,596
Ware County govt	339,265
Total to all cities over 2,500	359,331
Total to all cities under 2,500	0
Total to all townships	0
Waycross City	359,331
Warren County area	90,588
Warren County govt	57,846
Total to all cities over 2,500	0
Total to all cities under 2,500	32,743
Total to all townships	0
Washington County area	404,761
Washington County govt	297,582
Total to all cities over 2,500	62,000
Total to all cities under 2,500	45,179
Total to all townships	0
Sandersville City	62,000
Wayne County area	413,514
Wayne County govt	266,714
Total to all cities over 2,500	128,249
Total to all cities under 2,500	18,551
Total to all townships	0
Jesup City	128,249
Webster County area	54,694
Webster County govt	50,487
Total to all cities over 2,500	0
Total to all cities under 2,500	4,207
Total to all townships	0
Wheeler County area	103,752
Wheeler County govt	79,340
Total to all cities over 2,500	0
Total to all cities under 2,500	24,412
Total to all townships	0
White County area	76,325
White County government	70,197
Total to all cities over 2,500	0
Total to all cities under 2,500	6,128
Total to all townships	0
Whitfield County area	863,446
Whitfield County government	483,126
Total to all cities over 2,500	380,320
Total to all cities under 2,500	0
Total to all townships	0
Dalton City	380,320
Wilcox County area	162,043
Wilcox County government	136,098
Total to all cities over 2,500	0
Total to all cities under 2,500	25,945
Total to all townships	0
Wilkes County area	198,386
Wilkes County government	155,703
Total to all cities over 2,500	36,030
Total to all cities under 2,500	6,653
Total to all townships	0
Washington City	36,030
Wilkinson County area	161,158
Wilkinson County government	100,912
Total to all cities over 2,500	27,874
Total to all cities under 2,500	32,372
Total to all townships	0
City of Gordon	27,874
Worth County area	342,009
Worth County government	271,461
Total to all cities over 2,500	50,500
Total to all cities under 2,500	20,048
Total to all townships	0
Sylvester City	50,500

SIXTH ANNIVERSARY OF THE REPUBLIC OF BOTSWANA

Mr. FONG. Mr. President, I take great pleasure in extending my heartiest congratulations to President Seretse Khama and the people of Botswana as they celebrate the sixth anniversary of their Republic on September 30.

During these first 6 years of independence, Botswana has established an enviable record for racial tolerance and harmony, for stable democratic government, and for the statesmanship of its leaders.

Botswana also has established itself as a model of commitment and effort toward rational, well-planned economic development, particularly by its policy of directing revenues from mineral extraction to rural area development to help meet the pressing needs of the majority of its people.

I also would like to observe that relations between our Nation and Botswana remain excellent, that we have been able to assist Botswana economically, and that within the last year diplomatic representation between our two countries have been raised to the ambassadorial level.

It was my privilege and honor to be the first U.S. Senator to visit the fine republic. On that visit, a year and a half ago, I was most impressed not only with the friendliness but the energy and organization of the population and its leaders.

The people of Hawaii have a special affinity for those in Botswana, for Botswana is Hawaii's antipode.

On my visit I was pleased to meet two youths from Hawaii who were in that part of Africa with our Peace Corps. Here I must make special mention of the Peace Corps, for wherever I met these dedicated young Americans in Africa, I heard nothing but praise from the people they were among for the outstanding job the youths were doing.

Mr. President, I am confident that on this auspicious day, the people of the United States join me and those of Hawaii in my anniversary greetings and my best wishes for the future of Botswana.

THE PRESERVATION OF DEMOCRATIC FREEDOM

Mr. HRUSKA. Mr. President, it is not difficult to find in this great country millions of Americans who are dedicated to the preservation of individual freedom. It is my intention at this time, however, to comment briefly upon an organization which yields to no American in its fierce defense of such freedom.

I speak of the Czechoslovak National Council of America, a nonprofit organization founded in 1918 to promote cooperation of all peoples for the preservation of democratic freedom.

The list of American patriots of Czech and Slovak descent who comprise this organization is long and impressive. Their concern for the preservation of individual freedom in this country is equaled only by their devotion to the return of human dignity and individual rights in Czechoslovakia and other captive nations of the world.

The Czechoslovak National Council and similar organizations have much wisdom to offer in our Nation's efforts to attain world peace and political freedom for all peoples. The leaders of the organization know firsthand how freedom can be extinguished. They know from sad experience how difficult it is to recapture once it is lost. Their advice in such matters is worthy of careful consideration.

The organization is called to this body's attention, Mr. President, because it has written to President Nixon applauding his search for a generation of peace and offering suggested approaches on behalf of Americans of Czech and Slovak descent.

There is much food for thought in the council's recommendations. So that we may all have the advantage of its thinking, I ask unanimous consent that the complete text of the council's letter be printed in the RECORD.

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

CZECHOSLOVAK NATIONAL
COUNCIL OF AMERICA,
Cicero, Ill., September 15, 1972.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We all know and applaud your quest for a generation of peace. The proposed Conference on European Security and Cooperation seems to be a possible path leading in this direction. We consider it the duty of every citizen to assist you in your quest for peace. Thus, the Czechoslovak National Council of America, speaking on behalf of Americans of Czech and Slovak descent, submits the following for your consideration:

We believe that the position taken by the American delegation, and indeed all western delegations at the onset of the Conference, should be to insist on the

(1) Withdrawal of all Soviet military and police units and Soviet advisers from all occupied nations west of the Soviet Union proper.

(2) Neutralization of the same area and the establishment of a nuclear free zone, both under international guarantees;

(3) Free elections under international control.

The establishment of such a cordon sanitaire would tend to

Eliminate the danger of inadvertent confrontation between the armed forces of the two atomic super-powers;

Mitigate the fears of Western Europe concerning further military penetration of the Soviet Union into Western Europe;

Curtail alleged suspicion on the part of the Soviet Union of Western aggressive intentions and German revanchism;

Increase the chances for an agreed balanced reduction of the armed forces of the East and West;

Make possible the organization of a viable, economic community comparable to EEC (Common Market);

Meet the requirement of self-determination, political independence and territorial integrity of the supposedly sovereign nations living between the Soviet Union and non-Communist Western Europe, stipulated by the United Nations Charter;

Satisfy the wish of the people concerned who have manifested on many occasions their desire for neutrality, such as enjoyed by Austria since 1955.

The achievement of these goals would increase the likelihood of lasting stability, peace and security in all of Europe.

The eagerness now manifested by the Soviet Union to conclude a European security pact leads one to believe that the pressure of circumstances, the unreliability of the satellite armies, the discontent of the satellite people, as well as the good will of the United States might produce an unprecedented degree of willingness on the part of the Soviet Union to agree to these demands.

Very respectfully yours,
CZECHOSLOVAK NATIONAL
COUNCIL OF AMERICA,
Prof. VRATISLAV BUSEK,
President.
Prof. FRANCIS SCHWARZENBERG,
Vice-President.
Dr. MIKULAS FERJENCIK,
Acting Vice-President.

GROWING TOLL OF CRIMES AGAINST BUSINESS

Mr. BIBLE. Mr. President, crime against the American businessman strikes hard not only at our economic strength but even harder at the consumer public who pays for it all by crime inflated prices. This morning's newspaper tells us that crime during the first 6 months of 1972 has increased by only 1 percent. We doubt very much that the great majority of Americans believe that completely when we consider the scope and magnitude of criminal acts along all fronts. But, this is the political season.

For the last 3 years, the Senate Small Business Committee has been examining into the impact of crime on this country's five and a half million small businesses, an economic group hit 35 times greater by crime than large businesses. U.S. News & World Report of October 2 contains an excellent portrayal of the economic harm being inflicted on business by growing property crimes. I commend it to the Senate as instructive reading. I ask unanimous consent that the article be printed in the RECORD.

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

[From the U.S. News & World Report, Oct. 2, 1972]

GROWING TOLL OF CRIMES AGAINST BUSINESS

Hijackers, burglars, thieves and other criminals are costing U.S. business close to 16 billion dollars a year—and an official study indicates that the situation is steadily getting worse.

Some authorities believe the direct loss to commercial enterprises may actually be three times higher than the 16-billion-dollar estimate of the Federal Bureau of Domestic Commerce.

"The magnitude and rate of increase in the costs to business of ordinary crime are clearly evident, even though the precise figures are hard to establish," a report by the Bureau warns.

Security costs. The estimate includes 2.5 billion dollars spent for 289,900 guards and detectives, and 800 million for crime-prevention devices, such as television-surveillance equipment, armored cars and burglar alarms.

But it does not include indirect costs. The Library of Congress research service reported to a Senate committee that theft in the transportation industry alone cost 1.5 billion dollars in 1970, but noted that this was only the tip of the iceberg. "Additional indirect costs," it said, "costs of processing claims, costs of lost business and profits—raised the estimate to 8 to 10 billion dollars."

Retailers hardest hit. The Bureau of Domestic Commerce limited its study to what it terms seven "ordinary" crimes against business—burglary, robbery, shoplifting, vandalism, employe theft, bad checks and arson.

Retail stores are by far the biggest losers—an estimated 4.8 billion dollars annually. Shoplifters were blamed for 28 per cent of the inventory loss, while employe theft accounted for 13 per cent. Burglars took 23 per cent. Vandals were charged with 20 per cent; bad check writers, 13, and robbers, 3. Arson losses were not included.

The Bureau's report cautions:

"While shoplifting appears to be the most serious problem for retail establishments, most observers believe that, because of reluctance on the part of businessmen to admit the magnitude of their employe-theft problem, that figure is seriously understated. Some believe that employe theft accounts for substantially more loss than does shoplifting by customers."

An example of employe theft involved a chain of stores operating in Maryland and Virginia. At one branch store, a gang known as "The Brotherhood" to its members, made off with a half-million dollars' worth of merchandise during a three-year period.

One tactic: Employes would "buy" merchandise in order to have a legitimate sales slip if questioned. Later, another member of the ring would destroy all papers connected with the sale.

The gang made off with rugs, bedroom and dinette furniture, lamps and tables. Another group of the ring stole lawnmowers, clocks, toys, auto parts, TV sets, small appliances and jewelry.

After the thefts were uncovered, the firm investigated its 17 other outlets and found employe thievery at all.

Booty: food, drink, cash. Service establishments—restaurants, hotels and hospitals—are estimated by the Bureau of Domestic Commerce to lose more than 2 billion dollars annually to employes who carry off food, liquor, silver and table linens.

Some employes prefer cash. A late-shift cashier in a New York restaurant pocketed $40,000 in two years simply by failing to ring up food sales after midnight, when the boss had departed.

The transportation industry's direct loss of 1.5 billions is attributed in large part to organized crime. The Senate Select Committee on Small Business has reported: "Much of the crime in the cargo-trucking industry is committed by organized gunmen who hijack whole trailer loads with the intention of reselling stolen goods to legitimate and illegitimate markets."

Gilbert H. Meyer, chief special agent for the American Insurance Association, told the Senate committee that, by his estimate, the average value of cargo stolen per truck is $20,000. Some losses are substantially larger.

Mr. Meyer cited, as an instance, the theft of a load of woolens valued at $50,000. He put the ultimate loss to manufacturer, wholesaler and retailer, including anticipated profits, at $250,000. He added:

"Loads of liquor, cigarettes, drugs, electronic equipment, cameras, TV's, record players, ready-to-wear clothing, furs, metals, major appliances are all in demand. I think that many of these things are stolen to order and they are handled by organized crime. . . . The markets are already established and the property is absorbed into our economic system."

Ron Ray, manager of distribution services for Hunt-Wesson Foods, said:

"I doubt that anyone will ever know how many millions of dollars are stolen from distribution centers each year. Needless to say, it is very big business. And since it is big business, organized crime is in there grabbing its part. . . . Only 'the Syndicate' has the capability of operating on that scale. The hijackers know what is in the tracks. They almost never steal the wrong product. To my knowledge, they have never mistakenly hijacked a truckload of coffins when they were after a truckload of coffee."

A Department of Transportation study concluded: "Ultimately, the public bears the cost of cargo loss in the form of increased prices, increased transportation charges and direct and passed-on cargo-insurance-premium increases."

