SENATE—*Tuesday, October 3, 1972*

The Senate met at 9 a.m. and was called to order by Hon. DAVID H. GAMBRELL, a Senator from the State of Georgia.

PRAYER

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

Almighty God, infinite and eternal, who art above all that is best in human and finite beings, we rejoice that Thou art always ready to make known Thy will to those of humble and contrite heart who call upon Thee in sincerity and truth. Once more, in this hushed moment, we thank Thee for Thy guiding light in days past, for the accomplishments of this body, and for the promise of the future. Open our hearts and minds to Thy guidance this day. May our faith never be shadowed by doubt or fear. May the sense of Thy presence be as clear in the halls of governments as in the temples of worship. In all our striving, our aspiring, and our working may we be sustained by the radiant vision of the ultimate triumph of justice and peace of Thy coming kingdom.

And to Thee we shall ascribe all honor and glory. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 3, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. DAVID H. GAMBRELL, a Senator from the State of Georgia, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, October 2, 1972, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing and Urban Affairs; the Committee on Commerce; the Committee on the District of Columbia; and the Committee on Foreign Relations may be authorized to meet during the session of the Senate today.

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

EXECUTIVE SESSION

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

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

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

DEPARTMENT OF STATE

The second assistant legislative clerk read the nomination of Kenneth Franzheim II, of Texas, now serving as Ambassador Extraordinary and Plenipotentiary of the United States of America to New Zealand, to Western Samoa, and to Fiji, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Tonga.

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

NOMINATIONS PLACED ON THE SECRETARY'S DESK—IN THE DIPLOMATIC AND FOREIGN SERVICE

The second assistant legislative clerk proceeded to read sundry nominations in the Diplomatic and Foreign Service, which had been placed on the Secretary's desk.

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

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

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

LEGISLATIVE SESSION

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

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

NOTICE OF INTENTION TO BRING UP FOUR TREATIES FOR CONSIDERATION AND FINAL DISPOSITION TODAY

Mr. MANSFIELD. Mr. President, for the information of the Senate, if conditions work out approximately right, it is the intention of the joint leadership during the morning hour to call up three or possibly four treaties for consideration and final reading. There is no opposition to them. They were reported from the committee unanimously.

Therefore, if the proposals of the joint leadership hold up, it would be anticipated that votes on these treaties will occur immediately after the vote on the cloture motion.

ORDER OF BUSINESS

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

NORTHERN IRELAND

Mr. BROOKE. Mr. President, in February, the distinguished junior Senator from New York (Mr. BUCKLEY) and I took the floor and engaged in a colloquy concerning the deterioration of peace in Ulster.

Since that time, we have talked on many occasions and have followed very closely the progress and the problems in Northern Ireland.

Last year my distinguished colleague introduced a resolution, in which I joined to extend the good offices of the United States in resolving the Northern Ireland crisis.

We were both aware, as we are today, that it is U.S. policy not to become involved in the internal problems of another nation.

But, so concerned were we with the killings, the discrimination in Northern Ireland, and the denial of civil rights and civil liberties, that we felt it incumbent on the United States of America to offer its good offices in resolving a conflict which has involved not only the people of Northern Ireland, but two longtime allies of the United States—Great Britain and Ireland.

We also are mindful of the fact that there are more than 13 million Americans of Irish descent, many of them with families still living in Ireland and all of them concerned about the problems which have faced that nation for centuries.

Since our colloquy in February, there have been some changes. In February, there were 15,000 British troops in Northern Ireland. Today there are more than 20,000 British troops in Northern Ireland.

When we spoke in February, 272 people had been killed since the outbreak of the conflict in 1969.

Today, 592 persons have been killed. There are approximately 240 suspected IRA internees.

When we spoke in February, the Stormont government was still in office. On March 8, the British Government dissolved the Stormont government, the elected government of Northern Ireland, and appointed William Whitelaw to act as Secretary of State for Northern Ireland, responsible directly to Westminster.

This is progress, because the Stormont government was a symbol of oppression to the Catholic citizens of Northern Ireland.

The removal of the Stormont government was an attempt to ease the tensions. Mr. Whitelaw, the appointed administrator, has been acceptable in the main to both the Protestants and the Catholics.

Under Mr. Whitelaw, the British have abolished the gerrymandered districts

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and have set up civil service governments in all six counties of Northern Ireland. They have promised local elections sometime this fall, accompanied by a referendum on unification. The actual date of the election will be set by an act of the British Parliament.

Mr. President, it is also hoped that a new national Parliament can be elected before the 1-year suspension of elected government expires in March 1973. It would appear that the British Government is determined that the local elections will take place.

In addition, "special tribunals" were established 2 weeks ago, to try all of those suspected of terrorism who are now interned.

Mr. President, it is not known at this time whether the appointment of the tribunals is a step forward or a step backward, because it could simply finalize the internment process by exchanging indefinite sentences for definite ones. But I do believe the promise of trials is certainly a step in the right direction, for internment was one of the more serious problems that confronted the Catholics in Northern Island.

Under existing procedure, a British soldier could stop a suspect, search him, arrest him, and hold him without making any charges against him whatsoever. There was no definite sentence imposed. So he could remain in jail for an indefinite period of time. This, of course, is foreign to everything we here in the United States understand to be equal justice under the law. And this was a procedure which created more tension and, I am sure, contributed to much of the terrorism that has gone on in Northern Ireland.

We can commend the fact that the internment was stopped. And we hope that the establishment of regular procedures for dealing with the internees will not just exchange an indefinite sentence for a definite one. We hope that fair trials will be conducted. If a person is found guilty of an offense or of a crime, he should be punished. But those who are merely suspected of a crime without the evidence which is essential for a successful prosecution and conviction should be set free.

In addition, Mr. President, the Darlington conference took place last week. And though it was not a great success in the opinion of many, it did have some positive aspects. First of all, although three of the seven parties attended, and only one of the three major parties, every party at least put its blueprint for the future of Ireland down on paper in preparation for the conference. For the first time it is possible to determine where every party stands. It is therefore the beginning of a dialog. Then, too, there is the fact that some constructive dialogs occurred among the Catholics and Protestants attending the conference.

Mr. President, this past Sunday, the Protestants and the Catholics joined together in a pray-in in Belfast. Roman Catholic and the Church of Ireland, or Episcopalians, participated. Most Protestant churches in Northern Ireland are Presbyterian. However, what is more important is that Catholic and Protestant clergymen, including William Cardinal Conway, Primate of all Ireland, took the initiative in holding such an event, and 4,000 people of different faiths joined in prayer.

We can also take some comfort in the fact that Irish Prime Minister Edward Hillary meets in New York with Secretary Rogers on Thursday. And Northern Ireland, of course, will be one of the topics that will be discussed.

As I said earlier in my remarks, Mr. President, my distinguished colleague, the Senator from New York (Mr. BUCKLEY), and I and many other Members of the Senate are very much concerned about the problems of Northern Ireland. I think much more would have been said on the floor of the Senate if it were not for the fact that our colleagues are somewhat conscientious about discussing internal affairs of another nation. However, certainly when we consider not only the present, but also the future, of the people of Northern Ireland, and of Ireland as a whole, one must be concerned about what will be their place in the peace of the world.

I read a very discouraging article in the Washington Post on October 1 of this year. The title of that article is "Northern Ireland's Prejudices and Hatreds are Formed in Childhood." It is an article which sets forth the problems that confront young children in Northern Ireland, the psychological impact upon these children, the bitterness and hatred, both among the Catholic and Protestant children. The article describes very vividly what the future can only be if this continues.

Time will not permit me to discuss the article in great length. I, therefore, ask unanimous consent, Mr. President, that this article, written by Peter Chippendale, be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. BROOKE. Mr. President, in conclusion let me merely say that even though the Senator from New York (Mr. BUCKLEY) and I talked on the floor in February 1972, and some progress has been made, the war still rages on in Northern Ireland.

I call it war because when men and women are dying and in conflict with one another, it is war. And even though progress has taken place, there are still 500,000 people who, in the main, are being denied basic civil rights and civil liberties, are being exposed to discrimination in employment and in housing, among other things. And even though progress has taken place, terrorism still reigns in Northern Ireland.

Mr. President, I think it is still incumbent upon us as friends of both Northern Ireland and the nations of Ireland and Great Britain to urge upon them to work either with the Commission on Human Rights which was established by 17 Western European nations, or to use the good offices of some neutral nation, as suggested in the resolution of my colleague, the Senator from New York (Mr. BUCKLEY), in which I join. Good conscience and the peace of the world demand a resolution to this conflict.

EXHIBIT 1

[From the Washington Post, Oct. 1, 1972]

NORTHERN IRELAND PREJUDICES AND HATRED ARE FORMED IN CHILDHOOD

(By Peter Chippendale)

LONDON.—A Catholic is feckless, lazy, dirty, and over-sexed. A Protestant is a member of a master race determined to hold down the inferior Irish. The British army is an armed aggressor similar to the Nazi German forces.

These, according to Dr. Morris Fraser, are the kinds of attitudes which have been implanted in an Ulster child's mind by the time he or she leaves primary school.

Dr. Fraser is a psychiatrist from Scotland who has lived and worked in Northern Ireland for the past 20 years. He has just completed a book entitled "Children in Conflict" to be published in the spring.

It promises to be depressing reading for the few optimists left about Ulster. Dr. Fraser is not concerned with the day-to-day ups and downs of political and military events in the province nor does he isolate it from the rest of the world.

In fact, he draws parallels from racial and cultural conflicts in other countries, particularly the United States, where he worked for several months. The parallel he says is realized by people themselves. Protestant children sometimes call Catholics "niggers" and have a song which starts I'd rather be a nigger than taig (Catholic)."

He has culled his material from his work with youth organizations and schools and at the child guidance clinic at Belfast's Royal Victoria Hospital. The conclusions he comes to are chilling.

CULTURAL MYTHS

A split between the two communities he says is already formed by the time children leave primary school. First in their upbringing and then in their schooling, they are taught cultural myths and stereotypes which they quickly come to believe.

The child first becomes indoctrinated through his parents and family, and this is followed by the bias to one side or another in the rigidly segregated schools.

Catholics are fed great lumps of Irish folklore and Protestants great lumps of British folklore. The almost complete lack of contact between children from the two communities helps to give credence to the myths. As a result, the children begin to forget the individual behind the religious label and expect him or her to behave as they have been taught the stereotypes do.

Into this belief is then injected the fear that comes when there are two rival communities, neither of which is able to dominate the other, and the aggression starts. The fear, like folklore, has little basis in truth but becomes reality.

Dr. Fraser cites an occasion when he was taking three Catholic children in a car past a Protestant Vanguard rally. The children were so frightened they were going to be killed by murdering Protestants that they hid under the seats.

On top of this is the army, which both sides believe is biased toward the other. Even before the army moved in 1969, Dr. Fraser saw children drawing soldiers with horns on their heads, devils' tails and breathing flames—the result of 50 years of folklore.

ENGLISH HORROR

People in England expressed horror recently when children killed a soldier by stoning his vehicle and making him crash. When other soldiers came to take the body away, the children continued throwing stones and started jeering. To some people, it seemed inexplicable. Dr. Fraser thought it was perfectly explicable.

The children, injected with the terrifying cult of the army as villain, were not concerned about the individual soldier. They were attacking their enemy and not the person behind the uniform.

In a situation like this, the children are ripe for use by organizations like the IRA. Dr. Fraser says he knows of children from the age of eight upwards being taught how to make petrol and nail bombs, stone troops to provide cover for gunmen and handle gelignite. He once met a 10-year-old boy who had sat through an entire school day with three sticks of gelignite taped to his chest to hide it from an army search.

As the children get older and leave school, they become increasingly attracted by the glamor and glory of an organization like the Provos or joining a gang. Often, faced with an endless prospect of ghetto living and welfare queues, it seems the only way to have any excitement.

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

Mr. BUCKLEY. Mr. President, I am delighted to have the opportunity once again to join in colloquy with my good friend from Massachusetts (Mr. BROOKE) on the subject of the continuing tragedy in Northern Ireland.

Seven months have elapsed since the distinguished Senator from Massachusetts, discussed that troubled area.

At that time I stated:

The important thing at this moment is to offer hope to [the Catholic Minority] that they can achieve justice, that they can achieve true economic and social and political equality, without a resort to demonstrations, without a resort to force.

As much as I would like to be able to report that justice and peace have been achieved in this troubled land, such is not the case. As of today there have been over 584 deaths in the fighting in Northern Ireland since August of 1969. Terror has continued to leave its bloody mark upon the populace and the violence bred of longstanding hatred has not abated.

However, it would be false to conclude that no progress has been made. There have been changes in the situation in Northern Ireland that I feel are welcome: The dissolution of the Stormont Parliament, a gradual, slow, but continuing attempt at dialog; the end to the hated policy of internment in a manner which was, admittedly, not completely endorsed by Catholic leaders, but which is at least a first step; the acceptance of a cease-fire by, among others, the official IRA; the release, since Mr. William Whitelaw became administrator of Ulster, 557 internees—these have been welcome signs, if not of optimism, then at least of hope.

The recent conference held in Darlington is illustrative of both the difficulties and the progress that are part of the story of Northern Ireland today. The very fact that a conference could be held is in and of itself a mark of progress. While it is true that the conference was boycotted by the Social Democratic and Labor Party, the major Catholic party, and that only three of the seven major political parties attended, the Darlington Conference was important simply because it was held. The symbolic rather than the substantive meaning of Darlington is, in my opinion, of great importance. A "valuable and constructive dialog"—to use Mr. Whitelaw's phrase—is a sign of progress amidst what often appears to be continuing signs of despair.

Never during the course of the conference, however, were we allowed to forget that there is still terror in Northern Ireland. I believe the terror of the provisional branch of the Irish Republican Army—IRA—has been condemned—among others by every responsible leader of the Catholic minority in Northern Ireland and by Prime Minister John Lynch in the South—often enough that it would be superfluous to dwell on the group here today. But there are other terrorist organizations operating in Northern Ireland, organizations which for some reason do not get the kind of attention devoted to the IRA.

I noted for example a recent report of a British raid on a training camp of the illegal, militant Ulster volunteer force. The raid uncovered more than 6,000 rounds of ammunition, five rifles, a Sten gun, six revolvers and a quantity of hand grenades and other terrorist devices. This underground group has not received the notoriety of the IRA but it is just as deadly in its methods. The Catholic minority has felt for a long time that there has not been a sufficient crackdown on this group and I hope that the raid I have described is representative of the policy of the British Government. Questions remain to be answered concerning this group. Where does it receive its funds? From whom does it receive its illegal weapons? A full investigation of the Ulster volunteer force would certainly appear to be in order and a determined effort to stop shipments of arms to this group must be made with the same zeal and determination now used to stop shipments of guns to the IRA.

Perhaps we are now beginning to see the start of a time in which reason can replace violence as a means of solving the problems of the people of Northern Ireland. These problems, however, cannot be properly understood or their permanent solution charted without a knowledge of the historical events reaching back three centuries which ultimately led to the partition of Ireland in 1920. Nor can the bitterness which now infects Northern Ireland be understood or an evaluation made of the specific steps which are required to defuse it without a knowledge of the monolithic control which the Unionist Party, representing the Protestant majority, has maintained over Northern Ireland from 1920 until the Stormont was dissolved earlier this year.

The historical context of the division and the hatred which are tormenting Northern Ireland today is succinctly summarized in an article by Mr. Jack Lynch, Prime Minister of Ireland, which appeared in the July 1972 issue of Foreign Affairs. The article also presents a thoughtful program for the ultimate reunification of Ireland in a manner which would assure justice and equality to all its constituent segments. I think the article is so reasonable in its approach and civil in its tone—a far cry from most of the polemics and demagoguery that have been the hallmark of the debate so far—that I ask unanimous consent that it be printed in the RECORD at the conclusion of this colloquy.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. BUCKLEY. I urge those Members of the Senate who wish to have a better grasp of the root causes for the violence which has erupted in Ulster to read Mr. Lynch's article—both for its summary of the relevant historical events and for its suggestion, from the Irish point of view, of the basis on which a permanent solution can be constructed.

Mr. Lynch raises six major points which I would like to summarize at this time.

First, the decision of the British Government to exercise its full responsibilities in Northern Ireland is welcome but only as a necessary preliminary to a solution and not as the solution itself.

Second, integration of Northern Ireland into the United Kingdom, under any pretense, would be disastrous.

Third, no encouragement should be offered to those in Northern Ireland who feel they are entitled, by history or social and economic power, to a permanent veto on harmony in Anglo-Irish relations.

Fourth, while the unity of Ireland is a difficult goal, it is the only one offering any real, long-term solution. Unity of Ireland should therefore be the aim of the British Government.

Fifth—and I personally consider this a very important point made by the Prime Minister—a unified Ireland should not be thought of as one in which the present state in the south takes over the state in the north and assimilate its exising structures. There should be negotiation, but it must be about a new Ireland, not simply one in which one of the existing states dominates the other.

Finally, there should be no leveling down of existing social and economic standards. A strong, united, prosperous Ireland for all Irishmen must be a definite part of any solution.

Mr. President, I think Mr. Lynch's suggestions are as worthy of attention as his essay is refreshing to read, given its calm, lucid, dispassionate examination of this confused and difficult affair. He has offered suggestions for the achievement of a long-range solution which are deserving of the most thoughtful consideration by every responsible party-in-interest.

The question remains, however, as to how to restore an environment freed or provocative acts of terror which will make it possible to take the first difficult steps toward a permanent resolution of the problems which have plagued the people of Northern Ireland.

Last year I suggested that the United States offer its good offices to help the British and the Irish to bring about a settlement of the tragedy in Northern Ireland. The United States has historic ties of friendship with the peoples of both Ireland and England. If they, and the peoples of Northern Ireland should feel that the United States could play a useful role in providing a forum for

negotiations which is one step removed from the passions which make the discussion of a political solution so difficult, then I believe that the United States, as a friend of all the parties, should be willing to assume the role.

At the time that I made the proposal, the situation in Ulster appeared to be deteriorating to the point where I and others felt that the involvement of a third party might be the only way to interrupt the cycle of events which was accelerating the killings and playing into the hands of terrorists in both the Protestant and Catholic factions.

I also would want to echo the opinion just expressed by the Senator from Massachusetts that we should still offer our good services or encourage others to do so if the parties directly involved feel that such intervention would be an aid to them in accelerating political discussions.

Since I first made my proposal, however, a number of events have transpired which suggest that some small gains have been made despite the escalation in the number of acts of terror which we have witnessed this year. As the Senator from Massachusetts summarized, in the intervening time, the Stormont has been dissolved, a halt made to further internments, and the majority of those already held in detention have been released. Finally, there was last week's conference at Darlington to consider the political future of Northern Ireland.

I know that press reports on the conference have been highly pessimistic in tone. I believe, however, that it is much too easy to dismiss it as a venture in futility. The pessimists point out that the principal Catholic party, the Social Democratic and Labor Party, boycotted the conference because the British Government still holds 241 men in the Long Kesh Internment Camp where they are still denied the normal protections of the law. They point out that the killings still go on; that no consensus was reached at Darlington on any substantive matter; and that the principal parties have given no visible indication that they are softening their positions. Yet the fact that the meeting could take place at all is deeply significant.

The fact that the principal political parties in Northern Ireland—whether or not they were participants—reduced to writing and submitted their own proposals for the structure of a new government for Ulster; the fact that there was a consensus as to the desirability of encouraging social and economic intercourse between Ulster and the rest of Ireland; the fact that last Sunday joint Protestant and Catholic church services were held in Belfast and elsewhere in Ireland to pray for an end to the violence and a just solution to the problems of Northern Ireland—all these suggest that the forces of reason may overcome those of violence and fear.

It is certainly deeply disappointing that more positive results could not have been achieved at Darlington, yet the conference does mark a beginning. Let us pray that nothing will be done on either side to snuff out this first light of hope. Let us hope that we are beginning to witness a chain of events, each linked to the other and each dependent on the others in building for a just and stable future.

The first link in the chain must be the total cessation of terrorist activities on both sides, combined with an effective end to the internment without due process of the 200 remaining prisoners. It seems clear that some terrorism will continue so long as any vestige of the internment policy remains under whatever name. A cessation of terrorism will also require the cessation of those demonstrations and public gatherings whose sole purpose is to taunt the other side or to inflame the populace. Those who goad persons into acts of terrorism must share the guilt for those acts.

Second, all parties to the conflict can then pursue a solution to the immediate problem of how the people of Northern Ireland are going to govern themselves with justice and peace, as a prerequisite for any longer range solution to the basic problems which have beset the Irish people for so long a period.

Once there has been the establishment of a government for and by the Irish people in Northern Ireland, talks can then go forward toward exploring the possibilities of creating a new, free, united Ireland. For those of us who believe that the historical logic of the Irish situation requires such a unity, there is no better way to achieve it than to encourage a return to stability within Northern Ireland under conditions which will spell the end of the grievances which the Catholic minority has endured for so many years.

The one thing that is clear is that terror cannot be condoned as an instrument either for the continued denial of basic rights to the Catholics or for their assertion.

The shock of the Munich massacre has, perhaps, caused the world to take another look at the tragedy of Ireland, with new insight and new understanding. What happened in a few hours in Munich has been happening for 3 years in Northern Ireland with all of the physical and psychological suffering such terrorist intimidation can cause.

If we have learned anything at all from the recent acts of terrorism, it is this: There is no cause sacred enough to justify the systematic, random murder of innocent human beings as a means of political action. There has been too much demagoguery already about the events in Northern Ireland and excuses for terror—on either side—cannot be condoned. Terror is terror. It is not political protest. It is not self-defense. It is bloody murder and once we have said that we have said everything that needs to be said.

EXHIBIT 1

[From Foreign Affairs, July 1972]

THE ANGLO-IRISH PROBLEMS

(By John M. Lynch)

In the late nineteenth and twentieth centuries, when it was fashionable to speak of international problems in terms of "Questions" to be solved, the "Irish Question" proved particularly intractable for successive British governments. For Gladstone in 1886 it was "the long vexed and troubled relations between Great Britain and Ireland which exhibit to us the one and only conspicuous failure of the political genius of our race." He devoted much of his later political life to the question but his attempts to solve it were unsuccessful.

Lloyd George, a generation later, believed that he had found the answer. But his belief was tempered with caution. "I am not going to say that we have found the specific at last. This has been said too often. But we must try; at any rate I can see nothing better." Lloyd George's first attempt at a solution—the Government of Ireland Act, 1920—divided Ireland into two locally autonomous regions within the United Kingdom. "Northern Ireland" came into existence; but "Southern Ireland" was stillborn. So he negotiated with Irish nationalists (whose acceptance led to a civil war in their ranks) the Anglo-Irish Treaty of 1921. The Treaty provided that Ireland should have a status within the Commonwealth like that of Canada and other dominions but allowed Northern Ireland to opt out within a month and retain its existing status within the United Kingdom. Since Northern Ireland did opt out, the effect of his solution was the partition of Ireland.

After 50 years it is evident that Lloyd George's solution was not the right one. Partition shelved, but did not solve, the "Irish Question." Northern Ireland, one of the two entities which it brought into being, was never stable and it eventually became unworkable within its existing framework. In March of this year the British government prorogued its regional Parliament for a year and resumed responsibility for the region by appointing a Secretary of State with legislative and executive functions for which he is responsible to the Westminister Parliament.

The failure of Northern Ireland cannot be treated in isolation. Since it was one of the twin foundations of Lloyd George's answer to the "Irish Question," its breakdown reopens that question as a whole; and Britain and Ireland today must face again many of those issues which made it such a complex and difficult one for generations of British statesmen. But a wrong answer, which is seen to be wrong, may help to clarify the question.

It is necessary first to look back—to identify the problem and see why past solutions have gone wrong, but not to dwell on history for its own sake or to use it, in Edmund Burke's words, as "a magazine, furnishing offensive and defensive weapons." Then it is necessary to look clearly at the present situation to see what has changed over 50 years. And finally to look forward—to see the outline and general direction of a solution, but not to insist on precise and rigid proposals which might make it more difficult to achieve. This stage of transition, when the institutions of Northern Ireland have been suspended but not yet replaced and both Britain and Ireland are about to join the EEC, is a particularly suitable time for such an overall view.

To speak of the "Irish Question," as I have done so far, is to see the issue from the British viewpoint, as a major problem in British politics for generations. For Ireland, on the other hand, the problem could probably be called the "English Question"—though the issue was too basic, too fundamental to the very notion of a separate Irish identity, ever to be described in such a way. In the main, the issue is the relationship between Britain and Ireland; and to understand the present problem of Northern Ireland it is necessary to examine that relationship.

Britain and Ireland are two neighboring islands which have been deeply involved with one another for much of their history. The relationship began before either country had come to full conscious nationhood. For centuries it was one of half-successful conquest and its aftermath—as the larger island tried to establish its hegemony in the smaller. As Sir John Davies, an Englishman who was Attorney-General of Ireland under King James I, wrote in 1612, "the conquest of Ireland was made peece by peece, by slow

steppes and degrees, and by seuerall attempts, in seuerall ages. There were sundry reuolutions, as well of the English fortunes, as of Irish; some-whiles one preuailing, some-whiles the other. . . ." He explained that "euer since Our Nation had any footing in this Land, the State of England did earnestly desire, and did accordingly endeuour from time to time, to perfect the Conquest of this kingdom, but that in euery age there were found such impediments and defects in both Realmes, as caused almost an impossibility, that thinges should haue bin otherwise then they were." But Davies thought that the conquest had been completed in his own day. Three hundred years later, however, it was still not "perfected" and the "impediments" of which he spoke were still evident.

In the early period the conquest was a colonial one in the sense that its effect was to establish in Ireland an English colony, a "Pale," which varied in extent with the degree of assimilation by the native population of each successive influx of colonists and the attention which successive Kings of England could afford to devote to it. In Davies' own day colonization took a more determined form. Loyal English and Scottish settlers were settled on land confiscated after a series of unsuccessful Irish rebellions. Davies himself was deeply involved in the most successful and lasting of these settlements—the plantation of Ulster. By his time, too, a religious aspect had complicated matters and this was accentuated by the Cromwellian and Jacobite wars of the seventeenth century. The new settlers were largely Protestant, and the native population which they partly supplanted were generally unwilling to accept the reformed faith of those who had displaced them.

By the eighteenth century, however, what began as an English colony based in Dublin and the Pale was willing to identify itself as Irish; and Dean Swift and others of its writers asserted the Irish interest vigorously in some of their writings. Toward the end of that century it asserted the independence of its existing parliament in Dublin against the Westminster Parliament which had earlier assumed powers to legislate for Ireland. Unlike the American colonies, however, this "colony" had no thought of repudiating the Crown and it continued to accept the King as King of Ireland.

But there was a certain ambivalence in its sense of identity. Its parliament in its last years tried to follow the call which Henry Grattan, one of its leading members, made in a speech in 1780, "be a Parliament, become a nation." But it was still something less than a nation—an Ascendancy perhaps, but not a people. Its parliament had no place for the depressed mass of the native population, who were still largely Roman Catholic, and no place for those among the scarcely less depressed descendants of the seventeenth-century settlers in Ulster, who were Protestant dissenters from the Established Church and who had tenaciously held their position through the wars of the previous century.

Where the Ascendancy had looked to the American example, the two excluded groups—between them the great majority of the population—looked to the much more radical French Revolution. Under its influence, and with its help, they combined in temporary alliance in 1798 in a rebellion which tried to break the English connection and assert, for the first time in Irish history, a separate Irish Republic. The rebellion of 1798 in Ulster and elsewhere in Ireland was unsuccessful. But it led Pitt, the British Prime Minister of the day, to end the inconvenience and the dangers of a separate Irish parliament and bring both countries under a single government and parliament.

The Union took effect in 1801 and through the nineteenth century both countries formed the "United Kingdom of Great Britain and Ireland." But almost from the outset there were demands on the Irish side for "Repeal." By the 1880s, under the leadership of Parnell, the well-organized and vocfferous Irish Parliamentary Party, overwhelmingly victorious at each election, was pressing the case for "Home Rule" for Ireland in the House of Commons at Westminister. Pitt, in bringing about the Union, had found in Virgil a text to explain his policy:

Paribus se legibus ambae Invictae gentes aeterna in foedera mittant." (Let both peoples, unconquered, join in an eternal union under common laws.)

But he was too optimistic—the majority of the Irish people whose wishes had not been consulted in 1800 were now asserting their opposition to the Union.

By the latter part of the nineteenth century, the "Irish Question" was a complex one. A union of the two islands in a single kingdom had been tried for most of a century. But Irish separatist feeling had increased, not diminished. Government of Ireland direct from Westminister was clearly unacceptable to a majority of the Irish population, and it seemed to require a constant cycle of coercion and concession. The British Liberal Party, under Gladstone, saw that this could not continue. Gladstone, as Prime Minister in 1886, introduced a Bill to grant Home Rule, having come to accept that the interest of both countries required a separate, if subordinate, legislature for Ireland. But any change in the Union—even the limited separation which Gladstone's Home Rule would involve—evoked vehement opposition from a temporary coalition of two other forces. The British Conservative Party saw any weakening of the Union as a threat to the basis of the Empire. When out of office it also saw political advantage in the issue, so it encouraged, and allied itself with, minority opposition to Home Rule within Ireland.

In Ireland the issue divided the population largely on religious lines. Protestants of various denominations tended to favor the Union while Catholics were generally opposed to it. Two elements in the Irish population—the Ascendancy and the descendants of the Ulster "dissenters"—whose ancestors had been antagonistic to one another in 1798 were now against Home Rule and for the Union. But the population was not altogether divided on religious lines: some Roman Catholics were "Unionists;" and many of the prominent "Home Rulers," including Parnell, the leader of the Irish Party, and its founder, Isaac Butt, were Protestants.

Unionists claimed that Home Rule would prove to be "Rome Rule" since the majority of the population was Roman Catholic; and an economic interest in free trade, as well as imperialist sentiment, strengthened their opposition. The Industrial Revolution had come to Ireland since the Union but its effects had been largely confined to the North East which now feared that Home Rule for Ireland might eventually lead to tariffs between Britain and Ireland. The Home Rule issue aroused strong feelings for a generation, but no party to the controversy wished to partition Ireland. The issue was whether Ireland as a whole should have limited autonomy or whether it should remain an integral part of the United Kingdom.

At one stage, despite the forces ranged against it, a Home Rule settlement of the Anglo-Irish relationship did seem possible—though historians may speculate whether it would have fully satisfied Irish nationalist aspirations in the long term. Parnell at least was willing to settle for such an answer. He told the House of Commons on June 8, 1886, just before the crucial vote on the first Home Rule Bill: "I accept this Bill as a final settlement of our national question and I believe the Irish people will accept it." But the opportunity passed. Home Rule bills were defeated in 1886 and 1893. Although a Home Rule bill was enacted in 1914, just after the outbreak of the First World War, it was agreed, in deference to Unionist and Orange threats of rebellion, that it would not take effect until the war was over—and then only if it were amended.

At the end of the First World War, therefore, the "Irish Question" was still a conundrum for British politicians. But events no longer waited on a solution. Nationalist Ireland had despaired of Home Rule. It was now encouraged to seek change by force because it saw that the threat of force by the Unionist side had power to prevent change. So it took steps to solve the "English Question" for itself—by seeking complete separation. Two years after the Easter Week Rising of 1916 in Dublin, the separatist Sinn Féin party overwhelmed the old Irish Parliamentary Party of the Home Rule tradition at the 1918 general election. Sinn Féin captured 73 out of 105 parliamentary seats in all of Ireland while the Irish Parliamentary Party retained six. But the Sinn Féin members elected were pledged not to take their seats at Westminster. Instead, in January 1919, they established in Dublin an independent Irish parliament. This parliament—Dáil Eireann—set itself to make good its claim to be the parliament of an independent Ireland. A guerrilla war ensued against the British administration in Ireland over the next two years.

The British government of the day found itself facing a critical situation, and in the Prime Minister, Lloyd George, it had a Solomon who was prepared, in the event, to carry out a judgment which would mean dividing Ireland at least temporarily. The settlement which Lloyd George negotiated was, he believed, a pragmatic one. As he explained to the Irish delegation to the treaty negotiations in London on October 14, 1921: "It is no use ignoring facts however unpleasant they may be. The politician who thinks he can deal out abstract justice without reference to forces around him cannot govern."

He looked at the relative strength of the forces around him. The Conservatives and the Irish Unionists were no longer allied against Home Rule. The Conservative Party was now a partner in the government with Lloyd George's own party, the Liberals; their imperial sentiment had also weakened; and in the postwar period at the Versailles Peace Conference there was a more general acceptance of the principle of national self-determination. For these reasons the Conservatives had ceased to oppose some kind of Irish evolution and, handled with care, they might have been brought along in a settlement if Britain's strategic interests, as then understood, were maintained. But the other element of the old alliance against Home Rule—the Unionist minority in Ireland, which had been encouraged to believe that its armed opposition to self-government for Ireland could succeed—maintained its position. Conservative opinion would accept that such a minority could not forever obstruct a settlement. But it would not wholly abandon its former ally.

So Lloyd George treated with each of the two elements which he discerned in the Irish population. Since the Irish Unionists were concentrated in, though not confined to, the North East, he decided to meet their position by dividing Ireland and creating a separate region covering six counties, in which, taken as a whole (though not in each county), they would have an assured local majority. The Government of Ireland Act, 1920, divided Ireland into two parts—"Northern Ireland" and "Southern Ireland." Each part was to have local autonomy within the United Kingdom. A Council of Ireland would act as a link between them and provision was made so that it could ultimately lead to a single Irish parliament. The Unionists had not sought this settlement, but they accepted it. So "Northern Ireland" came into being. But "Southern Ireland" did not. Irish nationalism

had long since gone beyond a limited devolution which also involved internal division. So guerrilla fighting against the British administration in Ireland continued.

By the end of 1921, when Northern Ireland was already functioning as a partly autonomous region within the United Kingdom, Lloyd George and his cabinet negotiated the Anglo-Irish Treaty with a declaration of Irish nationalist representatives from Dail Eireann. The delegation pressed strongly against partition and for recognition of full Irish independence. But the treaty, signed on December 6, 1921, while granting Ireland the status of a dominion within the Commonwealth, allowed Northern Ireland, as already established, to opt out and remain as an area of limited local autonomy within the United Kingdom. There was henceforth a Unionist majority in Northern Ireland. The Unionists in that part of Ireland which became independent were left to adjust to life in the new "Irish Free State" (which later became a republic outside the Commonwealth). The treaty provided for a boundary commission to determine the boundaries between Northern Ireland and the rest of Ireland. Before the commission reported, its conclusions became known and were deemed unacceptable. The commission was wound up and so Northern Ireland has since remained a region covering six counties—Antrim, Armagh, Derry, Down, Fermanagh and Tyrone.

II

Pragmatism such as that of Lloyd George has its attractions—if it works. Since Lloyd George's settlement has obviously failed to work, one must ask how it went wrong and why it was the wrong approach to solving a difficult problem. A principal reason for its failure was the nature of the new entity of Northern Ireland which it created. I believe we can see three aspects of Northern Ireland which made it unsuitable from the outset.

Firstly, the area was not homogeneous. The border drawn by the 1920 Act had no basis in geography or history; it did not include the nine counties of the old province of Ulster. The six counties chosen constituted the maximum area in which the Unionist community would be assured of maintaining a majority. The aim, in the words of its first Prime Minister, Sir James Craig was "to save as much of Ulster as we could hold." But to draw the border in this way was to include in the new area a substantial minority who were opposed to the settlement which made them permanently a minority under an unsympathetic government and who, though a minority in the six-county population as a whole, were a local majority in more than half of its area.

Secondly, in the creation of Northern Ireland, religious differences were publicly accepted as a basis for political division. This gave such differences a fundamental political importance from the outset because they became the symbol of loyalty or disloyalty.

Thirdly, the new local Parliament at Stormont was poorly designed to meet the difficult situation of a divided community. It was modeled on the British Parliament at Westminster where the government of the day has a virtual monopoly of power. At Westminster such a system works well because power changes hands at intervals as one party or the other gains a majority at the polls. But Northern Ireland had been so constituted as to ensure that there was a permanent Unionist majority in the area. The belief that the minority were a threat to the whole settlement and the politicization of religious differences gave that majority cohesiveness, so that the Unionist Party was always the majority party at Stormont and therefore always the "government of the day." The natural balance of the Westminster system did not exist—and no other restraint replaced it.

There were regular elections. But Unionist government, unlike most parliamentary governments, never faced an *effective* challenge at the polls over its 51-year history. Its leaders, however, were under constant pressure from their own right wing, which had real power to topple a leader if he seemed to be weak in dealing with minority "subversion." Such a system—which became in practice permanent one-party government, never free of hard-line pressures, and not subject to effective restraint on behalf of the minority community—could increase but not ease the division and bitterness between the communities. The British government at Westminster for its part, having created the subsidiary parliament in 1920, left Northern Ireland to a great extent to its own devices. This was to abdicate in practice the residual responsibility which it retained in principle. I do not believe it is unfair to describe such a settlement as a recipe for slow disaster. It created in Northern Ireland an inherently unstable region, politicized religious differences within it, gave it a parliamentary system which institutionalized community animosities, and left it to run its own local affairs for half a century.

If such an area were to work at all the minority had to be brought to acquiesce in what had happened. But instead of being brought fully into public affairs in order to win their consent they were discriminated against as disloyal and systematically excluded from influence and office. Even if Roman Catholics accepted Northern Ireland as a *fait accompli* they were barred from effective membership in the governing Unionist Party. They should, it appeared, know their place as part of a passive minority, but not try to leave its ranks to seek a share in power within the party which controlled the state. A Roman Catholic, in effect, could be a "unionist" but not a "Unionist."

Despite its instability, Northern Ireland withstood sporadic and futile violence in almost every decade from those who refused to accept the Lloyd George settlement. But it did not withstand equally well demands for civil rights which followed in the 1960s. Its immediate response to the civil rights movement was repressve and sometimes violent. When the Northern Ireland Prime Minister of the day, Terence O'Neill, tried to respond in a moderate fashion, he was forced to resign by rightwing pressures within his own party. It seemed as if demands for full equality of treatment by the minority challenged the assumption underlying the state—that it was to be a Unionist state with permanent Unionist control.

When the need for basic reforms became evident to British and world opinion in 1968 and 1969, reform was promised and slowly begun. But the real need was not simply to end the obvious abuses but to heal the deeper community divisions. Generous, speedy and effective reform might have done this; not slow and reluctant change after 50 years. The expectations of the minority were aroused but not met; and there was violence between groups on either side of the community divide. The British Army was introduced in 1969 in an active peacekeeping role, mainly to protect the minority. But because there was no thorough reform of structures at the same time, it tended, as time went on, to defend existing political structures because they represented "legality" in the area. The effort to repress minority violence by detention or internment without trial from August 1971 increased the violence and the alienation of the minority as a whole. It was because they accepted that a fresh beginning must be made that the British government prorogued the Stormont Parliament for a year as from March 1972.

III

The 1920–21 settlement also had an important effect on the nature of that part of Ireland which later became independent. Precisely because a separate area was created to accommodate most of the Irish Protestant community, the rest of Ireland came to independence with a largely Roman Catholic population—so that it is sometimes described in the press today as the "Catholic" Irish Republic. It was ironic that it should be so, since the Irish Republican tradition from which it derived had been explicitly nonsectarian in its origins and its founder and many of its most prominent leaders for over a century had been Protestant. But that it was so was an inevitable consequence of Lloyd George's whole approach.

Historians may argue as to how far the twin foundations of his settlement—the 1920 Act and the 1921 Treaty—were part of a single deliberate policy and how far the second stage—the Anglo-Irish Treaty—was an improvisation. What matters today is their effect—a division of Ireland on largely confessional lines. The independent Irish State, while most of its population is Roman Catholic, is also heir to the nonsectarian principles of Irish republicanism. But, to some people today, it may be that Irish nationalism, as expressed in laws and in the present Irish Constitution, seems narrower and less generous than these principles promised.

These, then, were the unhappy results for Ireland of the 1920–21 settlement. But 50 years' experience has also shown some issues in a new light. First, it is now clear that, once they are freed of constraint, relations between Britain and Ireland are friendly. Historical passions quickly cool or dissipate when not inflamed by political institutions; and Britain and Ireland are not hostile to one another or embittered by history as might have been feared before Irish independence. The two countries have similar political institutions; they operate a passport-free common travel area and an Anglo-Irish Free Trade Area; 56 percent of the total trade of the Irish Republic is with Britain; the Republic is Britain's third largest customer; and as from January 1, 1973, the relationship will be closer as both countries join the enlarged European Communities. Only the "untied ends of England's Treaty settlement," as a recent English writer calls Northern Ireland, come between the two islands as a major divisive political issue.

Secondly, it is clear by now that this issue will not simply "go away" or "solve itself." Time will not settle the problem unless it is properly dealt with. Benign neglect by either side will not help to ease tensions in Northern Ireland or lessen the dangers of a serious explosion; nor will simply military repression or extremist "gunmen."

Thirdly, it is now evident that the minority is too large a proportion of the population in Northern Ireland to be governed without its consent. Even if repression of any violence coming from the minority could work for a time, the problem would recur again within a few years when the children of violence grow a little older. So we must face the problem now and try to settle it on a lasting basis.

What precisely is the problem? And how should we try to solve it? Before answering these questions we must clarify some misapprehensions so that we will at least see what it is not.

A first mistake is to assume that the issue is primarily a religious one. The divisions in Northern Ireland are not *about* religion; they cannot be accounted for as an anachronistic remnant of the religious wars of seventeenth-century Europe. Indeed the fundamental mistake underlying the partition of Ireland was that it tended to treat the majority and minority religious communities in Ireland as if each were monolithic and then politicized religion by trying to divide the island between them. What has mattered most in Ireland's political history and what matters still today in Northern

Ireland is not religion as such but the sense of the majority or minority community identity. There is no doubt that this is often determined by religious affiliation. But it can come about in other ways; and where it does, it is simplistic to think that the mere appointment of a Catholic as such to government could have lessened the alienation of the "Catholic" minority; or that Protestantism or agnosticism as such is a bar to leadership within that minority.

A second misapprehension is to treat the issue purely in colonial terms and to see the Unionist minority in Ireland as a community of "colons" to be provided for in a separate enclave linked with the motherland while the majority enjoy independence. It is questionable, to say the least, whether such a solution of a problem of decolonization is ever politically wise. But whatever the origins of the "Irish Question," such a view of it is no longer valid. No group or part of the population in Ireland—whether or not identifiable as to ancestry or antecedents—can be regarded as the "authentic" Irish; and, conversely, no group, whatever its present loyalties and attitudes, can be regarded as "colons." In any case, to treat in colonial or quasi-colonial terms the complex relationship between these two islands of Western Europe, which lie so close to one another physically, whose history is so intertwined and which still have so many lasting and growing interests in common, is to fail completely to understand it.