The Bureau of Customs has stepped up its drive to curb thefts and pilferage from almost 300 U.S. ports of entry. In 12 months from mid-1971 to mid-1972, the Bureau said, its crackdown resulted in 519 arrests and recovery of merchandise valued at nearly $400,000.

At John F. Kennedy Airport in New York, where losses had been skyrocketing, the value of goods stolen dropped by 83 per cent—from 3.4 million in 1969 to $568,000 at the end of 1971.

Crime in money markets. The theft of negotiable securities is another fast-growing criminal enterprise, Police Commissioner Patrick V. Murphy of New York City told a Senate committee that organized crime has assumed "a major role, particularly in the disposition of stolen securities."

J. G. Young, senior vice persident of the General Adjustment Bureau, writing in the "Journal of Insurance," reported that in Los Angeles two women employes of a brokerage firm were suspected of stealing $500,000 in such securities. The women were ultimately traced to Florida, where both were found murdered.

Mr. Young told of another firm which hired the nephew of a known mobster as a messenger. Shortly thereafter the messenger was robbed of $400,000. Two days after the employee appeared before a grand jury he was stabbed to death.

A Senate committee report said that in the first six months of 1971 brokerage firms and banks lost to thieves 494 millions in securities—twice their loss in the same period the previous year.

Some law-enforcement officers are critical of sales practices, noting that customers often are permitted almost unimpeded access to small high-value items. allowed to handle merchandise without a clerk watching them.

"The idea," said one officer, "is to create a desire. Sometimes the temptation leads to shoplifting, many times by a housewife whose budget doesn't stretch that far."

Perhaps the most practical deterrent to shoplifting, he said, is the placement of television cameras in full, public view.

The National Institute of Law Enforcement and Criminal Justice notes:

"Few burglars will take hazardous and time-consuming chances if they can avoid them. . . . Available statistics show that the apprehension rate of the police rises from only 20 per cent if the burglar spends no more than two minutes at the scene of the crime to 70 per cent if he spends eight minutes burglarizing a building. Furthermore, there is evidence to indicate that most burglaries are 'crimes of opportunity.' . . . Criminals attempt to burglarize dwellings and commercial establishments which pose the fewest problems."

The Law Enforcement Assistance Administration of the Department of Justice conducted a crime-prevention experiment in Cedar Rapids, Ia. Using silent burglar alarms, it found that the chances of catching a burglar in the act are five times greater when alarms are used.

Under study are plans for remodeling vulnerable areas to create enclaves of "defensible space"—limiting access and enabling easier surveillance. An objection: dislike of a "fortress" image.

Discussing the crime problem, James Ahern, director of the Insurance Crime Prevention Institute, Westport, Conn., said businessmen are going to have to demand not only good law enforcement, but an across-the-board upgrading of the justice system. Mr. Ahern said:

"They are going to have to seek elimination of underlying causes—unemployment, poverty and family instability. . . . They are going to have to seek improved mental-health services and the elimination of unenforceable laws, such as gambling."

Finally, he said, businessmen must back a concerted drive to end organized crime and the traffic in drugs.

COPING WITH CRIMINALS—OFFICIAL ADVICE TO BUSINESSMEN

From the U.S. Law Enforcement Assistance Administration, local police authorities and the General Adjustment Bureau, an insurance adjusting firm, come these suggestions on what merchants and other businessmen can do to protect themselves against criminals—

Investigate thoroughly all persons handling valuables.

Have accountants conduct surprise audits of the company's books.

Separate the taking in of money, such as by cashiers, from bookkeeping operations as a means of checking on people handling cash.

"Harden" premises against burglars by installing metal-clad doors or ax-resistant glass, proper door and window locks, tamper-proof door jambs. Estimated cost to small establishments: $235.

Redesign interiors of stores and offices to create "defensible space." This might involve "compartments" to avoid large numbers of customers in areas where there are high-value goods, or placements of entrances and exists so that they can easily be observed by clerks or television cameras.

Install a silent burglar-alarm system linked up to a police switchboard. The cost of a simplified system in one Midwestern City: $185.

Improve doorway lighting as a means of discouraging break-ins.

Organize a "merchants' alert group" with police co-operation. This might involve mutual exchange of information, or regular meetings with police officials on neighborhood crime patterns.

A BOOMING RACKET—TAPE PIRACY

One of the fastest growing rackets in this country is the pirating and counterfeiting of stereophonic tape recordings.

Stanley M. Gortikov, president of the Recording Industry Association of America, estimates that Americans will pay 600 million dollars this year for "legal" tapes. An additional 200 million will go for inferior-quality pirated copies.

Since the pirates copy and distribute only the popular recordings, they are skimming the cream off the record industry, which depends on revenues from hit songs to finance the production of classics and the development of new artists and composers.

There are about 400 continuously active producers of sound recordings in the nation, and 75 percent of them have annual sales of less than $500,000.

Organized-crime signs. Mr. Gortikov said: "The pirates really have the small businesses hurting." He added that "there are firm indications that organized crime has moved into the piracy business."

The association's investigators, Mr. Gortikov said, believe there are 20 large pirate operations, about 50 somewhat smaller ones, and hundreds of illicit producers working in basements and garages.

One raid on a pirate operation in New York City neted pirated tapes that police valued at more than 3 million dollars.

Another raid, on an industrial park in Phoenix, Ariz., resulted in the confiscation of 30 tons of duplicating and packaging material. The plant employed 100 persons.

Only 10 States have laws that make tape piracy a crime. The recording association is now pushing a campaign to have similar laws in all the States.

What makes pirating so difficult to police is that a tape pirate can set himself up in business with about $200 worth of equipment. His production and distribution costs will be less than 75 cents for a tape that will retail for between $2 and 4.

Some pirates maintain their own retail outlets. Others distribute through drugstores, beauty parlors, secondhand shops and gas stations, as well as "swap" meets—a sort of Saturday bazaar operation which has become popular with teen-agers, especially on the West Coast. These sessions are often held on drive-in movie lots.

One way it is frequently possible to detect a pirated tape is by the package, which is generally cheap looking and never bears a company name, trademark or address. On the other hand, some clever counterfeiters are turning out packages indistinguishable—even by employes—from those issued by legitimate concerns.

"Sold mostly to young." "Pirated tapes are readily marketable," Mr. Gortikov said. "They are sold mostly to the young."

Most of the legitimate tape-recording business is conducted on a credit basis. Retailers are able to return unsold tapes and have them written off their accounts.

This practice, Mr. Gortikov said, "makes it profitable for some retailers to buy counterfeits for the sole purpose of returning them." He added:

"The manufacturer winds up giving credit for something from which he never derived income in the first place."

THE COST OF "ORDINARY" CRIME: NEARLY $16 BILLION A YEAR

"Ordinary" crimes against business, as defined by the U.S. Department of Commerce, include burglary, robbery, vandalism, shoplifting and employe theft, bad checks and arson. The direct cost of these "ordinary" crimes in 1971, by major industries—Retailing, $4.8 billion; Services, $2.7 billion; Manufacturing, $1.8 billion; Transportation, $1.5 billion, and Wholesaling, $1.4 billion. Total direct costs $12.2 billion.

In addition: Businesses spent $3.3 billion in services, equipment and other crime-prevention measures last year. And there was $200 million of arson damage spread among various industries. Total Cost $15.7 billion.

(NOTE.—Not included are "organized" crimes or "extraordinary" crimes such as airplane hijacking or embezzlement.)

THE UNITED NATIONS

Mr. PERCY. Mr. President, in the introduction to his August 1972, report on the work of the United Nations, covering the period June 16, 1971 to June 15, 1972, Secretary-General Kurt Waldheim reviewed the major issues confronting the United Nations and the world. It is a valuable statement, one which deserves our attention. Therefore, I ask unanimous consent that it be printed in the RECORD.

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

AUGUST 1972 REPORT ON WORK OF UNITED NATIONS

I

Over the past year three main trends—two of them encouraging, one discouraging—have been apparent on the international scene. The first is the process of *détente* among the great Powers. The second—and discouraging one—is the persistence of conflict in several key areas of the world and the failure, both of the Governments concerned and of the international community, to find acceptable solutions to the underlying problems involved. The third trend is the series of efforts by the international community to co-operate in tackling, through the United Nations system, some of the great long-term problems of our planet, such as trade and development, the environment and population.

The process of *détente* among the great Powers is certainly a historical development of the highest importance. I am aware, of course, that we should not be too euphoric about this development since previous post-war indications of *détente* failed to materialize into a durable relaxation of international tensions. However, the determination of the leaders of the major Powers to find common ground for coexistence and co-operation is a welcome change from the emphasis on ideological differences and total conflict of interests that characterized their relationships in previous years. The new "balance of prudence", the evident decline of the readiness of great Powers to confront each other, the tendency to downgrade the military aspect of power in their relations, and the discernible emergence of an era of negotiation, dialogue and contact have been greeted with relief by the international community at large.

Despite this highly encouraging development, a variety of conflicts, involving either military hostilities or the threat of them, still persist in several key areas of the world and have so far defied the efforts both of the parties directly concerned and of the international community to put an end to them. Our world is now too interdependent and too crowded for such conflicts—I think, for example, of the Middle East, Viet-Nam and the problems of southern Africa—to be isolated, or to be of concern only to those directly involved. Besides this practical consideration there is now a general concern in the world for those afflicted by war or conflict or injustice. Although it is obvious that the settlement of long-standing conflicts would benefit all concerned and would allow them to devote their energy and resources constructively to the problems of the present and the future, some of these conflicts have so far resisted all attempts at solution.

It is of profound interest, however, that some hitherto hostile communities, nations and States are reaching out for reconciliation and relaxation of tension by means of dialogue, understanding and negotiation. The two German States have, for example, been able, within the framework of the Four-Power Agreement of 3 September 1971, to reach an accord on transit arrangements. The efforts of North Korea and South Korea to normalize their relations have been duly welcomed by the international community. The Simla Agreement reached between India and Pakistan is a commendable step on the road to a stable and lasting peace between these countries in the subcontinent. No opportunity must be lost to foster this constructive and peaceful spirit and to extend it to other conflict areas.

As regards international efforts to tackle long-term problems, although it is true in most cases that only the first uncertain steps have been taken, the willingness to discuss these fundamental problems on a global basis is in itself a significant development.

II

What in the place of the United Nations in the international climate of 1972? Obviously it plays a key role in the co-operative effort to tackle long-term social and economic problems, but in the political sphere the Organization's place is more uncertain. This seems to me to be a vital question to which all Member Governments should direct their most earnest attention.

Twice in this century, in the aftermath of world wars which resulted in considerable measure from the shortcomings of the old diplomacy in regulating the relations of powerful States, world organizations—first the League of Nations and then the United Nations—have been set up to "save succeeding generations from the scourge of war". This is the central function of the United Nations under the Charter. Both with the League of Nations and with the United Nations, after initial enthusiasm a great disillusionment set in, and Governments tended more and more to disregard the political functions of the international organization which they themselves had set up in the wake of war and to revert to the international practices of earlier times. In the 1930s this process led to the Second World War. I do not believe that any Government has any intention of letting us drift into a third world war, but unless we are prepared to learn from the past and to make our international political institutions work as they were intended to work, that danger will always exist. History tells us that we cannot afford to take for granted the persistence of moderation and reason in internatonal affairs, and that international organization is necessary as a safeguard when moderation and reason fail.

It is perfectly true that some of the assumptions on which the United Nations was based have proved unfounded and that many of the hopes that were entertained at its birth have been disappointed. The Organization has, for example, proved to be of limited value as an instrument of collective security, not least because that concept was based on ideas and situations from the past which are not applicable in the very different political realities of our world today. It is true that the Security Council has often been frustrated by the differences of its most powerful members in dealing with matters affecting the maintenance of peace and security. It is true that Member States have not always been responsive to the resolutions of the Security Council. It is true that the pioneering improvisation of peace-keeping, useful though it has proved in many situations, has severe limitations and presents complex problems both of principle and of practice. None the less, it remains available on an *ad hoc* basis as an effective impartial instrument for keeping international disputes under control and creating conditions for their eventual resolution.

But now we are facing a new situation in the world—in many ways an encouraging situation. The new and positive relationship of the great Powers will certainly be reflected in other relationships and situations. It affords the possibility, for example, that for the first time since the inception of the United Nations the work of the Security Council might actually be based on one of the main assumptions of the Charter, the unanimity of the permanent members in matters affecting peace and security. This is still, admittedly, a distant hope, but at least a glimmer of light is there where all was dark before.