It has sometimes been suggested, however, that there be a partition of the present six-county area so as to cede the areas where the anti-Unionist population is strongest to the Irish Republic and to integrate the remainder fully into the United Kingdom. Such a settlement would still be unstable since there is no area of Northern Ireland which is homogeneously Unionist. But, beyond this, an attempt now to assert that any part of Ireland is irretrievably British would, as a former British Home Secretary said in the British House of Commons as recently as March 1972, be "an historical blunder of the first magnitude;" it would thoroughly alienate the majority in Ireland and would bring Ireland directly into conflict with Britain.

I wonder if those Unionist politicians who seek the full integration of Northern Ireland into the United Kingdom, following the shock of the loss of their Parliament and government, realize the folly of their demand. In asserting that being British is more important to them than being Irish, they risk recreating a colonial frame of reference and identifying themselves as "colons" in Ireland. Nor can Northern Ireland be regarded as in any sense a "disputed territory." Its future is not one to be settled by arbitration by an international court, by repartition, by population shifts or otherwise between two contending parties.

When the issue is seen in these terms it is evident that it is no solution to deal with Northern Ireland in isolation on the grounds that its 50 years of existence have given it permanence. It is true that as Sir Lewis Namier said, "it serves no purpose to expostulate with history." But to face this problem as it must be faced is not to expostulate with history but to try to change present realities which dam up historical passions in a way which menaces both Britain and Ireland.

The real issue to be settled is not that of Northern Ireland. That was never the question—it was an answer, or part of an answer, to a larger question. Now that it has been proved inadequate that larger question remains. That larger and still outstanding question is how to achieve a settlement between the two islands which will ensure good relations between them—granted that Union did not work; that the division of Ireland has not worked; and that the incorporation of Northern Ireland, or any part of it, fully within the United Kingdom cannot work.

IV

I consider that the solution is an Ireland united by agreement, in independence; an Ireland in a friendly relationship with Britain; an Ireland which will be a member with Britain of the enlarged European Communities. I hold this view because I believe that there is no other way to dispose of the contentious and difficult legacy which history has left to our two islands—certainly no way which will not compound the problem for our children. I shall try to be more specific. The points I set out below are an attempt to outline some of the views which I believe any realistic observer who studies the problem in any depth would come to.

Firstly, I consider that the decision by the British government to exercise its full responsibility for Northern Ireland directly for one year from March 1972 was a positive step because it meant a recognition that it was not possible to work through the existing structures. But that step was presented only a necessary preliminary to a solution and not as itself a solution.

Secondly, I consider that any attempt to follow it up by integrating Northern Ireland fully into the United Kingdom would be disastrous. A substantial minority in the North would permanently resist it with the support of the great majority of the people of Ireland. Such an attempt would drive a wedge between the majority populations of the two islands; and, as I have explained, Northern Ireland cannot be dealt with without reference to the Anglo-Irish relationship as a whole.

Thirdly, Britain should recognize that the more intransigent among the Unionist minority in Ireland are not entitled to a permanent veto on harmony in Anglo-Irish relations; and recognizing this, should begin to work toward a real settlement. Such a settlement should not impose unity by force. But where the earlier settlement tended to encourage continuing division, this new settlement should offer positive and direct encouragement to unity, accepting that the fears of a community of less than one million should not stand permanently in the way of reconciliation between all the peoples of both islands. Many of the Unionist community realize that Irish unity is inconceivable and are increasingly willing to consider the idea. They should be offered positive and direct encouragement in that direction.

Fourthly, while I consider that the division of Ireland was misguided from the outset, I recognize that obtaining unity is a difficult process. There has to be a growth of trust and reconciliation on all sides. But I believe that Irish unity should be the aim, and a commitment should be made by the British government to its achievement.

Fifthly, it should be clear that a united Ireland will not be an Ireland in which the present state in the "South" takes over the "North" and assimilates it into its existing structures. There should be negotiation, but it should be a *new* Ireland.

Sixthly, the new Ireland to which I have referred should not involve any levelling down, on either side, of existing social or economic standards. There *are* discrepancies at present but they are not insurmountable and they are lessening. The real dividing line in Ireland so far as economic prosperity is concerned has always been an East-West and not a North-South one. At present the link with Britain provides substantial direct and indirect subsidies to Northern Ireland. In any settlement arrangements these subsidies would no doubt eventually have to be phased out; but this should be done over a period. Growing integration of the economies of all EEC member countries should help. Regional development policies of the EEC will also be helpful to each part of what is largely a single region—as will the general increase in prosperity of all within the EEC. Beyond this, however, the aspect of a united Ireland which would be most conducive to long-term economic prosperity would be its ability to concentrate its energies on building a better life for its people—instead of dissipating them, as at present, in division and recrimination.

V

What should be the constitution of this new Ireland? Obviously it must reflect the values and meet the legitimate interests of all sections of its population.

A constitution can take a number of forms. The British Constitution, for example, is not a single written document but a whole structure of conventions, laws, political institutions and established practices. What has often been referred to as the "Constitution of Northern Ireland" was simply an Act of the Westminster Parliament—the Government of Ireland Act, 1920, as amended by subsequent enactments. The Irish Constitution on the other hand, like that of the United States, is a written one. It was adopted by referendum in 1937 and its provisions require any amendments to be adopted first by Parliament and then submitted to the people in referendum.

The 1937 Constitution as it stands is not suitable for a new Ireland. My own view is that it would be better to regard the new Ireland as an entirely new political entity which should work out and enact for itself its own constitution. I do not say this because of reluctance to consider the changes necessary for a new Ireland but on the contrary because I believe that a fresh start could be a better approach. This would not, however, exclude preparatory work being undertaken now.

Parnell said in 1886 that, "the best system of Government for a country [is] . . . one which requires that that Government should be the resultant of all the forces within that country." I think something similar is true of the final working out of a constitution and system of government for a new Ireland. These are matters best worked out by the representatives of all those who are to live under the new structures. A philosopher or a constitutional lawyer may advise or draft a constitution; but he should not, I think, attempt to write the final version, at least not in a situation such as ours in Ireland, where the building up of trust and the overcoming of fears are so important.

The constitution of the new Ireland would have to be a written one with firm and explicit guarantees for the rights and liberties of all who live under it. I would tend to favor the view that these guarantees should relate to the individual citizen rather than to institutions as such. The constitution makers should perhaps take a "minimal" approach, *i.e.* not start from broad philosophical assumptions but, instead, try to piece together an agreement on what is necessary for government to function while ensuring rights and liberties to the individual.

VI

Thought I have frequently referred in this article to the "Irish Question" it is no longer fashionable, as it once was, to speak of international problems in terms of "Questions." Perhaps to do so implies that "answers" exist, and there is a pessimistic tendency today to accept that some questions are unanswerable. But I do not believe that either Britain or Ireland can accept this kind of thinking. In the Anglo-Irish relationship Northern Ireland is a problem to which there is a solution; it is not an unanswerable question.

The solution which I have outlined is that Ireland as a whole should assert a new and more comprehensive identity.

What is it exactly that gives a people a sense of national identity? What is it that

determines how the first person plural—the "we"—shall be used when a nation speaks of its history? In Ireland, the majority—probably quite unhistorically—refer their sense of a common origin to a particular wave of early Celtic settlers in the island in pre-Christian times, while the Protestant-Unionist community in the North generally refer theirs to the settlements and religious-political wars of the seventeenth century.

No section of the Irish population today can afford to assert its identity in such terms as these, if to do so means excluding another section or regarding it as alien. Ireland's greatest need today is that all who live in the island should live and work in harmony. I quote once more from Parnell: "No Sir; we cannot give up a single Irishman. We want the energy, the patriotism, the talents, and the work of every Irishman."

An English observer in Ireland more than 300 years ago remarked that: "In kingdoms conquered, nothing but time, and that also must be the flux of hundreds of years, has power to unite the conqueror's issue and the ancient inhabitants in perfect amity." In Ireland time *has* passed. But we see now that Lloyd George's solution did not ease, but rather blocked, the effect of its flux. It was a solution which seemed to him to respond best to the exigencies of British policies at the time—which had earlier encouraged intransigence on the part of a minority in Ireland. But, based as it was on such considerations, it was unlikely to meet the best long-term interests of both islands. It is obvious now that it has not done so. In face of its evident failure, the British government today must respond to the real and pressing imperative—which is to encourage and assist a settlement among Irishmen about Ireland, and not to obstruct it nor to be merely neutral about it.

Mr. BUCKLEY. Mr. President, I am delighted to be able to join the distinguished Senator from Massachusetts in expressing our concern for the plight and the problems that still hang over Ulster. I do believe that it is characteristic of my friend from Massachusetts that he should feel so deeply about the condition of other human beings anywhere in the world. I think he understands the meaning of John Donne's words, "Send not to know for whom the bell tolls. It tolls for thee."

Mr. BROOKE. I thank the distinguished Senator from New York. As he was talking, I began to think of what, perhaps, is the immediate cause of the conflict. I, for one, have never really been ready to accept the belief that what is taking place in Northern Ireland in the year 1972 is a religious war. I am mindful of what happened when partition came to Ireland in the early 1920's. Instead of granting independence to Ireland as a whole, the British Government gave in to the pressures of its citizens who had migrated to Ireland and concentrated in the northern part of the island.

The six counties of Ulster had no basis for a separate existence either in history or geography. They were simply the largest single unit in which the Scotch and English Protestants constituted a majority.

But what is the immediate cause of the conflict? I think it is rooted in a shift in the economy. Many traditional industries, such as the linen industry, have died out in the rural areas, and there has been much migration from the rural areas into the cities. Young Catholics and young Protestants are coming into competition for jobs. The majority, of course, is Protestant, and they are in control. So what has happened is that many of the young Catholics are not getting jobs. This, naturally, causes great conflict.

I was wondering, as the Senator from New York was talking, what could be done to improve the industrial and business climate in Northern Ireland. We are aware of the friction between Catholics and Protestants. Generally, when there are problems of discrimination in employment, discrimination in housing, discrimination even in the enjoyment of recreational facilities, and the like, we find it rooted, somewhat, in economics.

I feel that we might, perhaps, look in depth into the possibilities of providing more investment and industry in the area, industry which would employ Catholics and Protestants without discrimination. This, in my opinion, would begin to alleviate some of the difficult economic conditions which I feel are at the root of the conflict.

Mr. BUCKLEY. Mr. President, I believe that the Senator from Massachusetts has put his finger on one of the important points in analyzing the situation. The problem is really not so much one of religious demonstration as such. Its basis is not religious; it is more economic in origin. It happens that the class which has been discriminated against in terms of participation——

The PRESIDING OFFICER. The time of the Senator from New York has expired.

Mr. BROOKE. Mr. President, I ask unanimous consent that we may have an additional 3 minutes.

Mr. ROBERT C. BYRD. Mr. President, I shall have to object. I say most respectfully to the Senator from Massachusetts that the leadership has said, for the last 2 years, that if this Senator or any other Senator could be recognized, he could yield some of his time.

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

Mr. BOGGS. Mr. President, I yield 3 minutes of my time to the distinguished Senator from Massachusetts.

Mr. BROOKE. I am grateful to the Senator from Delaware.

Mr. BUCKLEY. The discrimination, in my opinion, has been at heart economic and political in nature. However, because the class discriminated against has largely been Catholic and the discriminators Protestant, it has been too easy to describe the problems in terms of religious bigotry. The fact is that the class which is largely Catholic has been discriminated against in terms of employment, housing, and—through outrageous gerrymandering—full participation in the political process.

I think the fact that the Republic of Ireland and Great Britain are both entering the Common Market will in itself begin to stimulate economic growth of the kind which could expand employment opportunities. Certainly Northern Ireland has the facilities and the work force to make the area a logical place in which to locate plants, and thus expand the economy.

We can take some encouragement from the fact that the need for basic reforms in housing, education, job opportunities, and other areas is now widely recognized. This has been a positive result of the nonviolent protests of the past 3 years. I believe too, that there was evidence in the Darlington discussions of a better appreciation of the need for the minority to have a meaningful part of the political action in the future. Different techniques for proportional representation were proposed. Thus it is possible that we will see political reforms which will eliminate this basic source of irritation and give to all segments a sense of meaningful participation in the political process.

Mr. BROOKE. I thank my distinguished colleague. I quite agree that political equality will end political discrimination. Let us hope and pray that the elections will be fair; that there will be no discrimination in any of the elections. We all deplore, as we have in the past and will continue to deplore, discrimination and terrorism. We hope that we might begin to see what, if anything, we can do to improve the economy of Northern Ireland, because that is bound to have a very sizable effect upon the expansion, as I see it, in the hiring and promotion of workers within Ulster. This has been one of the most serious problems.

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

Mr. BROOKE. I thank the distinguished Senator from New York for the colloquy, and I thank the distinguished Senator from Delaware (Mr. BOGGS) for yielding us the time to conclude our colloquy.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Delaware (Mr. BOGGS) is recognized.

THE NEED TO CONTROL OCEAN DUMPING

Mr. BOGGS. Mr. President, within a few hours of this moment, a barge will leave a pier in Philadelphia to begin its journey down the Delaware River. The barge, loaded with over half a million gallons of Philadelphia sewage sludge, is destined for an ocean site about 12 miles off Rehoboth, Del.

When the barge arrives, it will discharge the sludge, possibly damaging the marine life in the vicinity of the dump site. But the localized danger is not the only danger. From the dump site, currents may carry the sludge onto the beaches of Delaware, the same beaches where thousands of Americans swim during the summer months.

Our Nation confronts a real danger over the pollution of the oceans. I cannot detail for my colleagues the exact extent of the damage caused by Philadelphia's sludge dumping—it has not been fully studied. But it is clear that we must halt the dumping immediately if it proves to be dangerous to either man or

the marine environment. Yet we have no legal way to do that.

My distinguished colleague (Mr. ROTH) recently visited Philadelphia's sludge-dumping site off Rehoboth. As a result of that visit and other investigations, it appears likely that the sludge materials are being carried away by the currents, probably toward the Delaware shoreline.

Two of Delaware's most respected legislators, Senator Thomas E. Hickman and Representative Harry E. Derrickson, recently conducted an experiment at the dumping site. They dropped 20 special markers within the dumping area. The markers were identified, and the finders were requested to contact either Senator Hickman or Representative Derrickson.

Within 4 days, nine of the 20 markers had washed ashore between Dewey Beach and Fenwick Island, Del.

To me, this experiment indicates the obvious danger that exists when many hundreds of thousands of gallons of sewage and sewage solids are dumped near the Delaware shore.

Just last week the President's Water Pollution Control Advisory Board met in New York City to evaluate the environmental effects of offshore dumping. It recommended strong State action, as well as passage of new laws by the Congress. Mr. President, I ask unanimous consent that a newspaper article on the Board's recommendations be printed in the RECORD at the conclusion of my remarks.

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

Mr. ROTH. A system of legal contrcls on dumping was the subject of an intensive investigation by the Senate Subcommittee on Air and Water Pollution more than a year ago in Rehoboth. Later today, or tomorrow, the Senate will consider the conference report on the new water pollution control legislation. As I will point out during that debate, the Water Pollution Control bill may go far toward solving our problem in Delaware.

Yet the challenge our Nation faces extends far beyond the shores of Delaware.

When the President's Council on Environmental Quality issued its excellent study on ocean dumping 2 years ago, CEQ identified more than 250 disposal sites along our coasts.

The water pollution control legislation could have the effect of forcing dumpers to move farther out to sea. Yet there are obviously ill effects from unregulated dumping anywhere.

For that reason, I hope this Congress can adopt tough, new legislation to control ocean dumping wherever it occurs, if those wastes originate in the United States.

The greatest concern among the citizens of Delaware has been the disposal of sewage. Yet many other problems exist as a result of increased industrial dumping at sea.

For example, once the phased controls of the proposed amendments to the Federal Water Pollution Control Act take effect, a far greater volume of industrial wastes may be hauled to sea for disposal, unless an ocean-pollution law is enacted.

In other words, the Congress may halt one danger to foster another, if we do not adopt effective ocean dumping legislation.

I recently noticed that a chemical plant had been forced to halt the discharge of waste sulfuric acid, contaminated with heavy metals, into the Savannah River. The alternative that plant chose was to agree to haul the wastes to sea, off the coast of Georgia and South Carolina.

Because of my strong feelings on this issue, I have tried to express my sense of urgency for legislation this year. Last year, I introduced legislation to establish a permit system controlling ocean dumping anywhere at sea. Similar legislation passed the Senate and House last year. I understand the conference agreement has been successfully concluded.

It is my hope that the Congress will have the opportunity to vote on the conference report before adjourning this year.

We need effective legislation to control ocean dumping—whatever its source and whatever its destination—and we need it this year.

[From the Wilmington (Del.) Morning News, Sept. 30, 1972]

EXHIBIT 1

STATES URGED TO TAKE INITIATIVE IN OCEAN DUMPING

(By Wally Judd)

A presidential panel on ocean dumping believes the states must take the initiative to protect their coasts.

The President's Water Pollution Control Advisory Board yesterday presented a 12-point list of recommendations after a week-long meeting in New York.

Although it recommends that proposed legislation on ocean dumping and water pollution be approved by Congress as quickly as possible, it apparently thinks Congressional legislation is not enough.

"State governments must intensify their efforts to enhance the quality of their own shoreline and not depend solely on federal legislation," the group's report said.

While many experts are seeking some federal policy to regulate ocean dumping, the board members apparently feel that statutes like Delaware's coastal zoning law, California's ocean dumping, the board members apparently feel that statutes like Delaware's coastal zoning law, California's ocean dumping law, and New Jersey's wetlands protection law are a quicker and more effective way to protect the coast.

The board also recommends that when the federal policy emerges, it be considered only as a minimum standard. Regional policies based on the characteristics of the various oceans involved should be established with standards at least as strict as the federal standards.

One recommendation that might benefit Delaware is the suggestion that the Environmental Protection Agency establish water-quality standards for the ocean between the 3-and-12-mile limits.

It concludes that nobody has the authority to do this and the EPA should seek "remedial legislation" as quickly as possible to set the standards.

If the EPA, after setting the standards, finds an area of the ocean to be substandard, presumably it could do something about it.

The major dumping issue in Delaware is Philadelphia's dumping of sewage sludge 12 miles off Cape Henlopen, causing an area within 8 miles of the Delaware coast to be labeled "contaminated" by the Food and Drug Administration.

The board also recommends that industries discharging wastes with heavy metals be required to treat them before discharging them.

And the board recommends several studies be completed to gather data on the scientific hazards of ocean dumping, the hazards of the alternatives, and possible sites where some form of ocean dumping might continue.

It suggests that the federal government make available federal lands of low quality for experimental programs of dumping sewage sludge on land.

And, because the city of New York dumps most of the raw sewage from Manhattan into New York harbor, it urged a ban on construction on Manhattan until the city can handle the sewage.

"Construction of facilities to end raw sewage dumping into any harbor is mandatory," the report said.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Delaware (Mr. ROTH) is recognized for not to exceed 15 minutes.

Mr. ROTH. Mr. President, I am happy to have the opportunity today to join my distinguished senior colleague from Delaware in a colloquy on the great need for final action to be taken on ocean dumping. No one has worked longer or provided greater leadership in protecting our environment than Senator BOGGS. Long before it was popular to be against the pollution of our environment he was providing leadership in this area of activity. As Governor of Delaware, the Senator created in the 1950's a State agency to promote clean air.

As Senator, CAL BOGGS has been one of our most effective spokesmen on pollution problems. He has initiated far-reaching ocean-dumping legislation as well as coastal zone legislation. I have been happy to support him in these efforts as I am happy to join him today in calling for final action on ocean dumping.

I cannot express too strongly how important this legislation is to Delaware. Thousands upon thousands of Americans come to Delaware every year to enjoy our beautiful beaches and coastal areas. In fact, the imperiled natural beauty of the Rehoboth area has become known as the Summer Capital, because so many Washingtonians spend their summer vacations there.

I want to protect that beach area, not only for ourselves, but our children and future generations. Yet, action is being taken, week by week that threatens our coastline; action over which we have no control. Cities in other States are using our coastal area to dump their sewage sludge. Delaware is helpless to prevent this despite the fact our State, through the leadership of our Governor, Russell W. Peterson, has taken unprecedented action to protect our coastal shores. The cities of Philadelphia and Camden are dumping approximately 121 million gallons of sewage sludge 12½ miles off our coast each year.

Despite claims to the contrary, no one but us knows the impact of this act on our shoreline. We do know, however, that the Food and Drug people have forbidden

the sale of commercial shellfish from the area. This is the reason I call for action in ocean dumping now, and why I say action is so important.

Mr. President, the following statement outlines the action taken by the Senate.

Ten months ago, on November 24, 1971, by a vote of 73 to 0, the Senate passed the ocean dumping bill—the Marine Protection and Research Act of 1971. Similar action occurred in the House a little more than a year ago: On September 9, 1971, by a vote of 304 to 3, the House passed its own version of this legislation. The conference to reconcile the differences in the two versions was originally convened in December of last year, but unfortunately agreement on the final language was not reached until last month.

The legislation to control and regulate ocean dumping, which as I say has passed both Houses by overwhelming majorities, was based on a report on ocean dumping prepared by the Council on Environment Quality—CEQ—issued in October of 1970. That report is a sensible and reasonable document. It examines the situation dispassionately and makes several important recommendations.

First, the CEQ recommended a comprehensive national policy which would ban unregulated dumping of all materials and strictly limit the ocean disposal of any material found to be harmful to the marine environment. It recommended that the Administrator of the Environmental Protection Agency be authorized to issue permits for the transportation and dumping of all materials in the oceans, estuaries, and the Great Lakes, with stiff penalties for violation of the law or the regulations issued pursuant to the law.

Under the CEQ proposals, the Administrator of the EPA would be guided by these principles:

First. The dumping into the ocean of materials clearly identified as harmful to the marine environment should be stopped immediately. When existing information on the effects on ocean dumping are inconclusive, such dumping should be phased out. In other words, where our data is incomplete, we should err on the side of caution. That makes a lot of sense to me. If further information conclusively proves that such dumping does not damage the marine environment, including cumulative or long-range damage, ocean dumping could be conducted under a permit system with close agency supervision.

Second. The criteria for setting standards for disposing of material in the ocean and for determining the urgency of terminating the disposal operation should include:

Present and future impact on marine environment, human health, welfare and amenities;

Irreversibility of the impact of dumping;

The volume and concentration of materials involved;

The location of disposal, that is, the depth and potential impact of one location relative to others.

CEQ said that high priority should be given to protecting those portions of the marine environment which are biologically most active, namely the estuaries and the shallow, nearshore areas in which many marine organisms breed or spawn. These biologically critical areas should be delimited and protected. This, again, is an imminently practical and common sense suggestion.

The Council on Environmental Quality also recommended that policies be adopted concerning specific types of wastes currently being dumped in the ocean and in the Great Lakes: For example, the dumping of undigested sewage sludge should be stopped as soon as possible and no new sources should be allowed.

CEQ wants the ocean dumping of digested and other stabilized sludge phased out with no new sources allowed. In cases where substantial facilities or significant commitments exist, CEQ recognized that continued ocean dumping may be necessary until alternatives can be developed. But, CEQ made it clear that continued dumping should be considered an interim measure only.

Ocean dumping of polluted dredge spoils which now takes place under a permit system run by the Army Corps of Engineers, should be phased out as alternatives are developed. In the interim, dumping should minimize ecological damage. The current policy of the Corps of Engineers on dredging highly polluted areas only when absolutely necessary should be continued, the CEQ said, and even then the navigational benefits should be weighed carefully against the damages.

The current prohibition on ocean dumping of high level radioactive wastes, CEQ said, should be continued. And it recommended a prohibition on ocean dumping of chemical warfare materials and biological warfare materials. Ocean disposal of explosive munitions should be terminated as soon as possible. The report urged that the dumping of toxic industrial wastes should be terminated immediately, except in those cases in which no alternative offers less harm to man or the environment.

The CEQ report candidly admits that our information concerning the long-term effects of ocean dumping are fragmentary. It, therefore, recommended broad-based, long-term ecological research to help us understand the pathways of waste materials in marine ecosystems. It recommends that these studies be directed to achieve a better understanding of the food chain from microscopic plants and animals to high predators.

The substance of these recommendations, Mr. President, will become law if the bill now in conference becomes law. It calls for a new permit system with stiff penalties, civil and criminal, for any violation.

Mr. President, as I say, the conference committee originally convened last December, but its meetings did not really begin in earnest until June of this year. I understand that the conferees have recently agreed on a final language of the bill. There was a dispute between the House and the Senate versions, with the Senate version recommending a permit system controlled by the Environmental Protection Agency.

The House version on the other hand, directed that the permit system remain with the U.S. Army Corps of Engineers. The conference language, I have been told, calls for a general permit system run by EPA with an important but secondary role played by the Corps of Engineers, particularly where dredge spoils are concerned.

As the CEQ reported, the largest single item by volume dumped in the ocean surrounding the United States today is dredge spoil. It represents 80 percent of all ocean dumping. The Corps of Engineers estimated that in 1969 34 percent of this dredge spoil was polluted. The CEQ report also pointed out that much of this dredge spoil was generated by the Corps of Engineers in widening and deepening our rivers and harbors and assuring that rivers remain navigable. Spoils are generally disposed of in ocean coastal waters less than 100 feet deep.

In 1968 they amounted to 38 million tons of material with the great bulk dumped on the east coast, in the Atlantic and the Gulf of Mexico. The figures are 15,800,000 tons in the Atlantic and 15,300,000 tons in the Gulf. I am confident that those figures will drop substantially when the bill becomes law.

Mr. President, that legislation in this field is vitally need by our country at this time. Marine pollution has seriously damaged the environment and poses a very real and a very substantial danger to human health. Many species of shellfish along our eastern coast and in the Chesapeake Bay have been found to be contaminated by hepatitis and by polio virus. The CEQ estimated that pollution in our coastal waters has closed one-fifth of the Nation's commercial shellfish beds. All over the eastern seaboard, particularly in the New York area, we see beaches and bays that have been closed to swimming and other recreational use, because of the filth in the water.

Actually, lifeless zones have been created in many areas, particularly the New York Bight. There have been fish kills off Florida and other areas off the east coast. Heavy metals have been found in toxic concentrations in seaweed and shellfish along many of our coasts. Copper has been found in the waters of the New York Bight in concentrations greater than 0.120 milligram per liter, which is an extremely high level. Pesticides and other toxic materials which find their way into the waters by indiscriminate dumping, have been listed as a major cause of the fish kills in the Great Lakes and other coastal waters around the United States.

The CEQ informs us that cancer in fish is a likely result of contact with certain kinds of wastes, such as polluted oil refinery wastes. There have been studies of cancerous growths on white seabass and dover sole, which links the cancer to pollution from chemical and petroleum wastes.

The indiscriminate dumping of the filth and sludge and toxic wastes, Mr. President, has seriously depleted the levels of oxygen in many places along our coasts. Organic wastes, when

dumped, demand oxygen in the decomposition process, and this destruction of, or lowering of the oxygen levels in the waters necessarily affects the ability of marine organisms to survive.

In the Potomac River estuary, the CEQ reports, because of pollution from municipal wastes, "dissolved oxygen levels approach zero in some reaches during the low flow periods in the warm summer months." When all the oxygen is gone, the organisms die and the bacteria produce hydrogen-sulfide and methane gas. These malodorous gases make the ocean or river environment esthetically unacceptable.

I think we have all experienced those terrible odors along the Georgetown waterfront or driving along Rock Creek Parkway. We can experience the same dreadful odors along great stretches of our coast and bays.

Mr. President, it makes good, practical sense to control indiscriminate ocean dumping. The CEQ has estimated that the potential value of the shellfish catch in the United States in 1969 was $320 million. And they estimated that the loss from pollution was $63 million. This I stress is an estimate. We really do not know what the loss would be because there are so many intangibles here.

Certainly, the displacement of fisherman because the catches are now smaller adds to the welfare role of the States involved. This is another factor on which we have no solid figures. The figures we do have are very distressing. The CEQ reports, for instance, that prior to 1935 the annual commercial harvest of softshell clams in and around San Francisco bay was between 100,000 and 300,000 pounds annually. Today clam digging in the west coast, San Francisco Bay area, is virtually nonexistent.

The CEQ report told us that the annual commercial landings of shrimp fishery, prior to 1936, were has high as 6.5 million pounds. Landings in 1965 were only 10,000 pounds. While some of this loss might be attributable to overfishing and other factors, certainly a substantial portion of this loss is attributable to the filth and the toxic material which we dispose of in our coastal waters.

What I am saying, Mr. President, is that time is wasting and that there is a pressing need for this legislation. My earnest hope is that the leadership will bring his bill to a vote. I think it would be very unfortunate if all the work and the effort that has gone into this legislation goes down the drain because of an ability to bring it to the floor before we recess or adjourn.

One other point I would like to make, Mr. President, is that in the long run national efforts are not enough to assure that the oceans will be preserved and protected. Clearly international efforts are required. If tomorrow we were able to completely halt ocean dumping from our shores, we could still not guarantee that our coastal waters would be pure. They could be fouled by the material dumped into the oceans by other countries.

For example, it was pointed out in Stockholm last June, at the time of the United Nations Conference on the Human Environment, that many of the beaches in Stockholm were closed. This was not because of the negligence of Swedish authorities, but because the city of Leningrad, across the Baltic from Sweden and Stockholm daily dumps large amounts of untreated sewage directly into the Baltic where it is carried by the prevailing currents directly to the Swedish shores.

Clearly, Mr. President, international steps are called for. The legislation which has passed both Houses calls for increased international activity in this area. There are encouraging signs which suggest that the international community is beginning to realize the enormity of the problems involved and how great the stakes are. The International Maritime Consultative Organization, a grouping of international maritime powers in which the United States has taken an active role, has scheduled a meeting next month in London at which time a draft convention on ocean dumping will be presented to the delegates. The convention is concerned primarily with oil spills in international waters but there will be a framework created there which can, if properly nurtured, lead to an international convention regulating the disposal by signatories of all toxic and dangerous materials in international waters.

Mr. President, I repeat that this is vital legislation. It transcends partisan considerations as we can see by the votes that have already occurred in both Houses. It is a matter which concerns not only the coastal States and States bordering the Great Lakes but all the States and all of our citizens.

The oceans, as Capt. Jacques Cousteau has said in his very eloquent testimony before the Senate Commerce Committee, are the source of all life:

The cycle of life—

Captain Cousteau said—

is intricately tied with the cycle of water. Anything that is done against the water is a crime against life. The water system has to remain alive if we are to remain alive on this earth. (Committee on Commerce, International Conference on Ocean Pollution, October 18, 1971. Stenographic transcript, at p. 10.)

In his transmittal message at the time the CEQ's ocean dumping report to Congress in 1970, President Nixon said:

The oceans which cover nearly three-quarters of the world's surface are critical to maintaining our environment. They contribute to the basic oxygen-carbon dioxide balance upon which human and animal life depends. Yet man does not treat the oceans well. He has assumed that their capacity to absorb wastes is infinite and evidence is now accumulating on the damage that he has caused. Pollution is now visible on the high seas—long believed beyond the reach of man's harmful influence. In recent months, world-wide concern has been expressed about the dangers about dumping toxic wastes in the ocean. (Quoted in Report No. 92-451, p. 11.)

The President was right, of course, and his concern is well founded. It seems to me that we can do a great deal in this Congress to correct the mistakes and undo the damage that has been done in the past, to reclaim and restore the beautiful waters that surround our country. The ocean dumping legislation will go a long way toward this goal. I have never been able to find out precisely what it is that is preventing the legislation and the conference report from coming to a vote. I hope that whatever the difficulty is it can be disposed of so that we have an opportunity to vote on the ocean dumping bill and enact it into law. I earnestly appeal to the leadership to have this measure brought up before we adjourn.

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

The ACTING PRESIDENT pro tempore. The Senator has until 10 o'clock.

Mr. ROTH. I thank the Chair. I ask unanimous consent to have printed in the RECORD at this point a statement that I submitted to the President's Water Pollution Control Advisory Board, dated September 27, 1972.

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

STATEMENT OF SENATOR WILLIAM V. ROTH

Mr. Chairman, I appreciate your courtesy in allowing me to submit these remarks for your consideration. I know you are all busy, and I thank you for taking the time to read what I have to say.

My purpose in submitting these remarks is, quite frankly, to ensure that the interests of my small State of Delaware are not overlooked during your consideration of this problem. While ocean dumping concerns all Coastal States, Delaware's interest is, I believe, more intense for two reasons: first, because we have exercised more restraint in the development of our coastal areas than some States, we believe Delaware has more to lose than many of our neighbors; and, second, because Delaware is surrounded by great metropolitan areas over which we have little or no control, we feel more threatened.

As you may know, the Cities of Philadelphia and Camden annually barge about 120 million gallons of treated sewage to an ocean site 14 miles off the coast of Rehoboth Beach, Delaware's principal recreation area. Although the impact of such dumping is scientifically undetermined at present, I personally believe that while doubts remain, Delaware should not be compelled to bear the risk so that other States can save money by dumping sewage in the nearby coastal waters rather than disposing of it through other costlier, but safer, methods. The citizens of Delaware have sacrificed a great deal to preserve our coastal areas, and we believe that the off-shore disposal of sewage and other waste matter jeopardizes what we have consciously fought to retain: a relatively clean and pure environment.

I must admit that a scientific study commission by the City of Philadelphia purports to show that there is no environmental or ecological damage as a result of the City's dumping practices. But, as far as I am concerned, Mr. Chairman, this study is grossly inadequate. As a matter of fact, one scientist with whom I spoke (who is associated with neither Delaware nor Philadelphia, but who is an acknowledged expert on the effects of ocean dumping) told me that the study was "fast and dirty." Yet, despite its inadequacies, the study's results are widely and highly touted as firm scientific proof of the safety of ocean dumping. Specifically, Mr. Chairman, I have these criticisms of the study conducted by the Franklin Institute:

The focus of the report was on conditions in and around the dump site itself. The most important conclusion was that the dump site is almost completely free of sludge. But for Delaware's purposes this means only that the material has been swept away by currents at the dump site; we must know where it goes.

Because the sludge dumped by Philadel-

phia is highly resistant to further decomposition (it is the residue of attack by extremely high concentrations of bacteria at temperatures around 100° F. for about 30 days) it is likely to persist in the natural marine environment. To ensure that it presents no danger to Delaware, we must know where it is transported by the dump site currents and its ultimate fate. These are questions which the study has not considered, but there is some evidence from the study itself, that the ultimate fate of some sludge is to be washed up on Delaware's ocean beaches.

Page A-1 of the study reports the results of sea bed drifter recovery. Since sea-bed drifters move with the currents within one or two feet of the bottom, when they are washed up on shore their distribution gives a rough idea of how sludge particles might be expected to move. Of 180 drifters released at the dump site, 33 (or 18 percent) were recovered. The others either drifted out to sea or were trapped in low places or deposition sites between the dump location and the coast. Some drifters may be dislodged during storms and washed up at a much later date, but of the 33 that were recovered, 17 (or 52 per cent) were found on Delaware's Atlantic Coast; and, 14 of these 17 were found on the 14 mile stretch between Cape Henlopen and Indian River inlet. Thus, 43 percent of the drifters recovered were found in an area that includes some of Delaware's principal bathing beaches. On pages 4–2 of the report, the author states, "There is no specific section of the shoreline that receives more than its share of drifter recoveries." Clearly, this is not so.

The City of Philadelphia dumps approximately 500,000 tons of sludge every year. (Reference page 4–16 of Report dated February 1972.)

If we assume (and this correlation is by no means certain) that the amount of sludge washed up between Cape Henlopen and the Indian River Inlet is proportionate to the number of drifters washed ashore, then 39,000 tons of sludge are deposited along this stretch of beach each year. (If 14/180's of the drifters wash ashore at this point, then 14/180's of 500,000 tons of sludge should also come ashore.) This would mean that over 1,000 pounds of liquid sludge per linear foot of beach is deposited. And, if the liquid sludge is 10.8 per cent solids, then 108 pounds of solid sludge a year are deposited on every linear foot of beach between Cape Henlopen and the Indian River Inlet. I should add that the behavior of drifters in the surf zone can be expected to differ from the behavior of sludge particles. Therefore, it is likely that an unknown fraction of the 108 pounds per linear foot is carried north toward Cape Henlopen by the longshore drift.

If dumping is to continue at the present site, we determine where the sludge is going, since it seems quite likely that an appreciable portion moves toward shore. To do this, we must find some unique chemical or physical characteristics of the sludge, so we can differentiate it from the natural sediments and trace its movements after being dumped. Heavy metal concentration (i.e. lead, copper, silver) were found to be useful for this purpose in a similar study in the New York Bight.

Some work which bears directly on this problem has been carried out in the College of Marine Studies of the University of Delaware, and other work is presently in progress. When we have found a unique "fingerprint" for the Philadelphia sludge, we can begin to look for it in a much wider area along the Delaware Coast where sludge particles might be expected to settle. In addition, long term current meter measurements (on the order of one year due to seasonal current variations) should be made at and around the dump site to see where the sludge moves when currents carry it from the site. If a unique fingerprint for the sludge can be found, the first part of a study could begin to yield results within about three months. The current meter study would require at least one year.

At present, there is not enough information about the behavior of digested sludge in general, and about Philadelphia sludge in particular, to assess its danger. We must know the levels of heavy metals, pesticides, and other harmful substances in the sludge and their rate of release in the marine environment. Further, we must know where the majority of the sludge is deposited, and what marine animals metabolize it. Finally, the effects on Delaware's beaches and human users must be ascertained if sludge dumping is not to harm the tourist industry by real or imagined sludge contamination.

I should point out, Mr. Chairman, that I am a layman and the preceding analysis of the Franklin Institute's findings was provided by a group of scientists at the University of Delaware. I have included this analysis, not to generate a scientific dispute, but to illustrate the pitfalls of accepting the conclusions of a scientific study merely because it is "scientific." I personally have discussed the scientific aspects of ocean dumping on numerous occasions with men whom I respect highly. Based on these discussions, I am satisfied that until we are able to obtain conclusive scientific evidence, ocean dumping practices should be modified substantially or halted completely. Ocean dumping should certainly be banned off recreational areas while study is proceeding.

I could say much more on this subject, but I know you all have great demands on your time. I appreciate your consideration of my comments.

Mr. ROTH. Mr. President, I also ask unanimous consent to have printed in the RECORD in its entirety the conclusions and recommendations of the President's Water Pollution Control Advisory Board on Ocean Disposal of September 29, 1972.

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

CONCLUSIONS AND RECOMMENDATIONS OF THE PRESIDENT'S WATER POLLUTION CONTROL ADVISORY BOARD ON OCEAN DISPOSAL

The President's Water Pollution Control Advisory Board met in New York City from September 26–29, 1972 to explore and make recommendations to the Administrator of the Environmental Protection Agency, and in turn the President on the subject of ocean disposal as a national issue. Based on comprehensive briefings by representatives of Federal, State and local agencies, a flyover to view the sewage sludge dumping, dredge spoil dumping and acid waste dumping in the New York Bight and a full day of public testimony from experts in the field of ocean disposal and alternatives the Board has reached the following conclusions and recommendations:

I. CONCLUSION

The Board recognizes that unrestricted ocean dumping poses real and potential pollution problems to the marine environment and its resources. At the same time there is evidence which indicates possible beneficial uses of some wastes and dredge spoils under carefully selected and controlled conditions.

Recommendation

The Board recommends immediate Congressional Action in its current session on enactment of the Marine Protection Research, and Sanctuaries Act of 1972 (Ocean Dumping Bill) which has been agreed to by the House and Senate Conferees. It is important that the U.S. demonstrate its earnest intention to control ocean dumping prior to the forthcoming International Ocean Dumping Convention. At the same time, the Board recognizes that the present version of this legislation will likely create a duplication of responsibilities in EPA and the Department of Commerce for research and monitoring and for seeking alternatives to ocean dumping, assuming passage of the 1972 Amendments to the Federal Water Pollution Control Act. Accordingly, it is recommended that this apparent redundancy be eliminated and all responsibilities for establishment, and enforcement of marine water quality criteria and associated research and monitoring activities be centered in EPA.

II. CONCLUSION

The Board concludes that ocean dumping is only one of many pathways through which wastes reach the marine environment, and that effective control of marine pollution requires legal authorities beyond those provided by the Ocean Dumping bill.

Recommendation

The Board recommends enactment during the current session of Congress of the proposed 1972 amendments to the Federal Water Pollution Control Act as reported out this week by the joint Senate-House conference committee.

III. CONCLUSION

The Board concludes that under the existing Federal Water Pollution Control Act no agency has the authority to establish Water Quality Standards in the area between the 3-mile and the 12-mile line in the so-called contiguous zone. Neither the new Water Bill nor the Ocean Dumping Bill remedies this, although each requires discharge permits to be issued to protect the Water Quality in the contiguous zone.

Recommendation

The Board therefore recommends that E.P.A. seek remedial legislation to require the establishment of Federal Water Quality Standards for the waters of the contiguous zone.

CONCLUSION

The Board has heard convincing evidence that the presence of toxic substances, primarily the heavy metals, in municipal sewage creates special problems in the ultimate disposal of the resulting sludge from treatment plants. These substances have an adverse effect through their possible entry into the marine food chain when ultimate disposal of sludge is to the ocean. Similarly, adverse effects follow from discharge to the atmosphere of these substances if incineration is selected as the method of sludge disposal. Even when sludge disposal is to land, the presence of these toxic materials complicates the problem and introduces difficulties in the ultimate use of the land.

The Board has learned that the heavy metals in municipal sewage derive from a wide variety of sources within the cities, but that the most concentrated source and the one that lends itself principally to control is through the components of industrial waste in municipal sewage.

Recommendation

The Board recommends that the E.P.A. press for a requirement that all industrial wastes containing significant amounts of toxic substances, including heavy metals, be pretreated for the removal of such substances before being discharged to municipal sewerage systems.

V. CONCLUSION

After hearing a presentation upon the known and speculative effects of emissions from sewerage sludge incinerators as an alternate to ocean dumping, the Board at this time has reservations about the recommended approval of such incinerators pending the development of more sophisticated type of equipment for the measurement of the emissions of toxic discharges.

Recommendation

The Board recommends that EPA actively pursue the development of more accurate

emission measuring equipment so as to provide adequate assurance that such incinerators not pose unacceptable threats to human health or to air quality.

CONCLUSION

The Board concludes that considerably more and better scientific data and information are needed to establish ocean disposal criteria and guidelines to safeguard the marine environment.

Recommendation

The Board recommends all deliberate speed in the completion of an inventory of the ocean bottom and the coastal waters (territorial and contiguous seas) of the United States and its territories in order to establish base-line data to which future comparisons can be referred. The inventory, or baseline data, should include, but not be limited to, the subsurface and bottom ocean currents, upwelling, temperatures and chemical composition of the waters, seasonal changes, distribution of existing aquatic life food chains and aquatic migration patterns.

The Board further recommends that EPA take the lead and in cooperation with NOAA, The Corps of Engineers, Coast Guard and other interested agencies plan and conduct a program of research and monitoring which will lead to improvement of marine water quality criteria, selection and use of ocean dumping sites, provision of guidelines for proposed disposal operations, and assurance of non-degradation and enhancement of environmental quality of the oceans.