Even if the Security Council were to acquire a new effectiveness through great Power *détente*, the idea of maintaining peace and security in the world through a concert of great Powers, although these Powers obviously have special responsibilities in matters of peace and security, would seem to belong to the nineteenth rather than the twentieth century, where the process of technological advance and democratization is producing a new form of world society. The world order that we are striving to build in the United Nations must meet the requirements of such a society, and any other system, however effective in the past, obviously cannot be acceptable, in the long run, to the peoples of the world. The interests, the wisdom and the importance of the vast majority of medium and smaller Powers cannot, at this point in history, be ignored in any durable system of world order.

The United Nations provides, or should provide, the means by which all nations, great and small, participate on a basis of sovereign equality in the political process of establishing and maintaining international peace and security, in facing common problems through co-operation, and in planning and organizing for a better future. The improvement of great Power relations through bilateral diplomacy is certainly of fundamental importance to this process, but past experience indicates that it needs to be complemented and balanced by the multilateral diplomacy of the global Organization as a safeguard against misunderstandings, as a safety valve in critical times and as an instrument for the peaceful settlement of international disputes.

Despite its obvious shortcomings and despite the current popular tendency in some parts of the world to downgrade the United Nations, the Organization still remains the best long-term basis on which the international community as a whole can opt for survival, justice and progress with the participation of all nations. In the long run there is no substitute for such an instrumentality. The problem is how to make it work in the political realities of today. The Member States alone can develop the potential of the Organization by using it and obeying its rules, by holding to the long-term objectives of the Charter in spite of short-term disappointments and frustrations, and by accepting the imperfections and shortcomings of the United Nations not as the mark of failure, but as part of the inevitable process of growth which any institution must pass through in its early stages of development.

III

In this early stage of its development, the public image of the United Nations, and the way it is viewed in the world at large, is important, for without popular understanding and support it will be difficult, if not impossible, for Governments to make the United Nations work and to maintain the ideals and objectives of the Charter. It is very easy to be defeatist or cynical about an organization which was set up for long-term, global aims never before contemplated, or even partially achieved. Short-term political advantage often makes it tempting to overlook the fact that political problems come to the United Nations only when Governments have failed to solve them by other means, and to deride the Organization as such for its failure immediately to succeed where everyone else has failed. It is often easier to forget that the United Nations is not an independent sovereign organization but an association of sovereign Governments, and that its failures are also their failures.

The United Nations often plays a useful role as a scapegoat in difficult situations. This role, admittedly, has considerable value, but it must not be allowed to degenerate, for the sake of short-term political convenience, into a denial of the validity of the principles and aims of the Charter and an attitude of defeatism concerning the ultimate necessity of international organization and action to safeguard international peace and security. We cannot afford to forget the lesson that has been learnt twice in this century through the agony and destruction of world war.

IV

In considering the rightful place and function of the United Nations in the contemporary world, we should face the fact that in normal times the Organization often does not command the co-operation of its Members in implementing its corporate majority decisions. The simplest explanation of this fact is that the policies of individual Member States, and their differences with each other, still have greater weight than their desire to make the Charter a reality. In the development of most States there has been a similar phase when the instruments of central order have been promulgated, but when the citizens have not yet developed the sense of obligation required to make them work

Let us not forget that it was the shock of war that led the nations of the world to agree to the Charter. Will the tensions of an uneasy peace and the promptings of reason and historical sense eventually be strong enough to persuade Governments that their best long-term interest lies in using the Charter as the basis for an agreed and effective system of world order? Until that time comes, the international instrument—the United Nations—will inevitably continue to be the subject of general disillusionment and neglect, punctuated by urgent and unrealistic demands on it, when danger threatens, for quick and effective action.

In the forthcoming session of the General Assembly, I hope that Governments will address themselves to this basic dilemma of the United Nations.

Although even now the necessity of international co-operation is sometimes questioned, all the evidence seems to point to the conclusion that a new degree of co-operation and solidarity is essential if the human race is to survive, to improve its condition and to avoid a variety of disasters. It seems to be increasingly recognized that Governments have little serious choice but to co-operate in the face of a series of global dangers, whether they be the proliferation of nuclear weapons, the problem of over-population, the threat to the environment or the persistent poverty of the majority of the world's people. The United Nations system has a central and increasingly important place in this new era of world co-operation, and no effort must be spared to increase its effectiveness and capacity for the work at hand.

V

I welcome the advance towards universality within the United Nations. The representation of the People's Republic of China in the United Nations during the last session of the General Assembly was indeed a landmark in the attainment of this goal. Two-and-a-half decades after the conclusion of the Second World War, however, the divided countries are still unrepresented in the world Organization. There are now, nevertheless, hopeful prospects that this problem too will be resolved in the not too distant future.

The developments in Europe, a continent which has been torn for centuries by war and conflict, are particularly encouraging. The ratification of the German treaties with the Soviet Union and Poland removes a major stumbling-block in East-West relations and will also contribute decisively to the holding of the planned conference on European security.

Since I assumed my present office, I have attended meetings of the Organization of African Unity and the Organization of American States. My discussions and contacts with members of those two regional organizations have strengthened my conviction that regional organizations have a vital role to play in any workable world order. The United Nations and regional organizations have common goals, and the efforts of the two systems should be complementary. A closer relationship between regional organizations and the United Nations would be helpful in this respect.

VI

This year the Conference of the Committee on Disarmament observed its tenth anniversary. The balance-sheet of the first decade shows that the declared goal of general and complete disarmament has not yet been achieved. Neither has the arms race been halted nor perceptibly slowed down. In fact, the armaments race has spiralled to a level higher than ever before. For example, during the decade of the 1960s, the nations of the world poured a total of $1,870,000 million into weapons of warfare; in recent years, total world expenditure for these purposes has risen to about $200,000 million annually.

There has been progress in arms control and collateral measures: the Antarctic Treaty, the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water, the Treaty of Tlatelolco, the Treaty on the Non-Proliferation of Nuclear Weapons, the treaties banning nuclear weapons in outer space and on the sea-bed, and the recent convention outlawing biological weapons. We should welcome also the strategic arms limitation agreements—limiting the deployment of anti-ballistic missile systems and fixing a numerical ceiling for offensive missiles—which were concluded at the Moscow summit meeting in May this year as a first step in efforts to curb the arms race.

In spite of these achievements, we should find no comfort in the fact that today nuclear testing continues in the atmosphere and underground. What is now required is the necessary political decision to ensure a final comprehensive test-ban agreement. Pending such an agreement, a moratorium on all nuclear testing would be most desirable.

Several States still have not adhered to the Treaty on the Non-Proliferation of Nuclear Weapons. In this regard, further progress is called for in concluding the necessary safeguards agreements between the International Atomic Energy Agency and the near-nuclear States. Renewed efforts should also be made in favour of reaching agreements on the prohibition of chemical weapons. A wider discussion of disarmament among all States is also of central concern, and in this respect the General Assembly at its forthcoming session will have the opportunity to consider the convening of a World Disarmament Conference. In my first eight months as Secretary-General I have learnt a great deal both about the possibilities and about the shortcomings of our Organization. In the full realization that most of the problems we face are not susceptible of quick solutions, I have tried to divide my time and energy among pressing political, economic and social, and administrative tasks, and in seeing and talking to as many of the people in the various parts of the United Nations system and as many Governments of Member States as possible.

On the political side I have tried to take actions and initiatives where they might seem to offer some hope of progress, and also to keep a close watch on other situations where progress seems for the moment to be blocked. I have been guided in my actions by relatively simple propositions: that it is far better to prevent a crisis than to have to solve it; that every possible means must be tried to settle disputes peacefully; that, whatever the difficulties, there is no excuse for not trying to help; and that the Secretary-General should be ready to help in any situation where the organs of the United Nations or the parties concerned wish him to do so.

I have to admit that all this is easier said than done. Misunderstandings inevitably arise, whether from action or inaction, and the kind of problems we deal with are full of complexities and unexpected frustrations. None the less the record of achievement of the United Nations in the past year, as described in full in the body of my report, is not negligible.

In Cyprus, for example, we have seen the settlement through the United Nations of the complex problem of the imported arms and the resumption, in a new form suggested by my predecessor, of the intercommunal talks. While it is too early to judge what progress can be made, the atmosphere and the substance of the renewed talks show some promise.

In the Middle East I cannot report any comparable progress. I have continued my efforts through Ambassador Jarring, and through my own contacts with the parties, to make progress towards a settlement. We have also tried at the same time to assist the Governments concerned in avoiding clashes, escalation of tension and the proliferation of incidents through the use of observers in areas of tension and through other means.

In India and Pakistan we have seen, after the hostilities of last year, encouraging developments in the relations between the two States. While realizing that bilateral talks in such a situation are to be welcomed, the United Nations has tried to help where help seemed to be needed through various means. In the new State of Bangladesh, the United Nations, through the largest relief programme in its history, has played a significant role in helping that country to face its enormous problems. In Pakistan a relief programme has been mounted to assist persons displaced by the hostilities.

The United Nations has responded to the request of the Government of the Sudan for help in the resettlement and rehabilitation of the southern region of the country. I welcome the fact that the Sudanese Government has sought, and found, an accommodation with those of its citizenry who felt isolated from its polity.

I dispatched a humanitarian mission to Burundi in the wake of the disastrous events in that country, and a technical mission is now assessing the requirement for humanitarian help and relief. I hope that satisfactory arrangements can be made through which much needed humanitarian assistance can be made available to the people of Burundi.

The full and complete implementation of General Assembly resolution 1514 (XV) on decolonization remains a major goal of the United Nations. Our Organization played a significant role in making possible the emergence of a considerable proportion of the peoples of Asia, Africa and the Caribbean from colonial status to nationhood. However, the march of progress and independence has encountered several obstacles which today unduly retard, at the cost of much suffering, a fundamental historical development. I refer particularly to the situation in southern Africa.

Whether we speak of decolonization or of putting an end to racism and *apartheid*, the present impasse is due not only to the failure of the Governments directly addressed in the relevant General Assembly and Security Council resolutions to implement them, but also to the failure of the international community to concert its efforts and to mobilize effectively all the resources available to it.

As regards Namibia, I am well aware of the difficulties of the task entrusted to me, particularly in a matter which for so many years has resisted all the efforts of the international community to arrive at a solution consistent with the Charter and with United Nations resolutions. The Security Council has agreed that I should continue my efforts under my mandate, and South Africa has expressed the desire to continue the contacts. I intend, therefore, to pursue these efforts in close consultation with the Council's group established under resolution 309 (1972). It is my hope that from these efforts, and from those of my representative, proposals may emerge which will lead to self-determination and independence for the Namibian people.

These are but a few of the preoccupations of my first months as Secretary-General. I may add that, from the number of requests for help or good offices on other matters which I have received, the hopes of many Governments and people around the world seem to centre on the United Nations and it is my earnest wish that we can increasingly live up to these hopes.

VIII

I should mention here my efforts concerning one situation which is not under active consideration at the United Nations—the situation in Viet-Nam. In line with my view that the Secretary-General must always be available to help in matters affecting international peace and security, and especially when massive loss of life and human misery are resulting from a conflict. I offered my good offices to the parties to the Viet-Nam conflict when the hostilities escalated in April 1972. That offer was not accepted, but, needless to say, it stands. In May, when the situation seemed even graver, I addressed a memorandum on Viet-Nam to the President of the Security Council and informally consulted with its members. Although no further action resulted, I quote here the penultimate paragraph of that memorandum because it is relevant to the general views expressed earlier in this introduction:

"I am also deeply concerned that the United Nations, which was created as a result of a world war in order to safeguard international peace and security in the future, appears to have no relevance to what is now happening in Viet-Nam. This indicates an attitude which, if it persists, could all too easily lead to the wholesale disaster which the United Nations was set up to prevent."

Nothing that has occurred since the memorandum was written has given me reason to modify this view.

Indeed, it is strange that, at a time when the United Nations and its main executive organ for international peace and security—the Security Council—are becoming more representative of the power realities in the world, there is, apparently, a certain unwillingness to involve the United Nations in the reconciliation of some conflicts. Obviously the international community should welcome direct contacts between States in the solution of their problems whenever possible. But when long-standing conflicts create vast humanitarian problems and may affect the peace and security of all mankind, the United Nations should surely be involved in the attempt to settle them.

IX

The Secretary-General faces a recurring dilemma whenever and wherever large-scale military conflict or civil strife within a State results in massive killings of innocent civilians. In the latter case, the Secretary-General has to reconcile Article 2, paragraph 7, of the Charter with the moral principles, and especially those concerning the sacredness of human life, which the Charter embodies.

No matter what criticisms or setbacks may arise, the unwritten moral responsibility which every Secretary-General bears does not allow him to turn a blind eye when innocent civilian lives are placed in jeopardy on a large scale.

X

In other areas, two major events have occurred—the third session of the United Nations Conference on Trade and Development, held in Santiago, and the United Nations Conference on the Human Environment, held in Stockholm. The Santiago Conference was the third major conference in a very difficult field, where the full nature of the obstacles to progress has become evident. Such conferences cannot be judged only in the light of immediate results. They should be seen as part of a long and difficult process, which continues between the actual conferences themselves. The Stockholm Conference was a pioneering effort for the world community, and I believe that, given the extraordinary complexity and scope of its subject, it made progress as could reasonably be expected on a first approach—perhaps even more. The question now is to follow up the Stockholm Conference and to build soundly on the work done there. The new task formulated at Stockholm for the United Nations and the new machinery which is being proposed to the General Assembly constitute an immense challenge to, and opportunity for, the United Nations system.

At both conferences the contrast in the positions of the more developed and the less developed countries was evident. Both conferences served to confirm my conviction that to make progress on these global problems Governments must develop more of a concern for each other's interests, a clear sense of each other's preoccupations and a wider knowledge of the sensibilities of other Governments and cultures. In particular, they underlined the fact that the effort through the United Nations to resolve the pressing problems of the poore. countries deserves the continued and increased support of the richer ones.

XI

I had occasion to address the Economic and Social Council at its summer session concerning the role of the United Nations in promoting equitable world development. On the whole, the situation in this vital area of activity is disquieting. The confidence of the 1960s has turned into the doubts of the 1970s, and there is increasingly both a question as to the nature and future of the economic and social order and a lack of determination to take the necessary measures.

Against this background we must face certain current realities. One is a disruption of the Bretton Woods monetary system which, after many years, failed when the political, economic and social realities on which it was originally based changed rapidly during the 1960s. Another reality is the failure of the economic development of many emerging nations to keep pace with their own needs and with the growth of world trade. The results are extreme population pressure, widespread poverty, mass unemployment, endemic malnutrition and inadequate education for the large mass of their people.

As I stated to the Economic and Social Council, it has been clear for some time that our perception of the problems of the developing countries must change. The distinction between economic and social progress may even have become an impediment to effective action. In many countries poverty and mass unemployment are so widespread and affect so critically the social equilibrium that they constitute, in themselves, blocks to further development. It is no longer possible to rely on the assumption that an expanding modern sector will eventually absorb the mass of people and provide them with decent living standards. Instead, poverty, poor health, unemployment and lack of education as such must be tackled head-on. Rural life must be improved to slow down the flow of population to the cities, and overall development programmes must be reviewed in the light of such considerations.

There is a further related problem concerning the least developed of the developing countries—countries which have an insufficient physical and social infrastructure to benefit from such trade and other concessions as the world community might make to the emerging nations. Special efforts through the United Nations Development Programme and other international organizations, as well as bilaterally, will have to be made in order to bring these countries to a point where they can participate more actively in an expanding world economy. The resolutions adopted at the last session of the General Assembly and, more recently, at the third session of the United Nations Conference on Trade and Development provide a good framework for moving ahead speedily in this area.

The United Nations, whatever the imperfections of its method of work through broad consensus, is still the best instrumentality available to the world community for such problems. It has a unique outlook and set of guiding principles. The Organization is

unique in another important respect, in that its views are agreed to by its Members, thus providing the closest approximation yet to a world-wide consensus. This characteristic is particularly important in an increasingly interdependent world of sovereign States. It could provide a working basis for an attempt to establish an economic and social order responsive to the needs, potential and characteristics of all nations and peoples. In this connexion, the International Development Strategy for the Second United Nations Development Decade, adopted unanimously by the General Assembly on the occasion of the twenty-fifth anniversary of the Organization, implies that the interests of developing countries should be taken into account in any new world trade and monetary system. This point was most recently stressed again in a number of resolutions adopted by the United Nations Conference on Trade and Development at its third session, most notably that dealing with the participation of the developing countries in any forthcoming monetary and trade negotiations, and in the one requesting the study of a possible link between development assistance and special drawing rights.

Promoting change effectively, humanely and reasonably should be the business of the United Nations. The precision, clear thinking and readiness to compromise, which are so urgently needed in the political sphere, are equally necessary in the economic and social spheres. One of the great strengths of the United Nations system is its multiplicity and diversity, provided that these qualities do not degenerate into divisiveness and sectarian disagreement. It is essential that the creativeness of multiplicity be strengthened by the discipline of a concerted purpose. I hope that, at the forthcoming session of the General Assembly, Governments will address themselves also to this problem, which is vital to the effectiveness of the United Nations system in meeting the economic and social challenges of the coming years.

XII

On the administrative and financial side I have also tried to tackle the most immediate problems and to formulate a programme which will increase both the efficiency and the solvency of the United Nations in the future. These efforts are reported in detail in other documents. I may mention in particular a series of new appointments and some reorganization at the upper levels of the Secretariat, an effort to keep the total budget expenditure for the year at a level that would not exceed cash receipts, and a drive for reduction in paper work and particularly documentation.

I hope and believe that these measures will bear fruit. I wish to say here that such measures are not in any sense a reflection on the Secretariat. On the contrary, I have found a high level of competence and dedication among the staff. The fact remains that every organization needs to be reviewed and renewed every so often, and the United Nations Secretariat has, in the normal course of events, arrived at such a stage.

On the financial side, in co-operation with the Special Committee on the Financial Situation of the United Nations, I have taken measures designed to avoid going from one monthly cash crisis to another. Many Governments have been co-operative in paying their contributions earlier in the year than before, with the result that the short-term financial situation, though still tight, has improved substantially. As regards the long-term problem of settling the Organization's debt, I have followed closely the work of the Special Committee and I hope that a satisfactory solution of this highly important problem can be reached during the coming session.

XIII

There are many aspects of the Organization's work that I have not touched upon in this introduction, for I wished to concentrate on a few basic problems concerning the United Nations system as a whole, which will, I hope, be discussed in the forthcoming session of the General Assembly.

I feel strongly that we must face up squarely to these problems as representing the present realities of the world we live in. I am confident that by doing so the Member States gathered together in the General Assembly will find, in the course of public debate as well as in the productive process of private discussion, ways to reassert the common ideals and objectives of the Charter, and to revitalize this Organization whose task is to translate those common ideals and objectives into effective international action.

THE 25TH ANNIVERSARY OF THE INVENTION OF THE TRANSISTOR

Mr. WILLIAMS. Mr. President, a noteworthy milestone will be observed on December 23 of this year, one meriting nationwide attention because of its impact on our Nation as well as the world.

That date will mark the silver anniversary of the invention of the transistor.

The transistor revolutionized the electronics industry, replaced bulkier, less reliable vacuum tubes, and provide the technological foundation for integrated circuits, which have extended the transistor's impact on our daily lives.

The transistor was the key that unlocked an age of new, sophisticated, more reliable, cost-depressing communications systems. It made practical the space age of earth satellites for intercontinental communications, or for weather and ecological surveillance, and opened the era of space exploration. Without the transistor, we may not have found it practical to place men on the moon, or at least to view them at work from the comfort of our living rooms.

The transistor gave us the modern computer, which has become so essential for business and is having an accelerating impact on the lives of all our citizens in providing a growing array of services to man.

The transistor gave us the wallet-sized portable radio, convenient enough to provide entertainment for an outing on one of our glorious New Jersey beaches, and equally convenient in the pocket of a farmer to apprise him of world events as he works his remote western fields.

The transistor has given us navigational and radar systems necessary for jet flight, and vital electronic components for our national defense. It has given us more dependable wrist watches, toys for our youngsters, lasers, and other research tools for our scientists. The list of its benefits is endless, limited only by the breadth of one's imagination. It has enhanced the very lives of our citizens, for example, by providing aids to the hard-of-hearing, pacemakers for those with heart defects, the communications technology for transmitting an electrocardiogram to a distant consultant over the telephone, and many sophisticated tools for members of the medical profession.

We are pleased that the transistor came from this land, representative as it is of the world leadership in science and technology.

And we are particularly proud that the transistor came from the State of New Jersey, which has made so many contributions to mankind.

The transistor was born 2 days before Christmas, 25 years ago, on a laboratory bench in Murray Hill, N.J., the headquarters site of Bell Laboratories, the research and development unit of the Bell System.

Its birth came, not by the haphazard accident that fiction often ascribes to the inventive process, but in a concentrated project by the inventors and their assistants. In their mission-oriented research, stimulated by the recognition that increasing telephone system capacity would have to be accommodated in the years to come, they set out to find a replacement for vacuum tubes in telephone applications. They found it in the transistor.

While the achievement drew scant attention at that time, popular recognition of its significance has grown steadily ever since. In 1956 the three inventors of the transistor, John Bardeen, William Shockley, and Walter Brattain, received the Nobel Prize in Physics for their work.

After that December day when the three scientists succeeded in amplifying an electrical signal by sending it through a very specially prepared crystal of germanium, a Bell Labs task force took over the job of making the transistor a practical device.

In the Bell System transistors and other solid-state devices derived from them have made possible more reliable and cheaper microwave radio, and buried coaxial systems for sending calls across country. These devices also made possible large computer-like electronic central offices that switch customer's calls. Transistors and other solid-state devices were also crucial in the operation of the Bell System's experimental communication satellites, Telstar I and II, and are used in modern undersea cable systems linking the United States with Europe and the Caribbean.

Since the invention of the transistor, Bell Labs and Western Electric have continued to develop new solid-state technologies, some of which paved the way for integrated circuits. Containing hundreds of transistors and other electric components on tiny chips of silicon, integrated circuits have ushered in the "solid-state age," opening up still more markets for electronic devices.

To date, Western Electric, manufacturing and development unit of the Bell System, has manufactured over 500 million separate transistors and over 7 million integrated circuits. Semiconductor technology is also being used in the Bell System to produce memories for computers, TV cameras, and solid-state lasers.

And in the broader view, the transistor has created a multibillion-dollar electronics industry. In 1971, sales of all types of solid-state devices in the United States, Europe, and Japan reached $2.5 billion. The forecast for 1972 is $2.7 billion. In 1971, 13.8 billion solid-state devices were sold, of which 9 billion were transistors. And people employed within the United States alone by business and industries engaged in solid-state technology number in the millions.

Solid-state devices have had an impact on a multitude of markets including military, commercial equipment and systems, medicine, education, broadcasting, musical instruments, automobiles, navigation, test and measuring instruments, industrial control and automation, aerospace and telephone communications. Solid-state technology has meant better and more reliable telephone service. Today, more long-distance and overseas telephone calls can be made faster and at lower cost than in the past.

Thus, the impact of the transistor on our lives, our fortunes, on our health, on our well-being, on our frame of mind, has been phenomenal.

TREASURY DEPARTMENT REVENUE SHARING FIGURES FOR OHIO

Mr. SAXBE. Mr. President, the new Treasury Department revenue-sharing figures, based on the conference committee action, have just been made available to Members of Congress on a very limited basis. State and local government officials throughout Ohio have been most anxious to have these figures in order to finalize their plans. I, therefore, would like to make this information available to them.

It is important to stress the fact that although these are official Treasury figures, they are not final and are subject to some slight changes when it comes to the actual dollar-and-cent distribution of the funds. Some small and new communities were not included in this original computation, but will be included in the distribution.

I ask unanimous consent that the official Treasury tabulation of revenue-sharing funds for Ohio be printed in the RECORD.