CONCLUSION

The Board's discussions frequently focused on the fact that the United States has become an urban society. More than thirty percent of our population lives in the large metropolitan centers. Many cities are located on large rivers, lakes or oceans. The problems of sewage sludge disposal are compounded because of lack of suitable disposal sites.

Usually within a reasonable distance sometimes across state lines there are areas of low quality land, abandoned strip mines, or other low value areas with potential for enhancement that could be used for sludge disposal.

Proper use of sludge disposal could reclaim these lands and make them available for future food production or recreation.

Recommendation

The Board recommends that where available Federal or State lands of relatively low value be utilized for experimental sludge spreading programs.

CONCLUSION

The Board recognizes the necessity for dredging to maintain navigational channels.

At the same time, testimony has been presented indicating that a number of environmental problems are associated with the practice of indiscriminate dredging and the ocean disposal of polluted dredge spoils.

Recommendation

In many areas there are continuing approved coastal land development projects. Where possible or feasible, dredge spoils should be used as fill in such land acreation projects. The Board suggests cost benefit studies to ascertain the value of environmental enhancement resulting from containment versus dumping of dredge spoil. Studies should also be undertaken to determine the feasibility of treating dredge spoils to remove solids and other components, which might be deleterious to the ecosystem, prior to ocean disposal.

CONCLUSION

The Board recognizes that the oceans are a food source and may benefit from some by-products of our present civilization that may be thought of at present as pollution material. It further recognizes that some of these substances may be utilized as nutrients for the ocean and may enhance or revitalize certain areas of the ocean. The Board also recognizes the recreational value of the ocean and has observed the value of reef building by selected material being placed in known barren areas to enhance the marine environment.

Recommendation

The Board recommends that the Federal Government's research activities include efforts to explore more fully those conditions under which nutrient-rich wastes can be effectively utilized to improve the marine environment.

X. CONCLUSION

The coastal waters of various regions of the U.S.A. vary greatly as to physical and ecological characteristics (such as currents, temperatures, bottom geology, etc.) as well as in their proximity to population concentrations. The continental shelves represent the most fertile locations for marine resources development and recreational purposes; yet here are located the waters most apt to be subject to effluent discharges and ocean dumping. Also the geography of our nation finds at many locations state and various municipal jurisdictions closely grouped at or on concentrated harbor, river and other disposal locations.

Recommendation

The Board recommends that the Federal government continue to insist on regional approaches and insure consistency in the application of standards of treatment, disposal and controlled dumping procedures applicable to all state and local agencies in the coastal region and/or on the river or estuarine systems. Separate regional standards must also be applied to such divergent coastal conditions as exist in the N.E., S.E., gulf states, California, Northwest, Alaska and Hawaii.

XI. CONCLUSION

Certain coastal states have presented to the Board substantial evidence they have recently enacted stringent State environmental standards for shoreline protection.

Recommendation

The Board recommends that State governments should intensify their efforts to enhance the quality of their own shoreline and depend not solely on Federal legislation.

Federal encouragement of, and priority cooperation with all such States, should hasten the time otherwise required to correct the current abuse of the nation's coastal waters.

XII. CONCLUSION

The Board heard testimony on the wastewater management problems of the City of New York, specifically noting that 480 million gallons/day of raw sewage and another 620 mgd of inadequately treated sewage are discharged to the Hudson River, East River and harbor waters. In addition to public health hazards and general environmental degradation, the raw sewage discharges result in the annual deposition of 2/3 million cubic yards of sludge which must be dredged and removed from the harbor bottom. From existing plants, the city barges large quantities of digested and undigested sludge each day for disposal in the New York Bight. The City has developed engineering plans to build two new secondary treatment plants and upgrade existing plants and may construct an additional plant in Staten Island. The City estimates that it can end sludge dumping at sea in from 10 to 15 years, but in the interim as its treatment plants go on stream, the quantity of digested sludge is expected at least triple.

Recommendation

The Board recommends that the construction of facilities to end the unacceptable practice of discharging raw sewage into any harbor is mandatory. While the Board cannot condone years of failure to comply with acceptable health and welfare standards, we recognize the funding limitations available to the City and urge as a priority the construction of sewage treatment plants with sludge digestion. Federal assistance for such plants must be contingent upon EPA approval of the ultimate method of sludge disposal to assure non-violation of environmental protection regulations—whether disposal is through incineration, marine disposal, land disposal, or other means.

In the absence of an immediate solution to the present practice of raw sewage discharge, a moratorium on new building construction should be enforced to the extent that increased raw sewage discharges, and overloading of sewers and treatment plants will not occur.

Mr. ROTH. I should like to read in part some of these recommendations:

RECOMMENDATIONS

The President's Water Pollution Control Advisory Board met in New York City from September 26–29, 1972 to explore and make recommendations to the Administrator of the Environmental Protection Agency, and in turn the President on the subject of ocean disposal as a national issue. Based on comprehensive briefings by representatives of Federal, State and local agencies, a flyover to view the sewage sludge dumping, dredge spoil dumping and acid waste dumping in the New York Bight and a full day of public testimony from experts in the field of ocean disposal and alternatives the Board has reached the following conclusions and recommendations:

I. CONCLUSION

The Board recognizes that unrestricted ocean dumping poses real and potential pollution problems to the marine environment and its resources. At the same time there is evidence which indicates possible beneficial uses of some wastes and dredge spoils under carefully selected and controlled conditions.

RECOMMENDATION

The Board recommends immediate Congressional Action in its current session on enactment of the Marine Protection, Research, and Sanctuaries Act of 1972 (Ocean Dumping Bill) which has been agreed to by the House and Senate Conferees. It is important that the U.S. demonstrate its earnest intention to control ocean dumping prior to the forthcoming International Ocean Dumping Convention. At the same time, the Board recognizes that the present version of this legislation will likely create a duplication of responsibilities in EPA and the Department of Commerce for research and monitoring and for seeking alternatives to ocean dumping, assuming passage of the 1972 Amendments to the Federal Water Pollution Control Act.

The fourth conclusion:

The Board has heard convincing evidence that the presence of toxic substances, primarily the heavy metals, in municipal sewage creates special problems in the ultimate disposal of the resulting sludge from treatment plants. These substances have an adverse effect through their possible entry into the marine food chain when ultimate disposal of sludge is to the ocean.

I have already made reference to the fact that shell fishing near Rehoboth is no longer permitted on a commercial basis.

Finally—

The Board concludes that considerably more and better scientific data and information are needed to establish ocean disposal criteria and guidelines to safeguard the marine environment.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter I sent to the President of the United

States with respect to the ocean dumping legislation, a letter to Mr. William D. Ruckelshaus, Administrator of EPA, and a letter to Mr. Russell E. Train.

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

SEPTEMBER 22, 1972.

Hon. RICHARD M. NIXON,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As you may be aware, H.R. 9727, the Marine Protection and Research Act, has been before the Congress for quite some time. Even though basically similar versions have been passed by both Houses and a compromise version has been informally agreed to by conferees, it is my understanding that the bill is being further delayed because of a jurisdictional disagreement involving another bill. This letter is to request your assistance in resolving the jurisdictional dispute, thus freeing H.R. 9727 for Senate consideration.

I recognize that normally such matters as this would be entirely within the cognizance of the Legislative Branch and therefore beyond the scope of your direct official power. In this particular instance, however, it is my understanding that delay of H.R. 9727 is a direct result of an impasse between members of the Executive Branch responsible for environmental matters and the Chairman of the Subcommittee on Oceans and Atmosphere of the Senate Commerce Committee. Whether this is, in fact, true I am unable to say. However, I am told that H.R. 9727 is being delayed to ensure that at least some jurisdiction over the Coastal Zone Management bill is given to the National Oceanic and Atmospheric Administration, rather than the Department of the Interior. While I do not doubt that this jurisdictional question is of great consequence I personally believe that passage of H.R. 9727 is too important to be impeded by a jurisdictional dispute.

I have taken a personal interest in the resolution of this matter because of the importance of the Marine Protection and Research Act to all of our coastal States, including my home State of Delaware. Without reciting the details of my State's particular problems, I should point out that one of the two major ocean dumping sites in the Eastern United States is located off the coast of Delaware's principal recreational areas and close to large shellfishing sites. Since the other dump site—the Bight area off New York—has been characterized as a "Dead Sea", my constituents are understandably concerned over the possible impact of the dumping off our coast. Because H.R. 9727 is the principal means of solving this problem, I am personally anxious that it be enacted as soon as possible. Although I have spoken on the Senate floor in order to expedite Congressional action, I am also taking this opportunity to request your assistance. I know this problem may not be susceptible to easy solution, but I hope you can appreciate my concern over the unnecessary delay of H.R. 9727.

Sincerely,

WILLIAM V. ROTH, Jr.,
U.S. Senate.

SEPTEMBER 22, 1972.

Mr. WILLIAM D. RUCKELSHAUS,
Administrator, Environmental Protection Agency, Washington, D.C.

DEAR MR. RUCKELSHAUS: I am enclosing for your information and possible action my letter to the President with regard to the Marine Protection and Research Act.

While I believe the letter is self explanatory, I would like to emphasize my personal commitment to doing everything I can to ensure that H.R. 9727 is enacted within the very near future. As you are undoubtedly aware, this bill represents the culmination of several years effort and embodies most of the recommendations contained in the report on ocean dumping prepared by the Council on Environmental Quality. For coastal states, H.R. 9727 represents a reasonable and sensible solution to the ocean dumping practices which threaten their beaches and estuaries.

While I understand that disputes which are impeding the progress of H.R. 9727 probably involve difficult problems, I urge you to assist me in clearing the way for Senate consideration of this bill.

Sincerely,

WILLIAM V. ROTH, Jr.,
U.S. Senate.

SEPTEMBER 22, 1972.

Mr. RUSSELL E. TRAIN,
Chairman, Council on Environmental Quality, Washington, D.C.

DEAR MR. TRAIN: I am enclosing for your information and possible action my letter to the President with regard to the Marine Protection and Research Act.

While I believe the letter is self explanatory, I would like to emphasize my personal commitment to doing everything I can to ensure that H.R. 9727 is enacted within the very near future. As you are undoubtedly aware, this bill represents the culmination of several years' effort and embodies most of the recommendations contained in the report on ocean dumping prepared by the Council on Environmental Quality. For coastal states, H.R. 9727 represents a reasonable and sensible solution to the ocean dumping practices which threaten their beaches and estuaries.

While I understand that disputes which are impeding the progress of H.R. 9727 probably involve difficult problems, I urge you to assist me in clearing the way for Senate consideration of this bill.

Sincerely,

WILLIAM V. ROTH, Jr.,
U.S. Senate.

Mr. ROTH. Mr. President, I yield to the Senator from New York.

Mr. BUCKLEY. Mr. President, it is with a sense of urgency that I join my colleagues here today in an effort to highlight the importance of completing action on the Marine Protection and Research Act of 1972 before the adjournment of the 92d Congress. As members of this body know, we are tantalizingly close to enactment of essential legislative authority to regulate the dumping of waste materials into the oceans and for accelerated research into the effects such dumping has on marine ecosystems. The House and Senate conferees announced on July 27, 1972, that they had reached agreement on differences between their respective versions of H.R. 9727. Yet, for some unexplained reason, no report has been filed in the 2 months which have since expired. Mr. President, it may only be a matter of days before this Congress adjourns. In view of the critical importance of this bill and in view of the overwhelming support which it enjoys, it would be nothing less than irresponsible to allow this important legislation to die of neglect.

In view of the tremendous workload facing Congress, there is a real danger that this is exactly what might happen. Therefore, I, too, urge the leadership to help resolve whatever problems exist in getting this conference agreement reported, so that it will be enacted within the next month.

All Members of the Senate participating in the unanimous vote to approve this bill on November 24, 1971, are aware of the reasons which make the passage of ocean dumping legislation so pressing. My colleagues from Delaware have made an excellent summarization of those reasons.

As the ranking member of the Public Works' Subcommittee on Air and Water Pollution, the senior Senator from Delaware will recall vividly the hearings we attended in Rehoboth Beach, Del., in March 1971. Reports of the devastating impact of digested and undigested sewage sludge on marine life in the vicinity of disposal sites off the populous east coast were detailed by scientists and civil administrators; but none more dramatically than the testimony provided by the fishermen and shell fishermen whose livelihoods were utterly dependent on a secure supply of safe, plentiful living marine resources.

Their plight highlighted the economic tradeoffs implicit in arriving at a national ocean dumping policy. While we know that the costs of waste disposal will continue to grow as other environmental controls are implemented and as available land disposal sites in our coastal cities become filled, we must also understand that indiscriminate dumping into the oceans, however vast they may appear to be, can have immense economic and environmental costs. We are only beginning to learn the dimension of those costs.

Just last week, the President's Water Pollution Control Advisory Board concluded after 4 days of hearings that:

> Unrestricted ocean dumping poses real and potential pollution problems to the marine environment and its resource.

And recommended that public lands such as abandoned strip mines be used for experimental sludge disposal to avoid using the ocean as a dump.

Municipalities are not the only potential sources of great volumes of harmful substances for dumping into the oceans. The Washington Star-News reported on September 26, 1972, that a major chemical firm had applied to the Army Corps of Engineers for a permit to build a pier from which to load ocean-going barges in order to take waste sulfuric acid contaminated with heavy metals to a site 87 miles off the coast of Georgia for dumping into 600 feet of ocean. This is the alternative sought because the company was under administrative orders to stop dumping the acid into the Savannah River. Without the passage of the Marine Protection and Research Act of 1972, the United States cannot effectively control such practices. If they become widespread, the consequences may be disastrous. At best they are unknown.

This legislation is urgently needed now not only because of our own pressing need for effective legislative tools to control dumping in our own coastal waters, but because of the international implications of our failure to adopt effective measures at this time. In recent years the United States has taken the lead in urging other countries to begin to control ocean dumping from ships originating in their ports.

On May 23, 1970, President Nixon an-

nounced a new oceans policy for the United States and recommended new agreements in order to establish international protection for the marine environment. In early 1971 this recommendation took form through a specific proposal set forth by the United States before the Preparatory Committee for the 1973 Law of the Sea Conference. The United States recommended that the drafting of articles begin "promptly" to create:

(1) such international machinery as may be required for determining marine pollution research priorities, for coordinating research efforts, and for collecting research information and arranging for its exchange and (2) regulating of deliberate disposal of materials into the ocean.

Furthermore, in June 1971, the United States laid a draft convention for the prevention of pollution of the sea by dumping before the Intergovernmental Working Group on Marine Pollution. This body was established in accordance with a recommendation of the Preparatory Committee for the 1972 United Nations Conference on the Human Environment to examine proposals for an international convention to regulate ocean dumping.

At the Stockholm Conference this past June the following recommendation, interalia, with respect to ocean dumping was adopted:

RECOMMENDATION 86

(d) Before the draft articles and annexes contained in the report of the intergovernmental meetings at Reykjavik, Iceland, in April 1972 and in London in May 1972 to the United Nations Committee on the Peaceful Uses of the Seabed and the Ocean Floor beyond the Limits of National Jurisdiction at its session in July/August 1972 for information and comments and to a conference of Governments to be convened by the Government of the United Kingdom of Great Britain and Northern Ireland in consultation with the Secretary-General of the United Nations *before November 1972* for further consideration, with a view to opening the proposed convention for signature at a place to be decided by that Conference, preferably before the end of 1972.

Mr. President, the determination with which the United States has shepherded its proposals through this international maze is testimony to the kind of commitment this country has represented that it is prepared to make to prevent serious deterioration of this world's oceans. We have stated our determination to avoid repeating the shortsightedness which has characterized our own past perceptions of the environment. We have told others that we have learned the hard way that our natural resources are not infinite; that the vastness of the oceans must not deceive us into thinking that they are capable of absorbing and diluting into harmless concentrations all of the wastes we pour into them; that while we do not know nearly enough about the full impact of various pollutants on the marine environment, there is sufficient evidence of deterioration to suggest that mankind can no longer permit widespread indiscriminate dumping.

If, in the face of these initiatives, the United States does not take the affirmative action to secure authority to control ocean dumping from its own shores, we cannot expect to be persuasive or to maintain the credibility of our leadership on this issue at the international meeting in London on October 30 just 4 weeks hence.

Other nations have accepted their responsibilities in this area. The Oslo Convention, a regional agreement among a number of European nations to protect the North Sea and the Northeast Atlantic from the dumping of shore-generated wastes, was adopted in February 1972. Many of the signers of this convention have enacted national legislation to implement this agreement. Western Mediterranean countries are progressing in another regional convention. Japan has appropriate ocean dumping legislation.

Is the United States, then, to be among the last of the industrialized nations to act in this vital area?

The Senate Committee on Commerce is more aware than most of us of the international impact of this legislation. It was this committee, and its Subcommittee on Oceans and Atmosphere, which has focused the attention of the Congress and the Nation on the importance of the oceans as a national resource. In its report on H.R. 9727, the committee states:

The present U.S. efforts [in negotiating an international convention to deal with ocean dumping on a global scale] would be materially aided by *prompt* passage of a separate ocean dumping bill along the lines of H.R. 9727, as reported by the Committee. (p. 16, Senate Report No. 92-451).

I heartily agree.

Mr. President, I hope that this colloquy in which I join the distinguished Senators from Delaware will help to focus the attention of Congress on the need to act promptly on this important legislation. My colleagues and I have identified compelling reasons, both domestically and internationally, for the U.S. Government to secure the authority and the research capability which this bill provides. I again urge our committee and Senate leadership to help clear the way for the release of the conference committee's report so that we may secure the early enactment of the Marine Protection and Research Act of 1972.

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

Mr. BUCKLEY. I yield.

Mr. BOGGS. Mr. President, I take this opportunity to compliment the distinguished Senator from New York on the statement he has just presented to the Senate. It is a very valuable contribution to bring out the urgency of Congress meeting its responsibility to the Nation and to the world in taking up and acting on the conference report on ocean dumping. I cannot think of a more impressive or more constructive statement that could have been made as to the urgency of acting on this measure.

I compliment the distinguished Senator from New York, who has worked consistently and persistently in this field as a member of the Committee on Public Works and the Subcommittee on Air and Water Pollution. He has been working on this matter from the initial hearings which were held in Rehoboth, Del., some time ago.

I also compliment my colleague, Senator ROTH, who has been a staunch supporter of the ocean dumping legislation. He has worked on it very constructively and faithfully and certainly is doing a good job for the citizens of Delaware and of the Nation in this field. We are all very appreciative of his efforts.

Mr. BUCKLEY. Mr. President, I join the junior Senator from Delaware in expressing my appreciation to the senior Senator from Delaware for his leadership in this vital field.

I recall the meetings in Rehoboth, when we heard firsthand testimony as to what is being done to the marine environment, to our fisheries, and to our shell fisheries as a result of this indiscriminate dumping of our industrial and municipal waste.

It is an urgent matter that is before Congress. I can see no roadblocks. Both Houses have passed measures. The differences in the measures have been ironed out. It has been announced that the conference committee is ready to report something. Yet time moves on. I thank my colleague.

TRANSACTION OF ROUTINE MORNING BUSINESS

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

Is there morning business?

AUTHORIZATION FOR ESTABLISHING STRENGTH OF CERTAIN GRADES IN THE NAVAL RESERVE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1174, S. 3310.

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

The assistant legislative clerk read as follows:

S. 3310, to amend title 10, United States Code, to establish the authorized strength of the Naval Reserve in Officers in the Judge Advocate General's Corps in the grade of rear admiral, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) clause (3) of section 5457(a) of title 10, United States Code, is amended to read as follows:

"(3) Supply Corps—7.".

(b) Section 5457(a) of such title is further amended by redesignating clause (6) as clause (7) and adding after clause (5) a new clause (6) as follows:

"(6) Judge Advocate General's Corps—1.".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the re-

port (No. 92-1228), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill is to establish an authorized strength of one rear admiral of the Naval Reserve in the Judge Advocate General's Corps of the Navy. This would be accomplished by reducing the authorized rear admiral strength of the Supply Corps of the Naval Reserve by one (from eight to seven), and authorizing, in its place, a rear admiral strength of one in the Judge Advocate General's Corps of the Naval Reserve. The purpose of the bill would thus be accomplished without altering the current total authorized rear admiral strength of the Naval Reserve as provided for by section 5457 (a) of title 10, United States Code.

BACKGROUND

The Judge Advocate General's Corps was established by law in 1967 as a staff corps of the Navy. Upon creation of the new Corps, Regular and Reserve officers who were law specialists in the line of the Navy became members of the Judge Advocate General's Corps by operation of the new law. Before passage of the law, these officers could aspire to flag rank as line officers. The new law, however, was unaccompanied by a statutory authorization for Naval Reserve rear admirals in the new staff corps, thus depriving Naval Reserve judge advocates of any possibility of promotion to flag rank.

Section 5457(a) of title 10, United States Code, contains statutory authorization for Naval Reserve rear admirals in the line and various staff corps of the Navy. For example, the Supply Corps, with over 4,500 Naval Reserve officers, is authorized to have eight Naval Reserve rear admirals, and the Chaplain Corps, with fewer than 1,000 Naval Reserve officers, is authorized to have one Naval Reserve rear admiral. Section 5457(a) makes no provision, however, for a Naval Reserve rear admiral in the Judge Advocate General's Corps, which has more than 1,500 Naval Reserve officers.

NEED FOR LEGISLATION

Authorization for a Naval Reserve rear admiral in the Judge Advocate General's Corps is thus necessary to provide a degree of parity between the various staff corps in the area of Naval Reserve career opportunity and incentive. Furthermore, it is planned that the flag officer authorized by this bill will occupy a high level mobilization billet in the Office of the Judge Advocate General. The importance of such a billet in the event of mobilization warrants flag rank for the incumbent.