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

Revenue sharing funds for Ohio

[In dollars]

Total State grant to all locals	138,015,780
Amount returned to Ohio State government is	0
Adams County area	300,824
Adams County government	193,276
Total to all cities over 2,500	0
Total to all cities under 2,500	43,643
Total to all townships	63,906
Allen County area	1,131,427
Allen County government	397,847
Total to all cities over 2,500	545,195
Total to all cities under 2,500	46,488
Total to all townships	141,897
Bluffton Village	7,634
Delphos City (part)	32,473
Lima City	496,185
Fort Shawnee Village	8,904
Ashland County area	433,696
Ashland County government	147,293
Total to all cities over 2,500	179,182
Total to all cities under 2,500	25,391
Total to all township	81,829
Ashland City	158,329
Loudonville Village	20,853
Ashtabula County area	1,292,090
Ashtabula County government	365,136
Total to all cities over 2,500	594,512
Total to all cities under 2,500	113,906
Total to all townships	218,535
Ashtabula City	393,316
Conneaut City	163,992
Geneva City	37,204
Athens County area	688,347
Athens County government	235,818
Total to all cities over 2,500	254,653
Total to all cities under 2,500	59,603
Total to all townships	138,273
Athens City	239,238
Nelsonville City	15,415
Auglaize County area	438,261
Auglaize County government	130,472
Total to all cities over 2,500	161,565
Total to all cities under 2,500	84,111
Total to all townships	62,113
St. Marys City	115,963
Wapakoneta City	45,602
Belmont County area	849,805
Belmont County government	396,121
Total to all cities over 2,500	216,672
Total to all cities under 2,500	40,466
Total to all townships	196,546
Barnesville Village	38,291
Bellaire City	49,533
Bridgeport Village	15,327
Martins Ferry City	83,131
St. Clairsville Village	12,889
Shadyside Village	17,501
Brown County area	440,369
Brown County government	376,369
Total to all cities over 2,500	64,000
Total to all cities under 2,500	0
Total to all townships	0
Georgetown Village	19,500
Ripley Village	44,500
Butler County area	3,103,083
Butler County government	869,245
Total to all cities over 2,500	2,218,849
Total to all cities under 2,500	15,349
Total to all townships	0
Hamilton City	1,045,357
Fairfield City	113,036
Middletown City	916,216
Monroe Village	14,789
New Miami Village	36,841
Oxford Village	74,903
Trenton Village	17,347
Carroll County area	257,539
Carroll County government	164,455
Total to all cities over 2,500	20,354
Total to all cities under 2,500	9,639
Total to all townships	63,090
Carrollton Village	14,229
Minerva Village	6,125
Champaign County area	386,165
Champaign County government	169,331
Total to all cities over 2,500	93,019
Total to all cities under 2,500	44,320
Total to all townships	79,495
Urbana City	93,019
Clark County area	1,677,353
Clark County government	357,324
Total to all cities over 2,500	1,108,704
Total to all cities under 2,500	77,777
Total to all townships	133,548
New Carlisle Village	51,813
Springfield City	1,046,892
Clermont County area	618,781
Clermont County government	331,567
Total to all cities over 2,500	41,940
Total to all cities under 2,500	37,795
Total to all townships	207,480
Loveland City (part)	4,983
Milford Village (part)	20,306
New Richmond Village	16,651
Clinton County area	502,782
Clinton County government	243,067
Total to all cities over 2,500	95,398
Total to all cities under 2,500	34,829
Total to all townships	129,488
Blanchester Village	14,191
Wilmington City	81,208
Columbiana County area	1,208,028
Columbiana County government	455,284
Total to all cities over 2,500	492,292
Total to all cities under 2,500	56,841
Total to all townships	203,611
Columbiana Village	20,770
East Liverpool City	275,755
East Palestine City	14,522
Lisbon Village	18,556
Salem City	130,440
Wellsville City	32,250
Coshocton County area	511,094
Coshocton County government	253,394
Total to all cities over 2,500	127,206
Total to all cities under 2,500	29,750
Total to all townships	100,733
Coshocton City	127,206
Crawford County area	731,681
Crawford County government	206,821
Total to all cities over 2,500	419,060
Total to all cities under 2,500	27,724
Total to all townships	78,076
Bucyrus City	152,246
City of Crestline Ohio	57,745
Galion City	209,069
Cuyahoga County area	26,076,913
Cuyahoga County government	7,496,212
Total to all cities over 2,500	18,548,301
Total to all cities under 2,500	32,401
Total to all townships	0
City of Bay Village	47,068
Beachwood City	24,958
Bedford City	121,211
Bedford Heights City	116,250
Berea City	118,427
Brecksville City	23,678
City of Broadview Heights	29,705
City of Brooklyn	96,863
City of Brook Park	195,196
Chagrin Falls Village	12,563
Cleveland City	14,107,681
Cleveland Heights City	327,526
East Cleveland City	238,054
Euclid City	493,301
Fairview Parks City	65,085
Garfield Heights City	192,169
Highland Heights Village	16,931
Independence City	37,665
Lakewood City	361,749
Lyndhurst City	51,177
Maple Heights City	244,717
Mayfield Village	9,194
Mayfield Heights City	71,929
Middleburg Heights City	32,048
Moreland Hills Village	7,774
Newburgh Heights Village	12,345
North Olmsted City	140,175
City of North Royalton	33,188
Oakwood Village	8,103
Olmsted Falls Village	6,489
City of Parma	515,403
Parma Heights City	95,305
Pepper Pike Village	15,375
Richmond Heights City	23,893
Rocky River City	79,478
Seven Hills City	32,911
Shaker Heights City	94,083
City of Solon	71,487
South Euclid City	113,510
Strongsville City	39,343
University Hgts City	56,573
Walton Hills Village	6,499
Warrensville Hgts City	98,584
Westlake City	62,642
Darke County area	492,905
Darke County government	207,779
Total to all cities over 2,500	84,138
Total to all cities under 2,500	78,640

Total to all townships	1
Greenville City	84,138
Defiance County area	535,554
Defiance County government	166,851
Total to all cities over 2,500	261,878
Total to all cities under 2,500	15,414
Total to all townships	91,411
Defiance City	245,513
Hicksville Village	16,365
Delaware County area	332,800
Delaware County government	148,797
Total to all cities over 2,500	72,169
Total to all cities under 2,500	21,127
Total to all townships	90,707
Delaware City	72,040
Westerville City (part)	130
Erie County area	818,770
Erie County government	293,619
Total to all cities over 2,500	394,892
Total to all cities under 2,500	41,250
Total to all townships	90,015
Huron Village	36,442
Sandusky City	336,473
Vermilion City (part)	21,976
Fairfield County area	730,749
Fairfield County government	255,076
Total to all cities over 2,500	280,946
Total to all cities under 2,500	81,438
Total to all townships	113,289
Lancaster City	280,946
Fayette County area	355,458
Fayette County government	184,565
Total to all cities over 2,500	82,236
Total to all cities under 2,500	14,670
Total to all townships	73,987
Washington City	82,236
Franklin County area	9,935,016
Franklin County government	3,331,822
Total to all cities over 2,500	6,226,230
Total to all cities under 2,500	122,987
Total to all townships	253,978
Bexley City	38,581
Columbus City	5,697,361
Gahanna Village	32,133
City of Grandview Heights	37,059
Grove City	36,049
Hilliard City	21,687
Reynoldsburg City (part)	36,051
Upper Arlington City	100,106
Westerville City (part)	32,341
Whitehall City	155,147
Worthington City	39,716
Fulton County area	349,345
Fulton County government	133,114
Total to all cities over 2,500	94,588
Total to all cities under 2,500	16,871
Total to all townships	104,772
Archbold Village	15,775
Delta Village	18,731
Swanton Village	16,054
Wauseon Village	44,028
Gallia County area	373,210
Gallia County government	245,373
Total to all cities over 2,500	35,992
Total to all cities under 2,500	9,447
Total to all townships	82,397
Gallipolis City	35,992
Geauga County area	295,500
Geauga County government	149,566
Total to all cities over 2,500	19,691
Total to all cities under 2,500	6,376
Total to all townships	119,867
Chardon Village	12,764
South Russell Village	6,927
Greene County area	767,568
Greene County government	410,897
Total to all cities over 2,500	180,278
Total to all cities under 2,500	10,310
Total to all townships	166,083
Fairborn City	83,617
Xenia City	87,580
Yellow Springs Village	9,081
Guernsey County area	462,126
Guernsey County government	211,733
Total to all cities over 2,500	122,293
Total to all cities under 2,500	47,633
Total to all townships	80,468
Cambridge City	122,293
Hamilton County area	16,511,820
Hamilton County government	39,532,286
Total to all cities over 2,500	11,673,662
Total to all cities under 2,500	934,872
Total to all townships	0
Amberley Village	14,444
Blue Ash City	118,500
Cheviot City	205,500
Cincinnati City	8,501,849
Deer Park City	139,310
Elmwood Place Village	66,226
Fairfax Village	50,821
Glendale Village	50,539
Golf Manor Village	97,132
City of Greenhills	114,455
Harrison Village	59,500
Indian Hill Village	106,169
Lincoln Heights City	80,500
Lockland City	99,349
Madeira City	126,121
Mariemont Village	85,296
Milford Village (part)	977
Montgomery Village	14,727
Mount Healthy City	19,296
North College Hill City	121,000
Norwood City	571,519
Reading City	286,719
St. Bernard City	114,229
Sharonville City	168,500
City of Silverton	109,500
Woodlawn Village	61,079
City of Wyoming	170,761
Loveland City (part)	13,416
Springdale Village	85,000
Forest Park Village	39,231
Hancock County area	533,597
Hancock County government	236,878
Total to all cities over 2,500	212,963
Total to all cities under 2,500	31,722
Total to all townships	52,034
Fostoria City (part)	53,758
Findlay City	159,205
Hardin County area	402,337
Hardin County government	185,954
Total to all cities over 2,500	111,957
Total to all cities under 2,500	45,682
Total to all townships	58,745
Ada Village	19,632
Kenton City	92,324
Harrison County area	319,634
Harrison County government	148,656
Total to all cities over 2,500	27,623
Total to all cities under 2,500	42,193
Total to all townships	101,162
Cadiz Village	27,623
Henry County area	318,350
Henry County government	141,767
Total to all cities over 2,500	44,208
Total to all cities under 2,500	37,967
Total to all townships	94,407
Napoleon City	44,208
Highland County area	349,253
Highland County governmnt	134,887
Total to all cities over 2,500	62,055
Total to all cities under 2,500	14,645
Total to all townships	77,665
Greenfield City	12,387
Hillsboro City	49,668
Hocking County area	310,102
Hocking County government	192,661
Total to all cities over 2,500	51,827
Total to all cities under 2,500	9,805
Total to all townships	55,809
Logan City	51,827
Holmes County area	327,761
Holmes County government	164,194
Total to all cities over 2,500	19,565
Total to all cities under 2,500	11,769
Total to all townships	132,232
Millersburg Village	19,565
Huron County area	513,600
Huron County government	203,044
Total to all cities over 2,500	174,135
Total to all cities under 2,500	49,546
Total to all townships	86,876
Bellevue City (part)	29,421
Norwalk City	111,549
Willard City	33,165
Jackson County area	431,619
Jackson County government	182,632
Total to all cities over 2,500	195,860
Total to all cities under 2,500	18,938
Total to all townships	124,189
Jackson City	40,580
City of Wellston	65,280
Jefferson County area	1,510,673
Jefferson County government	668,898
Total to all cities over 2,500	841,775
Total to all cities under 2,500	0
Total to all townships	0
Mingo Junction Village	99,161
Steubenville city	578,114
Toronto city	109,000
Wintersville Village	55,500
Knox County area	340,879
Knox County government	105,318
Total to all cities over 2,500	106,279
Total to all cities under 2,500	47,485
Total to all townships	81,797
Mount Vernon City	106,279
Lake County area	1,513,620
Lake County govt	521,324
Total to all cities over 2,500	846,335
Total to all cities under 2,500	29,867
Total to all townships	116,094
Eastlake City	200,821
Fairport Village	32,771
Mentor City	95,654
Mentor on the Lake Vill	16,888
Painesville City	172,876
Wickliffe City	88,896
Willoughby City	146,922
Willoughby Hills Vill	13,597
Willowick City	77,910
Lawrence County area	644,822
Lawrence County government	276,421
Total to all cities over 2,500	202,146
Total to all cities under 2,500	57,420
Total to all townships	108,835
Coal Grove Village	18,296
Ironton City	183,850
Licking County area	1,292,658
Licking County government	445,985
Total to all cities over 2,500	528,312
Total to all cities under 2,500	79,276
Total to all townships	239,085
Granville Village	11,991
Heath City	80,058
Johnstown Village	8,889
Newark City	427,350
Reynoldsburg City	23
Logan County area	467,515
Logan County government	223,686
Total to all cities over 2,500	106,172
Total to all cities under 2,500	80,410
Total to all townships	57,247
Bellefontaine City	106,172
Lorain County area	2,560,539
Lorain County government	754,128
Total to all cities over 2,500	1,565,384
Total to all cities under 2,500	39,418
Total to all townships	201,609
Amherst City	27,635
Avon City	28,187
City of Avon Lake	173,486
Elyria City	424,717
Lorain City	747,340
Oberlin City	40,203
Sheffield Lake City	43,802

Revenue sharing funds for Ohio—Continued

[In dollars]

South Amherst Village	7,549
Vermilion City (part)	16,952
Wellington Village	17,467
N. Ridgeville Village	38,046
Lucas County area	6,123,474
Lucas County government	1,187,719
Total to all cities over 2,500	4,831,455
Total to all cities under 2,500	35,160
Total to all townships	69,139
Maumee City	111,672
Ottawa Hills Village	11,066
Sylvania City	41,795
Toledo City	4,467,549
Waterville Village	7,619
Oregon City	191,756
Madison County area	353,172
Madison County government	218,376
Total to all cities over 2,500	54,338
Total to all cities under 2,500	19,993
Total to all townships	54,965
London City	44,843
Jefferson Village	9,495
Mahoning County area	5,068,764
Mahoning County government	2,110,811
Total to all cities over 2,500	2,872,966
Total to all cities under 2,500	84,987
Total to all townships	0
Campbell City	236,292
Canfield Village	12,949
Poland Village	8,026
Sebring Village	28,245
Struthers City	147,378
Youngstown City (part)	2,400,076
Marion County area	931,713
Marion County government	292,784
Total to all cities over 2,500	496,141
Total to all cities under 2,500	57,130
Total to all townships	85,659
Marion City	496,141
Medina County area	672,312
Medina County government	239,724
Total to all cities over 2,500	267,904
Total to all cities under 2,500	43,283
Total to all townships	121,402
Medina City	86,973
Rittman City (part)	438
Wadsworth City	114,256
Brunswick City	66,237
Meigs County area	249,749
Meigs County government	149,719
Total to all cities over 2,500	25,597
Total to all cities under 2,500	9,055
Total to all townships	65,379
Middleport village	13,688
Pomeroy village	11,909
Mercer County area	452,146
Mercer County government	186,045
Total to all cities, over 2,500	114,956
Total to all cities under 2,500	54,551
Total to all townships	96,593
Celina City	67,954
Coldwater village	47,002
Miami County area	648,338
Miami County government	279,055
Total to all cities over 2,500	248,047
Total to all cities under 2,500	26,039
Total to all townships	95,198
Covington Village	10,420
Piqua City	92,869
Tipp City village	25,907
Troy City	107,276
West Hilton	11,575
Monroe County area	295,698
Monroe County government	214,846
Total to all cities over 2,500	9,696
Total to all cities under 2,500	1,018
Total to all townships	80,139
Woodsfield Village	6,861
Montgomery County area	7,942,789
Montgomery County government	2,091,971
Total to all cities over 2,500	5,845,180
Total to all cities under 2,500	5,638
Total to all townships	0
Village of Brookville	11,410
Carlisle Village (part)	995
Centerville Village	26,777
Dayton City	4,576,683
Englewood Village	20,433
Germantown Village	10,594
Kettering City	619,199
Miamisburg City	278,000
New Lebanon Village	11,008
Oakwood City	118,098
Trotwood Village	10,132
Union Village	6,000
City of Vandalia	27,977
West Carrollton Village	27,852
Moraine City	92,022
Morgan County area	232,497
Morgan County government	129,588
Total to all cities over 2,500	0
Total to all cities under 2,500	16,199
Total to all townships	86,710
Morrow County area	233,803
Morrow County government	120,725
Total to all cities over 2,500	26,861
Total to all cities under 2,500	31,490
Total to all townships	54,729
Mount Gilead Village	28,881
Muskingum County area	1,349,730
Muskingum County government	501,914
Total to all cities over 2,500	530,266
Total to all cities under 2,500	150,663
Total to all townships	166,886
Zanesville City	530,266
Noble County area	131,259
Noble County government	75,165
Total to all cities over 2,500	0
Total to all cities under 2,500	11,780
Total to all townships	44,314
Ottawa County area	372,807
Ottawa County government	172,391
Total to all cities over 2,500	69,863
Total to all cities under 2,500	35,396
Total to all townships	95,157
Oak Harbor Village	17,914
Port Clinton City	51,949
Paulding County area	241,854
Paulding County government	131,126
Total to all cities over 2,500	15,484
Total to all cities under 2,500	29,473
Total to all townships	65,771
Paulding Village	15,484
Perry County area	450,933
Perry County government	196,716
Total to all cities over 2,500	74,108
Total to all cities under 2,500	57,238
Total to all townships	122,872
Crooksville Village	14,663
New Lexington Village	59,445
Pickaway County area	473,796
Pickaway County government	225,536
Total to all cities over 2,500	74,889
Total to all cities under 2,500	34,020
Total to all townships	139,352
Circleville City	74,889
Pike County area	325,221
Pike County government	167,274
Total to all cities over 2,500	32,423
Total to all cities under 2,500	11,106
Total to all townships	114,416
Waverly Village	32,425
Portage County area	1,071,275
Portage County government	406,772
Total to all cities over 2,500	452,080
Total to all cities under 2,500	44,306
Total to all townships	168,118
Aurora Village	20,548
Kent City	311,174
Mogadore Village (part)	1,687
Ravenna City	99,503
Windham Village	19,167
Preble County area	273,804
Preble County government	117,755
Total to all cities over 2,500	29,341
Total to all cities under 2,500	44,694
Total to all townships	82,014
Eaton City	29,341
Putnam County area	487,404
Putnam County government	143,484
Total to all cities over 2,500	46,430
Total to all cities under 2,500	142,969
Total to all townships	154,521
Ottawa Village	46,430
Richland County area	1,596,342
Richland County government	523,651
Total to all cities over 2,500	807,324
Total to all cities under 2,500	70,636
Total to all townships	194,730
Lexington Village	24,185
Mansfield City	684,709
Shelby City	80,524
Ontario Village	17,906
Ross County area	928,833
Ross County government	349,638
Total to all cities over 2,500	392,670
Total to all cities under 2,500	67,716
Total to all townships	118,809
Chillicothe City	392,670
Sandusky County area	773,301
Sandusky County government	267,192
Total to all cities over 2,500	343,473
Total to all cities under 2,500	33,522
Total to all townships	129,115
Bellevue City (part)	21,697
Clyde Village	33,044
Fremont City	271,463
Gibsonburg Village	17,260
Scioio County area	1,445,726
Scioto County government	864,099
Total to all cities over 2,500	581,627
Total to all cities under 2,500	0
Total to all townships	0
New Boston City	62,469
Portsmouth City	519,158
Seneca County area	1,140,333
Seneca County government	506,871
Total to all cities over 2,500	633,462
Total to all cities under 2,500	0
Total to all townships	0
Fostoria City (part)	227,725
Tiffin City	405,737
Shelby County area	553,691
Shelby County government	207,277
Total to all cities over 2,500	211,052
Total to all cities under 2,500	59,728
Total to all townships	75,635
Sidney City	211,052
Stark County area	3,911,569
Stark County government	985,200
Total to all cities over 2,500	2,304,827
Total to all cities under 2,500	178,584
Total to all townships	442,958
Alliance City	268,700
Canton City	1,578,252
City of Louisville	55,892
Massillon City	319,506
Minera Village (part)	6,339
North Canton City	76,139
Summit County area	7,528,888
Summit County government	2,189,360
Total to all cities over 2,500	5,015,529
Total to all cities under 2,500	34,221
Total to all townships	289,778
Akron City	4,103,003
Barberton City	340,529
Cuyahoga Falls City	273,949
Hudson Village	29,752
Lakemore Village	7,018
Mogadore Village (part)	8,311
Munroe Falls Village	11,803
Silver Lake Village	9,425
Tallmadge City	42,593
Twinsburg Village	53,769
City of Stow	61,767
Village of Norton	31,895

Fairlawn Village	15,813
Macedonia Village	25,904
Trumbull County area	2,241,515
Trumbull County government	1,043,322
Total to all cities over 2,500	1,188,589
Total to all cities under 2,500	9,603
Total to all townships	0
Cortland Village	6,949
Girard City	124,459
Hubbard City	33,301
McDonald Village	22,860
Newton Falls City	29,018
Niles City	228,005
Warren City	743,453
Youngstown City (part)	545
Tuscarawas County area	838,072
Tuscarawas County government	251,742
Total to all cities over 2,500	351,651
Total to all cities under 2,500	96,201
Total to all townships	138,478
Dennison Village	42,717
Dover City	119,265
Newcomerstown Village	31,103
New Philadelphia City	110,093
Uhrichsville City	48,474
Union County area	240,926
Union County government	127,204
Total to all cities over 2,500	37,624
Total to all cities under 2,500	22,461
Total to all townships	53,637
Marysville Village	37,624
Van Wert County area	441,507
Van Wert County government	175,927
Total to all cities over 2,500	157,735
Total to all cities under 2,500	41,787
Total to all townships	66,058
Van Wert City	131,688
Delphos City (part)	26,047
Vinton County area	176,979
Vinton County government	106,320
Total to all cities over 2,500	0
Total to all cities under 2,500	25,754
Total to all townships	44,905
Warren County area	667,083
Warren County government	290,852
Total to all cities over 2,500	344,814
Total to all cities under 2,500	31,397
Total to all townships	0
Carlisle Village (part)	8,907
Franklin City	120,585
Lebanon City	51,812
Loveland City (part)	114
Mason Village	106,657
Monroe Village (part)	332
South Lebanon Village	40,247
Springboro Village	7,253
Carlisle Village	8,907
Washington County area	636,376
Washington County government	253,354
Total to all cities over 2,500	198,444
Total to all cities under 2,500	29,375
Total to all townships	155,204
Belpre City	31,266
Marietta City	167,178
Wayne County area	786,663
Wayne County government	252,245
Total to all cities over 2,500	288,976
Total to all cities under 2,500	107,407
Total to all townships	138,033
Orrville City	91,097
Rittman City (part)	62,363
Wooster City	135,518
Williams County area	332,116
Williams County government	154,684
Total to all cities over 2,500	69,050
Total to all cities under 2,500	45,013
Total to all townships	63,368
Bryan City	52,214
Montpelier Village	16,836
Wood County area	671,357
Wood County government	261,795
Total to all cities over 2,500	240,038
Total to all cities under 2,500	65,774
Total to all townships	103,749
Bowling Green City	144,713
Fostoria City	10,803
North Baltimore Village	16,043
Perrysburg City	30,686
Rossford Village	15,991
Walbridge Village	9,297
Northwood Village	12,505
Wyandot County area	275,004
Wyandot County government	130,503
Total to all cities over 2,500	57,107
Total to all cities under 2,500	19,054
Total to all townships	68,339
Carey Village	27,100
Upper Sandusky Village	30,007

USEFUL LAND FROM HAZARDOUS MINE SPOILS

Mr. MOSS. Mr. President, I have just obtained a copy of the Department of Agriculture report on reclamation of surface-mined land covering a 7-year period. I am pleased to see that a total of 338,000 acres of land have been reclaimed; but I am distressed to learn that the figures show that as of January 1, 1972, we are now faced with 4 million acres of land disturbed by surface mining.

I ask unanimous consent that the report and the statistics be printed in the RECORD.

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

SCS HELPS TURN HAZARDOUS MINE SPOILS INTO USEFUL LAND

WASHINGTON.—Sept. 14.—Surface-mined land can be transformed from a hazardous eyesore into acreage useful for many farm or community purposes, USDA Soil Conservation Service Administrator Kenneth E. Grant said today.