The establishment of an authorized strength of one rear admiral of the Naval Reserve in the Judge Advocate General's Corps would be accomplished by reducing the authorized rear admiral strength of the Supply Corps of the Naval Reserve by one (from eight to seven), and authorizing, in its place, a rear admiral strength of one in the Judge Advocate General's Corps of the Naval Reserve. Thus, the bill would not alter the current total authorized rear admiral strength of the Naval Reserve.

QUORUM CALL—ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

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

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business be extended for 5 minutes.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time on each yea-and-nay vote today, after the first yea-and-nay vote, be limited to 10 minutes, with the warning bells to be sounded after the first 2½ minutes.

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

ORDER TO VOTE ON TREATIES FOLLOWING VOTE ON CLOTURE TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the vote on the motion to invoke cloture, regardless of the outcome of that vote, the four treaties be scheduled for votes back to back, immediately following that vote on cloture.

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

REQUEST FOR CONSIDERATION OF H.R. 1 FOLLOWING VOTE ON FOURTH TREATY TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that regardless of the outcome of the vote on the motion to invoke cloture today, immediately following the yea-and-nay vote on the fourth treaty the Senate return to the consideration of H.R. 1 for not to exceed 1 hour.

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, may I ask the distinguished assistant majority leader what the future plan is in regard to H.R. 1.

Mr. ROBERT C. BYRD. I cannot speak beyond what I have just indicated by my request.

Mr. HARRY F. BYRD, JR. No objection.

Mr. RIBICOFF. Mr. President, I want the leader to understand that as far as this Senator is concerned I am not going to devote any time on either my substitute or any other amendment to H.R. 1. I want that understood, that any delay is not at my request.

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

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. HARRY F. BYRD, JR. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HARRY F. BYRD, JR. Mr. President, at what time and date was H.R. 1 made the pending business?

The PRESIDING OFFICER. The Chair will check that. The Chair is unable to answer at the moment.

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

Mr. ROBERT C. BYRD. I yield.

Mr. LONG. Mr. President, permit me to say that this Senator would like to get on with the business of the Senate. However, even with all the many good things in this bill, the Senator from Louisiana could not vote for this bill if it included a guaranteed annual income for doing nothing in any respect whatever, other than on a test basis.

As far as I am concerned, I am willing to give the opposition the right to prove I am wrong, but I would like to have an alternative proposal considered if there be such a test because it would tend to prove this Senator to be right in the position he has taken.

But as a Member of this body I well recognize what the parliamentary situation would be if the Ribicoff amendment were agreed to. It would mean we would be locked into a parliamentary situation where we could not amend it and it would be a more or less foregone conclusion that the Senate would be expected to agree to it.

The Senate does not know enough about this proposal and the danger embraced in it. In my judgment, proceeding down that path could destroy this form of government.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may be recognized for 5 additional minutes.

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

Mr. ROBERT C. BYRD. I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, it could destroy this democratic and republican form of government. It seems to this Senator that this matter should not be permitted to be voted into this bill without the Senate fully understanding what is involved here.

The Senator from Connecticut pointed out that there are very few Senators available to hear the debate. Right now there is a sparse attendance. That is typical when someone anticipates that a long speech will be made in this body. But the Senate cannot escape its duty. If the Senate wants to go down the road to guaranteed annual income it will have to do so knowing the consequences of its vote.

So I would propose sometime this afternoon to move to table the Ribicoff amendment, to see if the Senate wants to consider this matter further. If the Senate should decline to table the amendment then I think that those of us who have been studying this matter for years now and see the dangers in it owe it to the Senate and the country to discuss this matter for some time, at least a week or two, or longer, until the Senate does understand that matter thoroughly. Sometimes in order to do that it has to be done with no more than five or six Senators in the Chamber to hear the colloquy. I have done that before. That is an inefficient way to educate people desperately in need of learning, but it is better than none at all; and we would be forced to debate this matter and explain it and provide chapter and verse for a minimum of a week, and more likely two weeks, in justice to ourselves and our convictions. We would like to discuss this matter long enough

that we are satisfied individual Senators understand what they are voting on.

I regret to say that in discussing this matter with Senators individually I find that even some Senators who are members of the Committee on Finance, who theoretically should know everything in this bill and know it thoroughly, because of their responsibilities in other committees and elsewhere, they do not understand either the committee bill or the Ribicoff amendment.

The country is entitled to expect better of us, and the country is entitled to expect that we fully understand what we are voting on and that we understand the consequences of it. I want the Senate to arrive at the wisest decision. I am convinced beyond any peradventure of a doubt that we should not proceed down the road of guaranteed annual income, although I am perfectly content to offer those who think otherwise the opportunity to provide themselves right; and I am willing to provide them all the money it takes to prove themselves right in a metropolitan area as large as the District of Columbia. I proposed that sort of thing before, and the evidence that I am right about the matter is the fact that the administration does not want to try that matter here in the District of Columbia where it would be right beneath the nose of Congress so we could see whether or not it is a good proposition; but they do not want to try it here. I am not aware they want to try it anywhere. But they have the opportunity to have the test, pick their own States and metropolitan communities to prove it. They turned it down. That adds support for our position that this is a matter the Senate would never vote and the House would never vote, if you had a vote on it strictly on its merits and had the opportunity to debate it adequately so it is fully understood.

My point is that I would like to find out some time today if the majority of the Senate feels the way I do, that this should not be added to this bill, although we would be willing to provide them any sort of a test they want on a sufficiently broad basis and in a place where those who would favor the proposal would think it proved their point.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may proceed for 2 additional minutes.

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

Mr. ROBERT C. BYRD. I yield to the Senator from Louisiana.

Mr. LONG. But I think it should be made clear that those of us who oppose the guaranteed annual income are not willing to let that plan be voted in this bill with 3 or 4 hours of debate. That is the sort of thing that if it is to be added to a measure it would have to have a week, 2 weeks', or a month's debate.

I think it would be highly irresponsible for the Senate to adjourn sine die without giving the Nation an answer to this question. If we have to come back in November, so be it. We are paid by the year anyway. If need be, we can come back and take the time required to do this job. I have been thinking for some time that that is what we ought to do with this bill anyway. We should go home and let Senators take care of their political commitments, make the speeches they promised their constituents they would make, and then come back in November and stay here from then until New Year's if need be in order to adjust the bill.

Although the Senators I see in the Chamber have managed to familiarize themselves with what is in the bill and I see four Senators in the Chamber who thoroughly understand the bill from cover to cover—I regret to say that that is not typical of the entire membership of the Senate.

So we will just have to see how the Senate wants to proceed with the matter. If it wants to debate it for a couple of weeks again, I am perfectly willing and prepared to make my contribution. Then we can judge how the Senate wants to proceed. I say this not as one who is planning to conduct a filibuster, although I reserve the right to do whatever my conscience dictates. I am fully satisfied that the Senate could not accept embarking upon a proposal to provide a guaranteed annual income.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator may have 2 more minutes.

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

Mr. LONG. Mr. President, I am satisfied that the Senate would not proceed down a path that could lead to a dissolution of the Nation, or at least that might end this form of government, if the Senate understood that. Therefore, I believe it to be my duty to make the Senate understand that, if it is within my power to do so, before the Senate enters upon such a directive.

The PRESIDING OFFICER. The Chair wishes to respond to the request that was made earlier. H.R. 1 came before the Senate at 10:55 a.m. on Wednesday last.

Mr. LONG. That was September 27.

Mr. ROBERT C. BYRD. Mr. President, I now yield to the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, this is the first ray of hope I have seen for welfare reform in 3 years. I never thought that during this 3-year period I would see our distinguished chairman (Mr. LONG) so frightened of my proposal that he is unwilling to have the Senate vote on it. Frankly, I have been wracked with pessimism concerning my ability to get a majority of the Senate to vote for this proposal. But as I listened to the distinguished chairman, apparently he and his staff have taken some nose counts that seem to indicate to him that this proposal has more strength than I myself thought it had.

I say to the Senate that I do not think the bill should be voted up or down merely because one Member of the Senate, no matter how distinguished he may be, stands before the Senate and threatens a filibuster. If it is a filibuster, so be it. But I have never been so lacking in self-doubt as to say that I have the only answer. I am intrigued that our distinguished chairman feels that only he is the savior of the Republic. There are 100 Members of this body, and I think their judgment should be considered along with the Senator from Louisiana.

I have no reluctance to have this debate go on as long as it has to go on. I have no fear of debate. It is apparent to me that the Senate has made up its mind. It is apparent to me that the Senate has read enough, has heard enough, and has studied enough. I have the feeling that they have nothing to learn from further debate. I cannot quarrel if a Senator does not want talk. I have been in situations during my years in the Senate that I have not come to the floor to hear other Senators talk. I do not intend to bring them here to listen to my words of wisdom. If I say something that is worthwhile, they will listen to me; or if I have said something worthwhile, they can read it in the RECORD in the morning, or their staffs can pick out the pertinent sections.

We have had this matter before us for 3 years. The House has debated it, and the Senate has debated it at various times. Volumes of reports have been published. It has been the subject of articles in the press, and there have been editorial comments. So I do not downgrade the intelligence of the Senate. I think the Senate is very well aware of what the issues are. I would say today that each one of the 100 of us knows how he is going to vote on the Ribicoff proposal, the administration proposal, the Long proposal, or the Byrd of Virginia proposal.

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

Mr. RIBICOFF. May I have 2 more minutes?

Mr. ROBERT C. BYRD. Mr. President, I wonder if the Senator from Connecticut will allow my request to be acted upon. We are still operating on the time for morning business, not on H.R. 1.

I ask unanimous consent that to proceed for 2 more minutes under morning business. I will yield to the Senator from Connecticut; then I would hope that my request would be acted upon.

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

Mr. RIBICOFF. Mr. President, I think it should be made very clear that the Senator from Connecticut, who is not supposed to have the votes, is more than willing to have his proposal voted up or down at any time the leadership requests. It should be made perfectly clear that the chairman of the committee, who is supposed to have the votes to defeat the Ribicoff proposal, does not want this proposal to come to a vote.

Mr. LONG. Mr. President, reserving the right to object—and I shall not object—I will find the place in the RECORD where the Senator from Connecticut yesterday noted that he was explaining his proposal with very few Senators present. It is unfortunate that Senators do not understand this measure better than they do. I would not want to proceed on that basis, but maybe we will. Frankly, I think that the Senator does not have the votes for his amendment. I am frank to say it. I have not said I am going to

filibuster the Senator's amendment. I have never said that. But I will do what my conscience dictates, and I will speak as my conscience dictates.

There are several Senators who do not understand the amendment and do not, I am frank to say, understand the committee's position. I have discussed it with a number of them, not only on the floor of the Senate, but just by talking with a Senator in his office, or talking with him in a corridor, and discussing the issue. He would start out by asking, "What does the Ribicoff amendment do? What does the committee amendment do?"

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

Mr. ROBERT C. BYRD. Mr. President, I shall ask for 1 or 2 more minutes; then I will ask that morning business be closed and that the Senate proceed to the consideration of H.R. 1.

The PRESIDING OFFICER. Does the acting majority leader ask for action on the unanimous-consent request?

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object—and I shall not object—at a later date I shall address a parliamentary inquiry to the Chair, and that is: How many hours have been spent on H.R. 1 since it was laid before the Senate? I do not make that request now, but I shall do so at a later time.

The PRESIDING OFFICER. The Chair will obtain the information requested.

Mr. ROBERT C. BYRD. Mr. President, what was the request?

Mr. HARRY F. BYRD, JR. I stated to the Chair that I planned at a future time to propound a parliamentary inquiry as to the number of hours that the Senate has debated H.R. 1.

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

The PRESIDING OFFICER. Without objection, the request is agreed to.

Morning business is concluded.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON DEPARTMENT OF THE ARMY CONTRACTS FOR MILITARY CONSTRUCTION AWARDED WITHOUT FORMAL ADVERTISEMENT

A letter from the Secretary of the Army, transmitting, pursuant to law, a report on Department of the Army contracts for military construction awarded without formal advertisement, for the six-month period ended June 30, 1972 (with an accompanying report); to the Committee on Armed Services.

REPORTS RELATING TO THIRD PREFERENCE AND SIXTH PREFERENCE CLASSIFICATION FOR CERTAIN ALIENS

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

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. GAMBRELL):

A petition, signed by sundry citizens of the State of Utah, praying for the enactment of legislation to grant tax credits to parents of nonpublic school children; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

H.J. Res. 1268. Joint resolution calling for an immediate and appropriate moratorium on the killing of polar bears (Rept. No. 92–1259).

By Mr. HARTKE, from the Committee on Veterans' Affairs, without amendment:

H.R. 13780. An act to authorize the Administrator of Veterans' Affairs to convey certain property in Canandaigua, New York, to Sonnenberg Gardens, a nonprofit, educational corporation (Rept. No. 92–1260).

SUPPLEMENTAL REPORT ON PESTICIDE CONTROL BILL—PART 2 OF SENATE REPORT NO. 92–838

Mr. ALLEN. Mr. President, on July 19 the Committee on Agriculture and Forestry ordered the filing of a supplemental report on H.R. 10729, the pesticide control bill. A committee print of that report was prepared and formed part of the basis for the negotiations that resulted in the substitute text adopted by the Senate on September 26.

In order to provide a complete legislative history on that bill, I ask unanimous consent to file this supplemental report on H.R. 10729 and that it be printed as part 2 of Senate report No. 92–838.

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. COOK, from the Committee on the Judiciary:

Frederick Pierce Lively, of Kentucky, to be a United States circuit judge of the Sixth Circuit.

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. CRANSTON:

S. 4056. A bill to amend section 302(b)(2) of the National Housing Act. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. INOUYE:

S. 4057. A bill for the relief of Tomas A. Ouiocho. Referred to the Committee on the Judiciary.

By Mr. SPARKMAN (for himself and Mr. TOWER):

S. 4058. A bill to expand the national flood insurance program by substantially increasing limits of coverage and total amount of insurance authorized to be outstanding and by requiring known flood-prone communities to participate in the program, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. BENTSEN (for himself and Mr. HUMPHREY):

S.J. Res. 273. A joint resolution to authorize the Secretary of Agriculture to correct certain inequities in the wheat certificate program. Referred to the Committee on Agriculture and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRANSTON:

S. 4056. A bill to amend section 302(b)(2) of the National Housing Act. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. CRANSTON. This bill would increase the dollar limit on the conventional mortgages that the Federal National Mortgage Association may buy from $33,000, as authorized by law, to $45,000.

There are several reasons for this bill. First, $45,000 is the figure now in the existing law applicable to conventional mortgages made by federally chartered savings and loan associations. Second, it is a figure set by the Congress. In addition, a $45,000 limit is more in line with the price of conventionally financed new housing.

This bill does not involve the expenditure of any Federal moneys.

When this committee and the Congress authorized FNMA to buy conventional mortgages in the Emergency Home Finance Act of 1970, the legislative history made clear that FNMA's first concern should be federally insured or guaranteed mortgages. FNMA continues to live up to this requirement and to its responsibility to aid low- and moderate-income housing. In 1970–71, FNMA committed $5.9 billion for low- and moderate-income housing. At the present time, FNMA's portfolio and oustanding commitments total $25.7 billion. Over 30 percent, or $7.8 billion, is in section 235 and section 236 mortgages.

The volume of FHA-insured mortgages has now dropped off considerably. As of the end of August 1971, almost $8 billion in home mortgages were offered to FNMA for purchase, as compared to only $2.7 billion for the same period this year. Applications for FHA mortgage insurance in the second quarter of 1972 were down 42 percent from the comparable period in 1971; FHA mortgage insurance issued was down 27 percent.

With the present dollar ceiling of $33,000 in its conventional program, FNMA at this point is simply not competitive. The recent move by FNMA to buy 95 percent conventional mortgages is a step in the right direction. But, in today's mortgage market, an increase in the dollar limitation is absolutely essential if FNMA is to remain viable so that, if, when, and as a residential mortgage credit crunch recurs, it will again be able to keep money flowing into the residential mortgage market as it did in 1969–70.

This bill is fully supported by all segments of the housing industry.

This bill is identical to section 720(d) of the Senate-passed housing bill (S. 3248) and to section 1106(d) of the House-reported housing bill (H.R. 16704).

By Mr. SPARKMAN (for himself and Mr. TOWER):

S. 4058. A bill to expand the national flood insurance program by substantially increasing limits of coverage and total amount of insurance authorized to be outstanding and by requiring known flood-prone communities to participate in the program, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. SPARKMAN. Mr. President, I am introducing for myself and the Senator from Texas (Mr. TOWER) a bill, the Flood Disaster Protection Act of 1972.

I am also presenting remarks by Senator TOWER who is unavoidably absent. I ask unanimous consent that it be printed in the CONGRESSIONAL RECORD at this point. I further ask unanimous consent that there be printed in the RECORD the bill and a section-by-section analysis.

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

STATEMENT BY SENATOR TOWER

Mr. President, I am joining today with the distinguished Senior Senator from Alabama (Mr. SPARKMAN) in introducing the "Flood Disaster Protection Act of 1972," legislation designed to substantially broaden the scope of insurance coverage available under the National Flood Insurance Program as administered by the Department of Housing and Urban Development.

Floods thus far in 1972 have proved disastrous for countless American families. The extensive flooding which followed in the wake of Tropical Storm Agnes wreaked havoc throughout the East with damage estimates exceeding $3 billion. Of that total only about $100 million was covered by insurance, and but approximately $5 million in losses were payable under the federally subsidized National Flood Insurance Program.

Prior to enactment of the National Flood Insurance Act of 1968, there was no insurance coverage available to those seeking it. The private property insurance industry had concluded that it could not provide flood insurance on an economically feasible basis—at least during the early years of such a program—without government assistance. Congress, therefore, recognizing the pressing need for flood coverage, enacted the 1968 Act, embodied within the Housing and Urban Development Act of 1968 as Title XIII.

The flood insurance program enables property owners to buy insurance against losses resulting from physical damage to, or loss of, real or personal property arising from floods occurring within the United States. The program is carried out in cooperation with private property insurance companies and through existing agents, brokers and adjusting organizations. This joint effort, the Federal government working in concert with the insurance industry, enables individuals to purchase policies at premium levels which they can better afford.

Mr. President, despite the availability of flood insurance, many homeowners and businessmen have not availed themselves of the opportunity to purchase the valuable protection. To date, there are but approximately 90,000 policy holders scattered throughout the Nation. On more than one occasion George Bernstein, the Federal Insurance Administrator, has expressed his concern, a concern which I share, that more public interest in the coverage has not materialized. To was being reduced by nearly 40 percent. On make the program more attractive, Mr. Bernstein announced on June 26, 1972, that the cost of subsidized flood insurance August 11 he formally asked each State insurance commissioner to require all property insurance companies to notify their policyholders of the availability of flood insurance at the time of each solicitation, issuance, and renewal of fire and homeowners policies.

Likewise, Congress has acted to make the program more palatable to the general public. The original Act contained a provision under which persons in flood-prone communities who could have purchased flood insurance for more than a year but did not do so would be denied disaster relief to the extent that they could have been protected by insurance. Fearing that the program had not been sufficiently publicized, I introduced legislation, later enacted by the Congress, which retroactively deferred the denial of disaster relief for those who had failed to purchase whatever flood insurance was available. This was an important step. The joint efforts by the Congress and the Federal Insurance Administration have resulted in an increase in the number of new policyholders; however, the response has been less than overwhelming. This legislation should provide an important boost to the program and greatly enhance its attractiveness to America's homeowners and businessmen.

Mr. President, we have worked with the White House in the formulation of this legislation. President Nixon has personally appealed to the Congress to amend the Federal Flood Insurance Act so as to make it more responsive to the needs of those who live in flood-prone areas, and he has urged adoption of this legislative package we have introduced today.

The proposed Amendments to the National Flood Insurance Act would expand program coverage in the following ways: (1) double the insurance limits on single family residential structures and on all residential contents; (2) triple the limits on all other structures and contents, except non-residential contents which would increase from $10,000 to $200,000; and (3) raise the limit on the total amount of flood insurance coverage authorized from the present $2.5 billion to $10 billion.

Incentives for community and individual participation would be strengthened by this legislation. With regard to communities, effective July 1, 1975, the following forms of federal assistance would not be available to individuals and businesses in identified flood prone areas unless the community has qualified for the program by adopting effective land use controls: Federal mortgage insurance on guarantees; lending by federally insured or regulated financial institutions; and other forms of federal assistance for financing the capital cost of construction and equipment. Incentives for individual participation would be strengthened as, upon enactment, individuals and businesses in flood prone areas in participating communities would be required to purchase flood insurance as a condition of eligibility for: Federal mortgage insurance or guarantees; lending by federally insured or regulated financial institutions; and other forms of federal assistance for financing the capital cost of construction and equipment.

These amendments would retain the key concepts of the present law which are designed to minimize losses due to flood disaster. Each community will still be required to adopt effective land use measures before individuals in that community may purchase flood insurance.

The incentives for participation which I have outlined are far-reaching indeed; some will no doubt consider them overly harsh in their intended purpose. They will require careful examination and study by the Committee on Banking, Housing and Urban Affairs. Less than two months ago, on August 15, our Housing Subcommittee conducted a public hearing for the purpose of focusing upon the current operation of the National Flood Insurance Program, and at that time, Mr. Bernstein urged adoption of incentives similar to those spelled out in this legislation. His arguments were most persuasive; nevertheless, I feel further investigation mandatory. I would hope that those few reservations I have today would be resolved by additional hearings and the submission of supporting data by the Department of Housing and Urban Development.