More than 10,000 private landowners reclaimed over a third of a million acres from 1965–71 alone, Mr. Grant said. He cited recent SCS reports from each state showing that landowners and mine operators had reclaimed a total of 338,000 acres in the seven-year period.

"Their work has resulted in significant reductions in soil erosion, sedimentation, and acid pollution of streams from these sites," Mr. Grant said. "They have added to the beauty of the countryside. And they have helped turn useless land into valuable property for forest, pasture or range, wildlife habitat, recreation areas, crop production, building sites, and other uses."

Mr. Grant stressed that much more work needs to be done, since more than 4 billion acres had been disturbed as of January 1, 1972, in surface-mining operations to harvest coal, sand and gravel, and some 40 other commodities.

"More than 90 percent of this land is privately owned," Mr. Grant said. "It is intermingled with farm, ranch, forest and other land in rural and suburban America—on which SCS already is giving conservation help through districts and in watershed projects and resource conservation and development projects."

Of the total acreage disturbed, Mr. Grant said that 2,181,000 acres needs land shaping, plantings, or water-control structures to prevent further land and water damage. The remaining 1,823,700 acres already have been reclaimed or have stabilized themselves over a period of years. Mr. Grant said that surface mining has been practiced for more than 100 years.

"About 15 percent of the land needing reclamation has been treated in the last seven years," Mr. Grant said. "This is significant progress when you consider that to date there is no formal program for technical and financial help on these problem sites on private land. District cooperators have undertaken mined-land reclamation as part of their overall conservation activities."

Mr. Grant said that about half of the States now have statutes calling for some form of surface-mined land reclamation work. Their provisions vary widely.

SCS participation in surface-mined land restoration began in the 1930's, Mr. Grant said. In addition to recommending vegetative and mechanical measures to restore a mined area, SCS also is active in developing new plants that can survive under the difficult slopes and acid conditions found on most surface-mined land. One of the 20 SCS plant materials centers, at Quicksand, Ky., was established specifically to locate, study, and increase the supply of plants for surface-mined land. Several other centers also are turning out useful plants. Among those found especially well suited are deertongue grass, switchgrass, "Cardinal" autumn-olive, "Chemung" and "Emerald" crownvetch, "Latcho" flatpea, "Arnot" bristly locust, "Rem" Red Amur honeysuckle, Japanese bush lespedeza, and weeping lovegrass.

"These plants are well adapted to mined-land conditions and provide a higher percentage of surface cover in a shorter period of time than trees," Mr. Grant said. "They also provide excellent food and cover for many species of wildlife. And their flowers and foliage have a high esthetic value."

Mr. Grant said that more details about surface-mined land problems and opportunities are in a 1971 SCS publication, MP-1082, "Restoring Surface-Mined Land." Copies are available from local SCS offices or from the U.S. Government Printing Office, Washington, D.C. 20402.

STATUS OF LAND DISTURBED BY SURFACE MINING IN THE UNITED STATES, AS OF JAN. 1, 1972, BY STATE[1]

[Thousand acres]

State	Land requiring reclamation	Land not requiring reclamation	Total land disturbed
Alabama	127.9	43.1	171.0
Alaska	4.4	6.7	11.1
Arizona	29.7	28.3	58.0
Arkansas	17.1	6.6	23.7
California	69.7	109.5	179.2
Colorado	41.3	14.8	56.1
Connecticut	12.2	5.1	17.3
Delaware	2.2	1.9	4.1
Florida	196.0	58.8	254.8
Georgia	28.1	13.1	41.2
Hawaii	.1	.1	.2
Idaho	16.0	8.1	24.1
Illinois	66.3	102.2	168.5
Indiana	25.0	120.7	145.7
Iowa	32.4	18.3	50.7
Kansas	67.4	13.5	80.9
Kentucky	58.0	187.4	245.4
Louisiana	26.4	9.8	36.2
Maine	26.4	13.2	39.6
Maryland	25.0	12.7	37.7
Massachusetts	30.7	17.8	48.5
Michigan	72.4	22.0	94.4
Minnesota	52.6	72.7	125.3
Mississippi	22.0	10.3	37.3
Missouri	92.3	18.5	112.4
Montana	22.0	9.3	31.3
Nebraska	12.5	10.5	23.0
Nevada	21.7	12.7	34.4
New Hampshire	4.4	4.3	8.7
New Jersey	17.6	10.8	28.4
New Mexico	13.3	8.8	22.1
New York	40.0	18.0	58.0
North Carolina	27.1	15.7	42.8
North Dakota	27.5	17.1	44.6
Ohio	191.6	162.1	353.7
Oklahoma	5.0	25.0	30.0
Oregon	6.6	2.8	9.4
Pennsylvania	240.9	201.5	442.4
Rhode Island	2.6	1.2	3.8
South Carolina	20.0	15.0	35.0
South Dakota	16.0	18.2	34.2
Tennessee	40.0	78.9	118.9
Texas	136.8	34.0	170.8
Utah	3.4	2.8	6.2
Vermont	4.2	2.6	6.8

STATUS OF LAND DISTURBED BY SURFACE MINING IN THE UNITED STATES, AS OF JAN. 1, 1972, BY STATE [1]

[Thousand acres]

State	Land requiring reclamation	Land not requiring reclamation	Total land disturbed
Virginia	33.0	48.8	81.8
Washington	5.5	3.6	9.1
West Virginia	100.0	170.9	270.9
Wisconsin	35.3	27.2	62.5
Wyoming	11.0	6.7	17.7
Total	2,181.2	1,823.7	4,004.9

[1] Compiled from estimates provided by State offices of the Soil Conservation Service, USDA, September 1972.

MINED-LAND RECLAMATION WORK IN CONSERVATION DISTRICTS [1] 1965–71 INCLUSIVE

State	Number of districts involved	Number of cooperators	Area reclaimed (thousand acres)
Alabama	49	205	43.1
Alaska	1	0	.1
Arizona	5	11	4.2
Arkansas	9	14	.5
California	42	58	7.5
Colorado	56	68	2.3
Connecticut	6	14	.3
Delaware	3	28	.3
Florida	12	20	12.5
Georgia	19	169	4.9
Hawaii	0	0	0
Idaho	52	60	1.9
Illinois	60	120	31.1
Indiana	15	223	20.4
Iowa	29	169	3.5
Kansas	42	371	4.3
Kentucky	39	377	14.9
Louisiana	12	141	1.3
Maine	16	100	.7
Maryland	20	139	3.7
Massachusetts	15	200	2.5
Michigan	81	274	2.5
Minnesota	59	121	6.4
Mississippi	14	34	2.0
Missouri	19	50	1.5
Montana	25	150	1.6
Nebraska	62	240	5.4
Nevada	12	2	.3
New Hampshire	10	50	.2
New Jersey	12	18	.8
New Mexico	7	19	.5
New York	56	86	1.2
North Carolina	51	173	1.7
North Dakota	39	375	2.5
Ohio	42	350	10.5
Oklahoma	6	10	1.5
Oregon	15	30	.2
Pennsylvania	50	500	28.0
Rhode Island	3	3	0
South Carolina	8	6	.8
South Dakota	40	700	1.0
Tennessee	18	213	9.1
Texas	107	1,394	13.1
Utah	7	8	.3
Vermont	0	0	0
Virginia	1	100	26.0
Washington	1	1	0
West Virginia	11	2,500	55.2
Wisconsin	72	314	4.7
Wyoming	7	10	.5
Total	1,337	10,218	338.0

[1] Data compiled by Soil Conservation Service, USDA, September 1972.

CONCLUSION OF MORNING BUSINESS

(Routine business was concluded.)

ORDER FOR ADJOURNMENT TO 9:45 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business tonight, it stand in adjournment until the hour of 9:45 tomorrow morning.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE PROGRAM TOMORROW

Mr. MANSFIELD. Mr. President, for the information of the Senate as to what the schedule will be tomorrow, we will come in at 9:45 and there will be a brief morning hour for the conduct of morning business. It is anticipated there will be two, perhaps three, amendments on H.R. 1. Then, at a reasonable hour, we will turn to the consideration of the Defense Department appropriation bill. If there are amendments to be offered, we hope they will be voted on tomorrow afternoon, and if it is possible to complete action on the Defense appropriation bill tomorrow at a reasonable hour, we will make every effort to do so. Of course, if we get to that point, there will be a yea-and-nay vote on final passage, because this is a big money bill. It is an important bill.

I just want to state the situation so that the Senate will be aware of what the leadership contemplates and to assure the membership that we do not come in on Saturdays just for appearance's sake, but to try to get as much of the important business disposed of as possible.

I hope that will meet with the approval of the distinguished Senator from Maine.

Mrs. SMITH. Mr. President, will the Senator yield?

Mr. MANSFIELD. I am delighted to yield.

Mrs. SMITH. When the Senator says there will be two or three amendments to H.R. 1, is he saying that there will be rollcall votes on those amendments?

Mr. MANSFIELD. That would be my anticipation.

Does the assistant majority leader have any indication that those amendments which will be offered to H.R. 1 tomorrow will call for rollcall votes?

Mr. ROBERT C. BYRD. Mr. President, I have no indication to the contrary. I had proceeded on the supposition all day, in discussions concerning the Defense Department appropriation bill, that there would be amendments thereto called up tomorrow, that there would be votes on those amendments, and, if possible, that the Senate would complete action on the bill tomorrow. Now, I, of course, cannot guarantee that, because we have no time agreement on the bill. I have worked during the day trying to get a time agreement on the bill. I have been unable to secure an agreement up to the present time. There is some indication, however, that we might be able to get an agreement in the morning.

Mr. MANSFIELD. Mr. President, if the Senator will yield briefly, we have been in contact with the Senator from North Dakota (Mr. YOUNG) and the distinguished chairman of the Appropriations Committee, the Senator from Arkansas (Mr. MCCLELLAN).

Mrs. SMITH. Mr. President, will the Senator yield?

Mr. MANSFIELD. I am delighted to yield.

Mrs. SMITH. There is no assurance that the Senate will continue in session, even though the Sergeant at Arms is sent out to request the presence of absent Senators; is there?

Mr. MANSFIELD. I would hope it would not reach that point. Senators on both sides have been notified by attachés that we expect them tomorrow. We hope there will be no roadblocks and no hindering of the business of the Senate and that we will be able to proceed normally and with dispatch to accomplish something worthwhile in the disposition of legislation.

PERSONAL STATEMENT

Mr. JACKSON. Mr. President, I rise to clarify a statement that was made on the floor a short time ago in connection with the colloquy between the distinguished majority leader and the distinguished Senator from Maine (Mrs. SMITH). I was not on the floor when the colloquy took place, but I was advised in general what had been said, and I now have a transcript of the remarks.

In connection with the colloquy, I quote the Senator from Maine:

Mrs. SMITH. I ask these questions, Mr. President, because word has just come to me that Senator JACKSON has already informed the White House that there would be no votes on the Defense appropriation bill tomorrow because of the possible lack of a quorum. I wondered why, if such a statement had been made through the authority of the majority leader, at least those of us who are on the committee could not know.

I would like to state the facts as I know them with reference to that comment.

First, I want to say that I have not been in touch with anyone at the White House, and no one at the White House has been in touch with me. The person who is alleged to have communicated this to Mrs. SMITH has told me on the phone that he has not been in touch with me nor I in touch with him.

What happened is this: In the meeting this morning in the full Appropriations Committee markup on the defense appropriation bill, there was some discussion about bringing the bill up on Saturday.

There was a discussion by the chairman as to the number of absentees. I did not discuss absentees. I had understood there was to be a session tomorrow, that we were going to bring up another bill, H.R. 1, and then go to the Defense appropriation bill.

I suggested to the chairman in this meeting, with a lot of Senators present—I do not believe the Senator from Maine was present; I understand she was in the Armed Services Committee—and there were staff members present, that it might be wise to go ahead Saturday and debate the bill, and see if we could get unanimous consent to have the votes on Monday, debate the amendments but postpone the actual voting and then take

up the amendments back-to-back on Monday, if the chairman felt that he would not be able to have sufficient Members present on Saturday.

After that discussion, I communicated the gist of what I have just said to the majority leader (Mr. MANSFIELD). That is all that I said. I have talked to two people in two areas, one, to the chairman and members of the committee in the committee, and two, to the distinguished majority leader on the floor. That is exactly what happened.

The other comment which I wish to clarify occurred later in the colloquy, as follows:

Mrs. SMITH. I asked that question because word came to me that the word by Senator JACKSON that there would be no votes on the Defense appropriation bill, but word also came through that there would be at least 45 absentees tomorrow. If it is known at that time that there are 45 absentees, I wonder how the majority leader can believe that there would not be more by tomorrow morning.

Now, I did not have any list of absentees. The chairman of the Committee on Appropriations (Mr. MCCLELLAN) referred to a certain number of absentees, but not the number 45. At no time, Mr. President, did I discuss the number 45. So I believe there was a misunderstanding. I say to my good friend from Maine that I wanted to state this because there appears to have been a misunderstanding.

I have not discussed this matter with anyone other than as I have stated here, and I hope that will clarify the situation.

Mrs. SMITH. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mrs. SMITH. Mr. President, I thank the distinguished Senator from Washington for the clarification of his position on this matter. As he knows, I was in the Armed Services Lavelle hearings, trying to divide my time between those hearings and the markup on the Defense appropriations. Mr. Korologos stated that he did not tell me—he did not say that Senator JACKSON told him; his statement was that Senator JACKSON had said that the Defense appropriations bill would be called up, that there would be no votes on it, and in the same sentence he said that there would be 45 absentees. He would not say that the Senator said that particular thing.

I think that corrects the RECORD, as far as that is concerned. But he did say that "Senator JACKSON had stated"—and I think the Senator has clearly explained this to everyone's satisfaction.

Mr. JACKSON. I thank the distinguished lady. The point I wanted to make clear was that I had not informed the White House, because I have not talked to anyone at the White House. The only places it was discussed were on the floor, with the majority leader, which I think the majority leader can corroborate——

Mr. MANSFIELD. That is correct.

Mr. JACKSON. And in the committee, and there were a number of members present. Of course, you know how things travel around town, and I gather that Mr. Korologos' statement was based on something he had heard from someone else. I do not know who that someone else was, but he has assured me, as I gather he has told my distinguished and good friend from Maine, that he had not communicated with me, nor did he say I had communicated with the White House.

Mrs. SMITH. That is correct. His statement was that Senator JACKSON had stated. I think if the Senator will read my comments on the colloquy with the majority leader, he will know I did not say the Senator from Washington stated there would not be a quorum. I simply stated what had been communicated to me.

Mr. JACKSON. Yes. The sentence—I will read it—was as follows:

Mrs. SMITH. I asked that question because word came to me that the word by Senator Jackson was that there would be no votes on the Defense Appropriation bill, but word also came through that there would be at least 45 absentees tomorrow.

I gather that the second part of this does not refer to anything I said, but that was some word that was passed around.

Mrs. SMITH. That is correct; but it was given in the same breath and in the same sentence with the other.

Mr. JACKSON. That is why I wanted to clarify it. The distinguished lady from Maine, Mr. President, has helped to clarify the situation. I wanted to make this statement because I feel very strongly that the majority leader is the one who makes the announcements about whether or not we are going to be in session, and that is why I came to the majority leader and mentioned to him a possible solution to the problem that we had discussed in committee.

I want to thank my good friend from Maine for clarifying the RECORD, and I think the RECORD will speak for itself.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

The PRESIDING OFFICER. The Senate will be in order.

ORDER FOR THE CONSIDERATION OF THE UNFINISHED BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of routine morning business tomorrow, the Chair lay before the Senate the unfinished business so as to allow the Senator from New York—I believe it is—to present the motion to invoke cloture, and that, immediately thereafter, the Chair lay before the Senate H.R. 1, and that the order previously entered today with respect to the laying aside of the unfinished business and with respect to its remaining in a temporarily laid-aside status be effectuated.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9:45 a.m.

There will be a brief period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes.

At the conclusion of routine morning business, the Senate will resume consideration of the unfinished business, S. 3970, a bill to establish a Council of Consumer Advisers in the Executive Office of the President.

A motion to invoke cloture signed by at least 16 Senators will be presented, and immediately thereafter, after the clerk has read the motion, the Senate will resume consideration of H.R. 1, the welfare bill. Senators who have amendments should be prepared to call them up.

I am reasonably sure that at least two amendments to that bill will be called up, and I am also reasonably sure that yea-and-nay votes will occur on those amendments, the first of which could occur as early as 10:45 or 11 a.m.

When no further action is possible on H.R. 1 tomorrow, the Senate will take up the Defense appropriation bill. Amendments will be in order. It is anticipated that if Senators have amendments, they will call them up. Yea-and-nay votes can occur thereon, and it is hoped that passage of the Defense appropriation bill will occur tomorrow.

As I stated a little earlier, I have proceeded on that assumption throughout the day in my efforts to work out an agreement on that bill. I was unsuccessful, as I have indicated; but, hopefully, that may yet occur tomorrow. In any event, the bill will be called up, and amendments, hopefully, will be called up, if there are any.

I wish to reiterate the hope—I am sure that I speak for the distinguished majority leader in saying this—that final passage will occur on the Defense appropriation bill tomorrow. As is the case, usually, a yea-and-nay vote will occur on final passage of the Defense appropriation bill.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. This will be the final quorum call of the day.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9:45 a.m. tomorrow.

The motion was agreed to; and at 5:54 p.m. the Senate adjourned until tomorrow, Saturday, September 30, 1972, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate September 29, 1972:

COUNCIL ON ENVIRONMENTAL QUALITY

The following-named persons to be Members of the Council on Environmental Quality:

John A. Busterud, of California, vice Robert Cahn, resigned.

Beatrice E. Willard, of Colorado, vice Gordon J. F. MacDonald, resigned.

RAILROAD RETIREMENT BOARD

James L. Cowen, of Illinois, to be a Member of the Railroad Retirement Board for the term of five years from August 29, 1972, vice Howard William Habermeyer.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 29, 1972:

DISTRICT OF COLUMBIA COUNCIL

The following-named persons to be members of the District of Columbia Council for the terms indicated:

For the remainder of the term expiring February 1, 1974

Rockwood Hoar Foster, of the District of Columbia.

Marjorie Parker, of the District of Columbia.

For the term expiring February 1, 1975

Jerry A. Moore, Jr., of the District of Columbia.

EXTENSIONS OF REMARKS

STUDENTS AT ROMNEY, W. VA., SCHOOL ENJOY THE BEAUTIES OF NATURE—"SHARED BEAUTY," BY ROBERT SMITHDAS, IS A MOVING POEM

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Friday, September 29, 1972

Mr. RANDOLPH. Mr. President, at this time of year when nature dons her most beautiful garments and the forests blaze in varied shades of red and gold and yellow, many of us are drawn to quiet contemplation of God's handiwork. Not all of us, however, are fortunate enough to see and hear the beauties of nature. An article published in the Youth Conservation News details a recent trip into the forests of West Virginia by a special group of children. They are junior and senior high school students at the Romney School for the Deaf and Blind.

I am indebted to Mrs. Maxine Scarbro, director of the women's and youth activities section, West Virginia Department of Natural Resources, for the wondrous reactions of these blind or deaf young people to the things they "saw" and "heard." I share the children's experience with my colleagues and RECORD readers.

This event calls to mind a marvelously moving poem by Robert J. Smithdas, director of community education at the National Center for Deaf-Blind Youths and Adults, New Hyde Park, N.Y. Dr. Smithdas, the first deaf-blind person to have earned a master's degree, was selected Handicapped American of the Year in 1965 by the President's Committee on Employment of the Handicapped.

I ask unanimous consent that the article and Dr. Smithdas' poem be printed in the RECORD.

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

ROMNEY SCHOOL FOR BLIND AND DEAF PARTICIPATE IN NATURE TOUR

Did you know that certain leaves are smooth on top and fuzzy on the bottom? That you can feel the veins on a leaf? That some bark feels like cork?

If you have, you are more observant than the average person—at least the average person's vision. Ordinarily it is the visual that creates the most dramtic impact. One knows in an instant the color, the shape, the size of an object. He knows if something is beautiful or ugly, and is affected by the mood that a certain view creates. Perhaps the mood is somber because of a deep pool of shadow, or gay because shafts of sunlight sparkle and dance.

Have you ever stopped to think how you would see an oak tree, goldenrod, lichen, or toadstool, if you were blind? How would you appreciate the sound of falling rain, the rustle of leaves, or the sound of feet sloshing through muddy water, if you were deaf?

Those fortunate enough to attend Tour No. 3 to Droop Mountain Battlefield State Park and Beartown State Park with a group of junior and senior high young people from Romney School for the deaf and blind learned some of the answers to these questions.

The leaders observed as the young folks handled an acorn, felt the size and texture of the oak leaf, and measured the oak tree's girth with arms and hands. These happy young people saw much more than those "who have eyes but do not see." Deft hands and clever fingers felt out secrets of the flowers, mosses, lichens, toadstools, trees, and rocks which many folks never really see.

Many of the youngsters gained an even greater insight of the thickness and texture of the forest floor by walking barefoot through the woods, stooping to pick up an unusual object searched out by inquiring toes.

Spirits and enthusiasm remained high as the rain came down. Wet clothes could not dampen the high spirits of the group. Everything was a glorious adventure: history of Droop Mountain Battlefield, geology of Beartown, bird study, nature trail with study of plants, hiking and climbing at Beartown, and ending with an examination of one of the cabins at Watoga State Park. The cabin was really seen, perhaps, for the first time. The walls were felt, measured and smelled. Tables, chairs, floors, beds, and all equipment was thoroughly gone over and received a happy approval by the group.

The deaf "heard" the rain drops as they fell on up-turned faces, arms, and feet. They "heard" the slushing sound as the rain and mud oozed over feet and splashed on legs while hiking along. They "heard" the sound of crunching leaves as they walked over them and felt them tickle their toes. Nimble feet experienced the soft-matted sponginess of mosses growing beneath the shading trees.

As the leaders shared in the pleasure and enjoyment of these eager young people and watched their rapt faces as they soaked up knowledge, the leaders felt they were given an added insight and meaning to life and nature, also the leaders gained a deeper appreciation of color when a blind youngster asked, "What color is it?" after seeing a flower or toadstool or lichen.

Perhaps, most importantly, leaders were better able to understand that blindness and deafness need not prevent one from really seeing and appreciating nature in all its glory. Opportunities for enjoyment for all who do desire it should be made available.

A word of commendation should be given the instructors of Romney School who made the trip possible and did such a fine job of preparing the group, and the Monongahela-Cheat District of West Virginia Garden Club, Inc., who co-sponsored with the West Virginia Department of Natural Resources the Fall Nature Tour. Credit should also be given to Margaret E. Denison and Dorothy Harshbarger for giving this accounting of the tour. Other leaders included Chuck Conrad, Mary Ferrell, George Lippert, Glen Phillips and Bill Elliott, Dick Mathews photographed the outing.

A unique project that is well within the capabilities of a garden club or any other civic organization, can serve to expand the enjoyment of both the sighted and the blind. A path through a garden of carefully selected plants, or a nature trail through the woods, with descriptive signs, printed both in braille and regular script, can become a place of delight to everyone.

Any organization wishing to initiate such a project may write the Women's and Youth Activities Section, Room 652, West Virginia Department of Natural Resources, Charleston, 25305, for detailed information.

SHARED BEAUTY

I cannot see a rainbow's glory spread across
a rain-washed sky when storm is over;
Nor can I see or hear the birds that cry their
songs among the clouds, or through
bright clover.
You tell me that the night is full of stars,
And how the winds and waters sing and flow;
And in my heart I wish that I could share
with you this beauty that I cannot
know.
I only know that when I touch a flower, or
feel the sun and wind upon my face,
Or hold your hand in mine, there is a bright-
ness within my soul that words can
never trace.
I call it life, and laugh with its delight,
Though life itself be out of sound and sight.

—*Robert J. Smithdas.*

REDUCTION OF FREEWAY NOISE

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 1972

Mr. FRASER. Mr. Speaker, highway noise has become a matter of increasing concern, particularly in urban areas, where three-fourths of our population is found. Reducing traffic sounds at the source, by designing quieter motor vehicles, is one solution. Another is to build noise control features into highway design itself.

On existing expressways, there are a