Mr. President, I have noted the attempts which have been made to make the insurance program more attractive to prospective policyholders. Administrator Bernstein and Assistant Administrator Richard Krimm are to be commended for their efforts in this regard. Under their leadership, rates have been lowered, flood coverage has been extended to almost all types of properties, and efforts have been exerted to provide the publicity so vital to the eventual success of the program. Despite these efforts, the need is great for more to be done. Congressional action is required, and this measure we introduce today has the potential for fulfilling that need.

S. 4058

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Flood Disaster Protection Act of 1972."

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds that (1) annual losses throughout the nation from floods and mudslides are increasing at an alarming rate, largely as a result of the accelerating development of, and concentration of population in, areas of flood and mudslide hazards; (2) the availability of Federal loans, grants, guaranties, insurance, and other forms of financial assistance are often determining factors in the utilization of lands and the location and construction of public and of private industrial, commercial, and residential facilities; (3) Federal instrumentalities insure or otherwise provide financial protection to banking and credit institutions whose assets include a substantial number of mortgage loans and other indebtedness secured by property exposed to loss and damage from floods and mudslides; (4) the nation can no longer afford the tragic losses of life caused annually by flood occurrences, nor the increasing losses of property suffered by flood victims, most of whom are still inadequately compensated despite the provision of costly disaster relief benefits; and (5) it is in the public interest for persons already living in flood-prone areas to have both an opportunity to purchase flood insurance and access to more adequate limits of coverage, so that they will be indemnified for their losses in the event of future flood disasters.

(b) The purpose of this Act, therefore, is to (1) substantially increase the limits of coverage available under the National Flood Insurance Program; (2) provide for the expeditious identification of, and the dissemination of information concerning flood-prone areas; (3) require States or local communities, as a condition of future Federal financial assistance, to participate in the flood insurance program and to adopt adequate flood plain ordinances with effective enforcement provisions consistent with Federal standards to reduce or avoid future flood losses; and (4) require the purchase of flood insurance by property owners located in identified areas of special flood hazards who are being assisted in the acquisition or improvement of land or facilities by Federal programs.

DEFINITIONS

SEC. 3. (a) As used in this Act, unless the context otherwise requires, the term—

(1) "Act" means the National Flood Insurance Act of 1968, 42 U.S.C. 4001–4127;

(2) "Community" means a State or any other political subdivision containing a unit

of general local government or other authority having zoning and building code jurisdiction over a particular area having special flood hazards;

(3) "Federal agency" means any department, agency, corporation, or other entity or instrumentality of the Executive Branch of the Federal Government, and shall include the following Federally-sponsored agencies: Federal National Mortgage Association and Federal Home Loan Mortgage Corporation;

(4) "Financial assistance" means any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal financial assistance, other than general or special revenue sharing or formula grants made to States;

(5) "Financial assistance for acquisition or construction purposes" means any form of financial assistance which is intended in whole or in part for the acquisition, construction, reconstruction, repair, or improvement of any publicly or privately owned building or mobile home, and for any machinery, equipment, fixtures, and furnishings contained or to be contained therein, and shall include the purchase or subsidization of mortgages or mortgage loans but shall exclude assistance for emergency work essential for the protection and preservation of life and property performed pursuant to the Disaster Relief Act of 1970.

(6) "Federal instrumentality responsible for the supervision, approval, or regulation of banks, savings and loan associations, or similar institutions" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration; and

(7) "Secretary" means the Secretary of Housing and Urban Development.

(b) The Secretary is authorized to define or redefine, by rules and regulations, any scientific, technical, or other term used in this Act, insofar as such definition is not inconsistent with the purposes of this Act.

TITLE I—EXPANSION OF NATIONAL FLOOD INSURANCE PROGRAM

INCREASED LIMITS OF COVERAGE

SEC. 101. (a) Section 1306(b)(1)(A) of the National Flood Insurance Act of 1968 is amended to read as follows:

"(A) in the case of residential properties—

(i) $35,000 aggregate liability for any single-family dwelling, and $100,000 for any residential structure containing more than one dwelling unit, and

(ii) $10,000 aggregate liability per dwelling unit for any contents related to such unit;"

(b) Section 1306(b)(1)(B) of such Act is amended by striking out "$30,000" and "$5,000" wherever they appear and inserting in lieu thereof "$100,000".

(c) Section 1306(b)(1)(C) of such Act is amended to read as follows:

"(C) in the case of church properties and any other properties which may become eligible for flood insurance under section 1305—

(i) $100,000 aggregate liability for any single structure, and

(ii) $100,000 aggregate liability per unit for any contents related to such unit; and".

REQUIREMENT TO PURCHASE FLOOD INSURANCE

SEC. 102. (a) No Federal officer or agency shall approve any financial assistance for acquisition or construction purposes on and after July 1, 1973, for use in any area that has been identified by the Secretary as an area having special flood hazards and in which the sale of flood insurance is authorized under the Act, unless the building or mobile home and any personal property to which such financial assistance relates is, during the anticipated economic or useful life of the project, covered by flood insurance in an amount at least equal to its development or project cost (less estimated land cost) or to the maximum limit of coverage authorized for the particular type of property under the Act, whichever is less: *Provided*, that if the financial assistance provided is in the form of a loan or an insurance or guaranty of a loan, the amount of flood insurance required need not exceed the outstanding principal balance of the loan and need not be required beyond the term of the loan.

(b) Each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions shall by regulation direct such institutions on and after July 1, 1973, not to make, increase, extend, or renew any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Secretary as an area having special flood hazards and in which the sale of flood insurance is authorized under the Act, unless the building or mobile home and any personal property securing such loan is covered for the term of the loan by flood insurance in an amount at least equal to the outstanding principal balance of the loan or to the maximum limit of coverage authorized for the particular type of property under the Act, whichever is less.

FINANCING

SEC. 103. Subsection (a) of section 1309 of the National Flood Insurance Act of 1968 is amended by—

(a) inserting "without the approval of the President" after the words "such authority", and

(b) inserting a period in lieu of the comma after the figure "$250,000,000" and striking out all of the words that follow.

INCREASED LIMITATION ON COVERAGE OUTSTANDING

SEC. 104. Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "$2,500,000,000" and inserting in lieu thereof "$10,000,000,000".

TITLE II—DISASTER MITIGATION REQUIREMENTS

NOTIFICATION TO FLOOD-PRONE AREAS

SEC. 201. (a) Not later than six months following the enactment of this title, the Secretary shall publish information in accordance with subsection 1360(1) of the Act, and shall notify the chief executive officer of each known flood-prone community not already participating in the National Flood Insurance Program of its tentative identification as a community containing one or more areas having special flood hazards.

(b) After such notification, each tentatively identified community shall either (1) promptly make proper application to participate in the National Flood Insurance Program or (2) within six months submit technical data sufficient to establish to the satisfaction of the Secretary that the community either is not seriously flood-prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The Secretary may, in his discretion, grant a public hearing to any community with respect to which conflicting data exist as to the nature and extent of a flood hazard. Whether or not such hearing is granted, the Secretary's final determination as to the existence or extent of a flood hazard area in a particular community shall be deemed conclusive to the purposes of this Act and shall not be subject to judicial review unless arbitrary and capricious.

(c) As information becomes available to the Secretary concerning the existence of flood hazards in communities not known to be floodprone at the time of the initial notification provided for by subsection (a) of this section, he shall provide similar notifications to the chief executive officers of such additional communities, which shall then be subject to the requirements of subsection (b) of this section.

(d) Formally identified flood-prone communities that do not qualify for the National Insurance Program within one year after such notification or by the date specified in section 202, whichever is later, shall thereafter be subject to the provisions of that section relating to flood-prone communities which are not participating in the program.

EFFECT OF NON-PARTICIPATION IN FLOOD INSURANCE PROGRAM

SEC. 202. (a) No Federal officer or agency shall approve any financial assistance for acquisition or construction purposes on and after July 1, 1975, for use in any area that has been identified by the Secretary as an area having special flood hazards unless the community in which such area is situated is then participating in the National Flood Insurance Program.

(b) Each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions shall by regulation prohibit such institutions on and after July 1, 1975, from making, increasing, extending, or renewing any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Secretary as an area having special flood hazards, unless the community in which such area is situated is then participating in the National Flood Insurance Program.

REPEAL OF DISASTER ASSISTANCE PENALTY

SEC. 203. Section 1314 of the National Flood Insurance Act of 1968 is repealed.

ACCELERATED IDENTIFICATION OF FLOOD-RISK ZONES

SEC. 204. (a) Section 1360 of the National Flood Insurance Act of 1968 is amended by inserting the designation "(a)" after "Sec. 1360." and adding new subsections "(b)" and "(c)" at the end thereof to read as follows:

"(b) The Secretary is directed to accelerate the identification of risk zones within flood-prone and mudslide-prone areas, as provided by subsection (a)(2) of this section, in order to make known the degree of hazard within each such zone at the earliest possible date. To accomplish this objective, the Secretary is authorized, without regard to Sections 3648 and 3709 of the Revised Statutes, as amended (31 U.S.C. 529 and 41 U.S.C. 5), to make grants, provide technical assistance, and enter into contracts, cooperative agreements, or other transactions, on such terms as he may deem appropriate, or consent to modifications thereof, and to make advance or progress payments in connection therewith.

"(c) The Secretary of Defense (through the Army Corps of Engineers), the Secretary of the Interior (through the U.S. Geological Survey), the Secretary of Agriculture (through the Soil Conservation Service), the Secretary of Commerce (through the National Oceanic and Atmospheric Administration), the head of the Tennessee Valley Authority, and the heads of all other Federal agencies engaged in the identification or delineation of flood-risk zones within the several States, shall, in consultation with the Secretary, give the highest practicable priority in the allocation of available manpower and other available resources to the identification and mapping of flood hazard areas and flood-risk zones, in order to assist the Secretary to meet the deadline established by this Section.

AUTHORITY TO ISSUE REGULATIONS

SEC. 205. (a) The Secretary is authorized to issue such regulations as may be necessary to carry out the purpose of this Act.

(b) The head of each Federal agency that administers a program of financial assistance relating to the acquisition, construction, reconstruction, repair, or improvement of pub-

licly or privately owned land or facilities, and each Federal instrumentality responsible for the supervision, approval, or regulation of banks, savings and loan associations, or similar institutions, shall, in cooperation with the Secretary, issue appropriate rules and regulations to govern the carrying out of the agency's responsibilities under this Act.

FLOOD DISASTER PROTECTION ACT OF 1972

SECTION-BY-SECTION SUMMARY

Sec. 1. Enacting clause.

Sec. 2. *Findings and declaration of purpose.*

Sec. 3. *Definitions.*

Sec. 101. *Increased limits of coverage.* Amends section 1306(b) of the Act to provide increased limits of coverage as follows:

	Subsidized coverage		Total coverage	
	Old limit	New limit	Old limit	New limit
	(1)	(2)	(3)	(4)
Single-family residential	$17,500	$35,000	$35,000	$70,000
Other residential	30,000	100,000	60,000	200,000
Nonresidential	30,000	100,000	60,000	200,000
Contents, residential	5,000	10,000	10,000	20,000
Contents, nonresidential	5,000	100,000	10,000	200,000

Sec. 102. *Requirement to purchase flood insurance.* (a) Prohibits Federal financial assistance for acquisition or construction purposes for projects within special hazard areas previously identified by HUD and made eligible for flood insurance, unless the project will be covered by such insurance for its full development cost (less land cost) or the new limit of coverage (Col. 2 or 4 above), whichever is less. (b) Federal instrumentalities responsible for the supervision of lending institutions must direct such institutions to require flood insurance in connection with their real estate or mobile home and personal property loans in such identified areas, up to the same maximum limit or the balance of the loan, whichever is less. Both subsections would take effect July 1, 1973.

Sec. 103. *Financing.* Restores authority contained in 1956 Flood Insurance Act which permits Treasury borrowing authority to exceed $250 million with the approval of the President.

Sec. 104. *Increased limitation on coverage outstanding.* Amends section 1319 of the Act to raise limit on total amount of coverage outstanding from $2.5 billion to $10 billion.

Sec. 201. *Notification to flood-prone areas.* (a) Requires HUD to publish information on known flood-prone communities and to notify them within six months of their tentative identification as such. (List initially used would probably be Corps of Engineers list, based on 1960 Census data). (b) Upon notification, community must either (1) promptly apply for participation in flood insurance program or (2) satisfy the Secretary within six months that it is no longer flood prone. A hearing may be granted to resolve disputed cases, but Secretary's decision is final unless arbitrary and capricious. (c) Additional flood-prone communities subsequently notified of their status must then meet the requirements of subsection (b) but are allowed at least one year in which to qualify for the flood insurance program before section 202 applies.

Section 202. *Effect of non-participation in flood program.* (a) Prohibits Federal financial assistance for acquisition or construction purposes within the identified flood-prone areas of communities that are not participating in the flood insurance program by July 1, 1975 (in most cases, about 18 months after the identification is made).

(b) Directs Federal instrumentalities responsible for the supervision of lending institutions to prohibit such institutions from making real estate or mobile home loans after July 1, 1975, in areas identified as having special flood hazards unless the community in which the area is situated is participating in the flood insurance programs.

Sec. 203. Repeals provision of existing Flood Insurance Act that would deny disaster assistance after December 31, 1973, to persons who for a period of a year or more could have purchased flood insurance but did not do so.

Sec. 204. *Accelerated identification of flood-risk zones.* (a) Adds a new subsection (b) to section 1360 of the Act directing HUD to accelerate hazard area identification and rate studies. Specifically authorizes the Secretary to make grants, provide technical assistance, eliminate competitive bidding requirements, and make progress payments, if necessary to accomplish that objective. (b) Directs the agencies doing the technical work for HUD to give highest practicable priority to these studies, in order to assist the Secretary to meet existing August 1, 1973, statutory area identification deadline.

Sec. 205. *Authority to issue regulations.* Authorizes (a) the Secretary, and (b) Federal agencies administering financial assistance programs and those supervising lending institutions, to issue any regulations necessary to carry out the Act.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 3598

At the request of Mr. WILLIAMS, the Senator from Massachusetts (Mr. BROOKE), the Senator from North Dakota (Mr. BURDICK), the Senator from Florida (Mr. CHILES), the Senator from Kentucky (Mr. COOPER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), the Senator from Illinois (Mr. PERCY), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Alabama (Mr. SPARKMAN) were added as cosponsors of S. 3598, the Retirement Income Security for Employees Act of 1972.

S. 4004

At the request of Mr. HARTKE, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of S. 4004, a bill to promote safety on the importation of compressed gas cylinders.

SENATE JOINT RESOLUTION 264

At the request of Mr. DOLE, the Senator from Oregon (Mr. Packwood), the Senator from Wyoming (Mr. HANSEN), the Senator from Ohio (Mr. TAFT), the Senator from Colorado (Mr. ALLOTT), the Senator from New Hampshire (Mr. COTTON), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Maryland (Mr. BEALL), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Nevada (Mr. BIBLE) were added as cosponsors of Senate Joint Resolution 264, to authorize and request the President to issue a proclamation designating a week as "National Welcome Home Our Prisoners Week" upon the release and return to the United States of American prisoners of war in Southeast Asia.

SENATE RESOLUTION 374—ORIGINAL RESOLUTION REPORTED AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY (S. REPT. 92-1258)

(Referred to the Committee on Rules and Administration.)

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

S. RES. 374

Resolved, That Senate Resolution 256, 92d Congress, agreed to March 6, 1972, is amended as follows:

(1) In section 2, strike out "$3,647,700" and insert in lieu thereof "$3,657,700".

(2) In section 17, strike out "$192,000" and insert in lieu thereof "$202,000".

SOCIAL SECURITY AMENDMENTS OF 1972—AMENDMENT

AMENDMENT NO. 1677

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

Mr. CASE. Mr. President, I wish to submit an amendment to H.R. 1 (for myself, and Senators HUMPHREY, MONDALE, HOLLINGS, and PERCY) and I ask that it be printed. My amendment would strike sections 508 and 509 of title V, part A, in H.R. 1, which make recipients of cash benefits ineligible for food assistance.

The need for this amendment was documented earlier this year. In February the Select Committee on Nutrition and Human Needs issued a staff study which reviewed the commitment to insure nutritional adequacy for all Americans. In particular the study examined the relationship between proposed welfare reform measures, specifically H.R. 1, and that commitment. Eliminating the food assistance programs while benefits to poor individuals and families remain below the poverty line would put those persons at "nutritional risk." H.R. 1, as reported to the Senate floor, eliminates the food stamp and surplus foods programs for welfare recipients.

Today there are some 12 million persons using the food stamp program, and another 3.5 million using surplus foods. Better than 7 million food stamp users and as many as 2 million surplus foods users are recipients of welfare. Yet under H.R. 1, individuals and families who receive cash benefits would no longer be eligible to choose participation in a food program in order to obtain an adequate diet. For their part, the States would be free to choose whether or not their needy citizens would receive additional cash benefits to compensate them for the loss of food assistance; the States would not be required to make up that loss.

The Senate will be voting on titles IV and V separately. Thus it is possible that even if title IV is not accepted in the Senate, needy persons will still lose the food stamp and surplus food benefits on which they now rely. It is necessary to strike sections 508 and 509—whatever action is taken on title IV—to preserve food assistance benefits for 7 to 9 million needy persons.

The elimination of the food stamp and surplus foods programs for welfare recipients raises many questions regarding the national commitment, expressed by

the President, the Congress, three distinguished White House conferences, and numerous private organizations, to end hunger and malnutrition among America's poor. Therefore, I ask unanimous consent that the text of my amendment together with a brief explanation be printed at this point in the RECORD.

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

AMENDMENT No. 1677

Beginning on page 926, line 18, strike everything through page 932, line 24.

EXPLANATION OF AMENDMENT TO SECTIONS 508 AND 509

Title V of H.R. 1 contains two sections which concern the food stamp program, Sections 508 and 509. Section 508 would eliminate the food stamp program (as well as the surplus foods program) for anyone receiving welfare. Some provisions in Title V have already come to a vote, and the food stamp provisions could easily come up independent of any action on Title IV—the title commonly associated with "welfare reform."

That means that the result of Senate action could be to make no changes in the welfare program, except to eliminate the food stamp program for people now using it. Clearly, it is also possible to have Senate action that would result in major or minor welfare reforms, or the passage of "pilot" programs, AND the end of the food stamp program for welfare recipients now using them.

Earlier this year the Select Committee on Nutrition and Human Needs issued a report detailing the history of the Administration's pledge, and the Congress' actions, to insure that the food stamp program would be retained until welfare benefits were equal to the poverty line.

The passage of Sections 508 and 509—with or without Senate action on Title IV—would mean the loss of eligibility for food stamps and surplus foods for 15 million welfare recipients, without mandating any compensating increase in welfare benefits. The amendment introduced by Senators Case, Humphrey, Mondale, Hollings, Percy, and others, would strike Sections 508 and 509, retaining the food stamp and surplus foods programs for welfare recipients. It would not result in additional benefits or increased expenditures.

AMENDMENT NO. 1679

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

Mr. TUNNEY submitted an amendment intended to be proposed by him 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.

AMENDMENT NO. 1680

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

Mr. KENNEDY (for himself, Mr. Moss, Mr. PERCY, Mr. BROOKE, Mr. JAVITS, and Mr. HUMPHREY) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 1), supra.

AMENDMENT NO. 1685

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

Mr. MOSS (for himself, Mr. PERCY, and Mr. TUNNEY) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 1), supra.

CONSUMER PROTECTION ACT—AMENDMENT

AMENDMENT NO. 1678

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

TECHNICAL AMENDMENT TO SUBSECTION 208(a)

Mr. BROCK. Mr. President, on September 22, we agreed to a clarifying amendment to subsection 208(a).

Upon further scrutiny, I am sure that we would all agree that the clarifying amendment is in need of further clarification if it is to accomplish the wishes of those who favor this bill.

Prior to the September 22 amendment, subsection 208(a) would have authorized the CPA to disclose to the public any appropriate information, but—and I quote—"subject to the provisions of this section [208]."

The September 22 amendment added the word "only" after the word "subject," thus making the CPA's information dissemination power—and I quote—"subject only to the provisions of this section."

The expressed intent of the amendment was to "make certain that no other limitation in other laws apply." However, the provision as amended could be interpreted to mean that other related provisions of this bill would no longer be applicable to the CPA information dissemination powers.

I am sure such an interpretation was not intended after reading the brief explanation of the amendment. This conclusion is further supported by statements of the major supporters of this bill in relation to safeguards within the bill.

For example, section 206 provides for disclosing complaints, and certain safeguards providing for protection both of complainants and innocent persons complained against are included. Section 203 (f) provides that the Administrator shall make a written reply when declining to represent a consumer interest after receipt of a petition. The amended section 208(a) could provide a shield for his refusal to give a substantive reply.

It is even possible to interpret the amended section 208 as prohibiting the Administrator from participating in public hearings pursuant to section 203 or court proceedings pursuant to section 204 because of the nature of the information which would be developed at such hearings and proceedings.

This amendment which I submit now would make the limitations on public disclosure of information provided for in this bill—not just section 208—the exclusive limitation. It would further continue the protections and safeguards contained in other sections of the bill, while excluding constrictions contained in other laws not referenced in the section.

Thus, my technical, clarifying amendment would achieve the intent of the sponsors of the original technical amendment.

SURFACE TRANSPORTATION ACT—AMENDMENTS

AMENDMENTS NOS. 1681 THROUGH 1684

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

Mr. HARRIS. Mr. President, I have very serious objections to S. 2362, the Surface Transportation Act, as reported to the Senate.

If and when the bill comes up for consideration, I intend to offer certain amendments to it.

I ask unanimous consent that these amendments be printed and lie at the desk—and that they be printed at this point in the RECORD.

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

AMENDMENT No. 1681

In Title I, Section 109, create a new subsection (d) and renumber the current subsections (d) and (e) as (e) and (f), respectively. Add the new subsection (d) as follows:

(d) Before approving a loan guarantee to any carrier, the Secretary shall consider the feasibility of requiring the carrier to dispose of nontransportation assets as a condition to the guarantee. A memorandum shall be placed in the loan guarantee docket setting forth the Secretary's reasons for requiring, or not requiring, such disposal.

AMENDMENT No. 1682

In Title I, Section 109, create a new subsection (e) and renumber the current subsection (e) as (f). Add the new subsection (e) as follows:

(e) All carriers for which loans have been guaranteed under this title shall provide to the Secretary, who shall make them readily available to the public, the name and address of—

(1) each holder of record and each proprietary owner of 1 per centum or more of any class or series of common or preferred stock in the company;

(2) each holder of record and each proprietary owner of 1 per centum or more of any issue of long-term debt of the company;

(3) each holder of record and each proprietary owner of 5 per centum or more of the outstanding short-term debt of the company at any time during the reporting year;

(4) any person controlling, directly or indirectly, 5 per centum or more in the aggregate of the voting rights of the company.

AMENDMENT No. 1683

In Title I, Section 109, Subsection (e) delete existing subsection (e) and create new subsection (f) identical to that of deleted subsection (e) add:

(e) Any carrier, prior to accepting a loan which has been guaranteed under this title, shall submit to the Secretary and release to the public the following information with regard to land (other than that presently used for railroad right-of-ways) which was originally granted to such carrier or any predecessor in interest by the federal government in aid of or in connection with the construction of any line of railroad.

(1) Concise and complete description of patented lands still retained by the carrier, or by any subsidiary, affiliate, or related entity, and

(2) Concise and complete description of unpatented lands still retained by the carrier, or by any subsidiary, affiliate, or related entity.

AMENDMENT No. 1684

After Title III—AGREEMENTS BETWEEN CARRIERS, add a new Title IV—ABOLISHMENT OF INTERSTATE COMMERCE COMMISSION, and renumber the subsequent titles as V, VI, VII, and VIII:

TITLE IV—ABOLISHMENT OF INTERSTATE COMMERCE COMMISSION

SEC. 401. Effective eighteen months after the date of enactment of this Act the Interstate Commerce Commission is abolished.

ESTABLISHMENT OF COMMISSION TO MAKE RECOMMENDATIONS

SEC. 402. (a) There is hereby established a National Commission on Transportation Regulation (hereinafter referred to as the "Commission") which shall be composed of fifteen members appointed as follows:

(1) six appointed by the President of the Senate, three from the membership of the Senate, two from the majority party and one from the minority party, and one each to represent carriers subject to regulation pursuant to the Interstate Commerce Act, shippers regularly using such carriers, and consumers generally;

(2) six appointed by the Speaker of the House, three from the membership of the House of Representatives, two from the majority party and one from the minority party, and one each to represent carriers subject to regulation pursuant ot the Interstate Commerce Act, shippers regularly using such carriers, and consumers generally; and

(3) three appointed by the President to represent the executive branch of the Government.

(b) Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment. The Commission shall elect a Chairman and a Vice Chairman from among its members. Eight members of the Commission shall constitute a quorum.

(c) The Commission shall make a full and complete investigation and study for the purpose of determining and making recommendations with respect to (1) what should be done with the functions of the Interstate Commerce Commission after the abolishment of such Commission pursuant to section 1 of this Act, and (2) what other actions should be taken to best carry out the national transportation policy as set forth in the Interstate Commerce Act.

(d) The Commission shall submit to the President and to the Congress a report with respect to its findings and recommendations not later than one year after the Commission has been fully organized.

(e) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this section, hold such hearings, take such testimony, and sit and act at such times and places as the Commission, subcommittee, or member deems advisable. Any member authorized by the Commission may administer oaths or affirmations to witnesses appearing before the Commission, or any subcommittee or member thereof.

(f) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed by the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its functions under this section.

(g) Subject to such rules and regulations as may be adopted by the Commission, the Chairman, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, shall have the power—

(1) to appoint and fix the compensation of such staff personnel as he deems necessary, and

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

(h)(1) Any member of the Commission who is appointed from the executive or legislative branch of the Government shall serve without compensation in addition to that received in his regular employment, but shall be entitled to reinbursement for travel, subsistence, and other necessary expenses incurred by him in the performance of duties vested in the Commission.

(2) Members of the Commission, other than those referred to in paragraph (1), shall receive compensation at the rate of $100 per day for each day they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Commission.

(i) There are authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out this section.

(j) The Commission shall cease to exist ninety days after the submission of its report.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO 1533

At the request of Mr. HARTKE, the Senator from California (Mr. CRANSTON), the Senator from Michigan (Mr. HART), and the Senator from Oklahoma (Mr. HARRIS) were added as cosponsors of amendment No. 1533 intended to be proposed to the bill (H.R. 1), the Social Security Amendments of 1972.

AMENDMENT NO. 1623

At the request of Mr. HARTKE, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of amendment No. 1623, intended to be proposed to the bill (H.R. 1), supra.

ADDITIONAL STATEMENTS

NATIONAL EMPLOY THE HANDICAPPED WEEK

Mr. DOLE. Mr. President, the first week of October marks the 27th annual observance of "National Employ the Handicapped Week." This time is set aside by act of Congress and proclamation of the President for us to recognize our fellow citizens who are physically and mentally handicapped. And this week provides an opportunity for us to rededicate ourselves to the year-round effort of achieving full equality for the handicapped in every aspect of their lives.

In observing this very special week, we seek to break down the barriers still keeping the deserving handicapped from achieving the goals they have set for themselves and thereby enhance the prospects that they may enjoy rewarding and fulfilling lives. This effort touches every element of society and involves business, industry, labor organizations, and every variety of civic, fraternal, and professional group.

We recognize that great progress has been made over the 27 years that this week has been observed. The number of handicapped persons who have found employment through the Federal-State Vocational Rehabilitation Program has increased from nearly 44,000 in 1947 to more than 291,000 in 1971. Total annual earnings of rehabilitated handicapped persons have increased from $68.1 million in 1947 to $863 million in 1971. The Federal-State Employment Service has steadily increased the numbers of handicapped persons it has been able to place in successful employment over the years, from 236,601 in 1947 to 319,136 in 1969.

But even though we have made great strides, regrettably, there is still much left to do. Many capable handicapped persons have not been able to benefit from adequate rehabilitation, training, or job placement. Too many employers are still reluctant to hire the handicapped and look first to disabilities rather than the skills and talents the handicapped possess. Many disabled Vietnam veterans have come home to take up civilian life again but found doors shut to them and opportunities foreclosed.

So it is fitting and, indeed, essential that we dedicate this week to the work yet unfinished and to those handicapped who are still searching for their role in this world. Let us devote this week to renewing our commitment and working harder in the year ahead to assure the potential and the promise that no handicapped person's life goes unfulfilled for want of opportunity.

ALABAMA TRADE GATHERING RESPONDS TO NATIONAL NEEDS

Mr. SPARKMAN. Mr. President, the international balance of trade is running strongly against the United States in 1972. For the 8 months of January–August, the excess of imports over imports—that is, the trade deficit—totaled more than $4.3 billion. Moreover, in 1971 the merchandise trade balance, which has been a consistent money earner for the United States, was in the red for the first time since 1893. In fact, we have not seen a trade surplus for any month since September of last year.

This trend is causing me increasing concern and I addressed the Senate about another aspect of the problem earlier this year—August 18, 1972, CONGRESSIONAL RECORD, page 29049. Many other observers, including the Committee for Economic Development are recognizing the urgent need to readjust American-foreign economic policy to the changing realities of international competition.

I therefore believe it is appropriate to call the attention of this body to the conference on Export-Import Opportunities for Small Business scheduled to take place in Mobile, Ala., on October 18–19, 1972.

I would like to commend this effort by Alabama business, banking, and academic institutions as well as State, local, and Federal government. Their program is designed to respond to the international

challenges indicated by the figures which I reviewed by exploring the profit opportunities open to U.S. firms in world markets.

The following list of sponsoring agencies indicates the scope of this endeavor:

Alabama Association of County Commissioners;
Alabama Bankers Association;
Alabama Chamber of Commerce;
Alabama Coordinating Council for Minority Economic Development;
Alabama Export-Import Expansion Council;
Alabama Jaycees;
Alabama Labor Council, AFL-CIO;
Alabama League of Municipalities;
Alabama Office of Development;
Alabama Railroad Association;
Alabama Savings and Loan League;
Alabama Small Business Advisory Council;
Alabama Trucking Association, Inc.;
Alabama World Trade Association;
Associated Industries of Alabama;
Mobile Area Chamber of Commerce, and
U.S. Department of Commerce.

Eminent speakers at this meeting include my colleague, the junior Senator from Alabama (Mr. ALLEN); Hon. JACK EDWARDS, U.S. Representative from Mobile; Hon. Henry Kearns, Chairman of the U.S. Export-Import Bank; Hon. Jere Beasley, Lt. Governor of Alabama; Hon. W. L. Noonan, Alabama State Senator, Marshall Parker, Associate Administrator of SBA; and Gayle C. Shelton, Jr., Director, U.S. Department of Commerce, Birmingham field office.

The proceedings will also benefit from guidance by District Director of the SBA in Alabama, Paul R. Brunson. I will be among the Federal Government people participating, because of what I consider to be the importance of the subject.

The objectives of the conference have been described as follows:

Development of world trade by small businesses is dependent upon proper identification, analysis, and solutions to problems impeding comprehensive growth (and) to identify meaningful directions for growth and to evaluate progress and point to future action.

Hearings conducted in the past by the Select Committee on Small Business, including a session at Mobile, Ala., on November 10, 1967, have highlighted the fact that only about 5 percent of U.S. business firms engage in international trade, even though many more produce fine-quality goods and services which are in demand in other parts of the world.

Mr. President, the international trade situation is a national challenge which affects business and government at every level. We need the kind of teamwork reflected in the Alabama Export-Import Conference if we are to rise to this challenge and preserve our economic position in the world.

I certainly wish this gathering every success, and hope that it may serve as a model for others to follow throughout the country.

A PRISON SUCCESS STORY

Mr. BURDICK. Mr. President, the problems of America's prisons, and all of our correctional facilities and services, are receiving increasing attention, most of it centered on their failure to correct the criminal offender. The recent anniversary of the tragedy of Attica has renewed in the minds of many the difficulties and frustrations of the correctional system, but the leadership of all of the branches of our government has for some time been speaking out on our national needs in corrections.

For these reasons, I am pleased to be able to call the attention of my colleagues to a prison success story—to a newspaper article about an individual who has made use of an institutional program and appears to have moved himself a giant step toward his rehabilitation.

An inmate at the Federal Penitentiary, Marion, Ill., has received a college degree, which in itself is not unique. Victor Taylor is one of many inmates who has earned credit for college courses taken while a prisoner. What is unique is the fact that this man who had a record of assaultive and dangerous behavior participated in a creative program of behavioral therapy, and now he has thoroughly committed himself to improving himself.

The final chapter in the story of Victor Taylor, Marion inmate, has not been written. We will not know for certain of his rehabilitation until he has earned his release from imprisonment. His record to date, however, gives us reason to be encouraged that good programs can rehabilitate offenders, and can ultimately reduce the toll of recidivistic crime in our Nation.

I ask that the article from the New York Times of October 2, 1972, be reprinted at this point in the RECORD.

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

A SCHOLAR IN THE NEW ALCATRAZ

(By George Vecsey)

MARION, ILL., Sept. 30.—Victor Taylor did not wear a cap and gown to his college graduation. He wore a white shirt and slacks instead. That is about as formal as they dress at the United States Penitentiary here, the one they call "the new Alcatraz," where the toughest Federal prisoners go.

Taylor, who is serving 61 years for armed robberies and once scaled a 40-foot prison wall in a desperate bid to escape, has completed a normal four years of college work in the last 21 months, earning A grades in everything but French. His cumulative grade point average was 4.89 out of a possible 5.00.

Officials at Southern Illinois University say they have never heard of a student earning his degree in less than two full years, not at S.I.U., not anywhere. And the diploma Victor Taylor received last night in an emotional ceremony in a prison cafeteria carried the words "magna cum laude."

"There are Vic Taylors at every institution," said Dr. Walter G. Robinson Jr. of the Black American Studies program at S.I.U. in nearby Carbondale. "There is an abundance of brain power sitting out there behind those walls."

The United States Bureau of Prisons estimates that from 6 to 10 per cent of the nation's 400,000 prisoners are currently taking some college courses. Supporters say that prison education programs have sharply reduced recidivism.

Taylor, himself a repeat offender, now wants to pursue a career in psychology working with young blacks with disadvantaged backgrounds like his own.

"The diploma . . ." Taylor began slowly at the ceremony. "Pardon my French, but this diploma means a hell of a lot to me. I'll take credit for it. I deserve it. I paid my dues."

He glanced around the room at the brightly dressed "outsiders" who had been allowed to enter his life for a few brief hours.

"This diploma makes me feel I can do anything with my life. Everyone in this room makes me feel that way."

YEARS OF ENVY

The graduation was a surprising twist in the life of a man who spent many of his 28 years courting a violent death. It was not until he was sent to Marion, after two escape attempts, that he gave himself to the prison psychotherapy program that helped him.

In his talk, Taylor recalled family fights, frequent separations and constant poverty. He also recalled the torment of integrating a posh Jesuit high school in Dallas, spending three years envying his classmates' convertibles while he rode public buses—and then quitting school.

He recalled how he wanted to be a Navy pilot but was disqualified because of his slight color-blindness. Feeling that the Navy had deceived him, he and a buddy held up a Navy bank and were caught in Mexico. After four years in jail, he was paroled back to Dallas, where his peers "already had college degrees, wives and families, embarked on successful careers."

2 CHOICES AT MARION

Within 90 days he went on a robbing spree ("I guess I was trying to get myself killed"). The resultant jail term was so long that he tried to escape twice. The second time he was shipped to Marion, the newest Federal prison, situated among the strip mines and cornfields and a lovely forest preserve in southern Illinois—an inland Devil's Island.

When he arrived here, Taylor was "ready to do a George Jackson number," inspecting the double fences with the barbed wire in between, weighing the rumors that the guards here "shoot better than in Atlanta." Jackson, one of the California Soledad Brothers, was killed at the San Quentin Prison in what the authorities said was an escape attempt.

A man can go either way in Marion. A few of the prisoners serve their time grudgingly, a constant look of hatred on the face. Others cheerfully push themselves into top condition, like the man running barefoot on a cinder track the other day, perhaps getting himself in shape for some special effort.

In the confinement wing of the prison, several dozen prisoners mutter threats when any man walks past, and would probably kill if given the chance, according to officials. There is enough hatred around to reinforce the kind of feeling Taylor brought to Marion.

PROGRAMS MATCH FACILITIES

But Taylor began to notice other things about Marion, which was built in 1963 as a model Federal institution, with single cells for most of its 526 prisoners, sparkling facilities, a pastel cafeteria (with four-man tables) and gleaming factory shop. It is possible that the worst at Marion is better than the best at many prisons.

More important, Marion had the programs that seemed to match its facilities. One was called asklepieion, a version of transactional analysis organized by Dr. Martin Groder, a disciple of Dr. Eric Berne, author of "The Games People Play."

At Dr. Groder's sessions there was "the game"—passionate confrontations where 15 men would strip down the ego of one man, staff included—for spilling coffee or lying in his teeth. Taylor said these sessions had made him want to win instead of lose the games he played.

"PERMISSION TO WIN"

"I was the type of guy who always placed or showed but never won," he said. "In addition to that, almost every project that I ever undertook, I'd get very close to finishing

it and then abandon it. I'd never even read a book all the way through, until I bumped into Dr. Groder. In essence, what Dr. Groder did was give me permission to win."

At first he read detective books. Then someone suggested that he take courses offered inside the prison by instructors from John A. Logan Junior College. He took 18 credits the first semester and 21 the second. Then he took 21 at Logan and 21 at S.I.U. in the same term, without informing officials of his double load. He got straight A's.

About this time he was converted to the Bahai faith, evolving the feeling that "black is indeed beautiful (but) no more beautiful than red, white, yellow."

He performed his regular prison duties during the day, with a bountiful supper his only meal. That was followed by sleep from 5:30 P.M. until 1 A.M., while other prisoners talked or played or listened to music. When the prison felt quiet, Taylor awoke and studied until the prison workday began all over again.

GOAL WAS CLEAR

Sometimes the load became too much. He feigned illness in order to study full time in the hospital, and was punished with a spell in the confinement block (before a quick reprieve from a concerned prison official). Around this time he broke with the encounter group, leaving some bruised feelings that are still evident. His eye was on the diploma.

Because of his escape record, Taylor has not left the prison, as many other prisoner-students are allowed to do at non-maximum-security institutions. And he was not permitted to attend the regular S.I.U. graduation earlier this month. So S.I.U. and prison officials brought the graduation to Taylor.

At 6 P.M. Friday the steel gates swung open for Dr. Walter G. Robinson Jr. and Dr. David Ehrenfreund and other officials of S.I.U., who joined Associate Warden Fred A. Frey and Superintendent of Education Glenn L. Henrickson in the cafeteria.

About two dozen people from S.I.U. were also allowed to be present—three black women from the Black American Studies Department, glowing with pride for their brother, white students who brought gaily wrapped books and embraced the man who had outstudied them all.

Holding his diploma, Taylor found that tears ran easier than words for a long time. He said he had not cried since he was 13.

"But this year I cried when my father died. I cried when I tried to tell a beautiful young woman she didn't need a lot of make-up on her to be beautiful. I cried when I pretended to be sick, so I could study. And now this. I used to have this thing that a man didn't cry. This must be my year for crying."

The friends looked—and some cried, too. Then after coffee and cake, laughs and handshakes, the guests checked out through the steel gates. Victor Taylor (B.A.: Psychology) went back to his cell.

He is not eligible for parole until 1976, and other sentences await him in other states.

F. BRADFORD MORSE'S SPEECH TO CONGRESSIONAL INTERNS

Mr. CASE. Mr. President, this summer the 1,200 college students working on Capitol Hill as interns for us and our colleagues in the House of Representatives took part in an unusual dialog.

Over a period of weeks they examined their own attitudes toward our Nation's priorities and their role in the making of foreign policy, and in particular, focussed on the future role of multilateralism.

This program, sponsored by the Bipartisan Intern Committee of the Congress, the House Foreign Affairs Subcommittee on International Organization, and the United Nations Association of the U.S.A., culminated in a 1-day conference in Coolidge Auditorium on the relevance of the United Nations.

The Senator from Wyoming, (Mr. McGEE) also spoke, examining the circumstances leading up to congressional action permitting the importation of Rhodesian chrome. I supported him in this effort to keep Rhodesian chrome out of the United States, and I shall do so in the future.

One of the high points of the day was the welcome return to the Capitol of a former colleague—the Honorable F. Bradford Morse, former Congressman from Massachusetts who is now distinguishing himself as the new U.N. Undersecretary-General for Political and General Assembly Affairs.

For many of these interns, students who were not even born when the U.N. was created in 1945, listening to Brad describe the realities of the U.N. was their first exposure to the organization that hopefully may still unite our global village.

Mr. President, I ask unanimous consent that the text of F. Bradford Morse's speech be inserted in the RECORD.

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

SPEECH BY F. BRADFORD MORSE

Members of Congress, ladies and gentlemen. It is a very high honor for me to be here with all of you and to join you in thanking Don Fraser's Subcommittee, the United Nations Association, the Bipartisan Intern Committee and Mr. Edward Lamb for making this occasion possible.

I have with me today a young man who four years ago was also an intern. And after he finished school he joined my staff and became my administrative assistant. Now he is my special assistant in New York—Mr. Tim Rothermel.

I think this is a very significant, indeed potentially an historic occasion today, because we gather at a time when the United Nations has reached a low point in public opinion. It's become a scapegoat for the world's irritations and for our impatience with the present state of affairs. I think it's an appropriate time for us to think together as to what the organization is, what it isn't, and what we can do to make it more effective.

We still have a system of nation states, and the United Nations Charter recognizes that system. Clearly the UN is not a world government. It has no executive authority, and what it can accomplish depends in principal measure upon the member states.

We think far too frequently of the failures of the United Nations, but upon analysis I think you will discover that the failures are not of the Organization itself, but rather of the positions and the attitudes of member states which, for one reason or another, have prevented the UN from taking action. But I think we can look at a long list of achievements of the United Nations, and I'd like to share these with you.

The United Nations has made possible a dialogue between the East and the West throughout the period of the Cold War. It's assisted over a billion people in the last generation to gain their independence from colonial status. It has settled or brought to a standstill a number of conflicts that have been placed before it. It's helped defuse the North/South tensions which continue to arise from the development gap. It's provided the world with information and with analyses in practically every conceivable subject.

The UN has promoted and continues to promote human rights, racial equality, human dignity. It's an important observation instrument where future world trends are concerned. It's developed a consciousness of our world-wide interdependence. It's provided a forum for the aspirations of people from all lands.

It's developed global institutional services in a number of fields which require international cooperation: outer space, aviation, health, industry, trademarks, to name but a few. It has provided an important channel for international economic and humanitarian assistance. It's fostered world law.

It's provided active cooperation among governments on a number of new global problems including population control, outer space and the problems of the environment.

And the UN certainly has exercised a definite moral influence on governments and on world public opinion toward greater peace, toward greater justice, and greater progress. And most important of all, in the 27 years since the organization was established, there has been no world war.

Now indeed, there have been failures. The United Nations has never become involved in the problem of Southeast Asia. There are unresolved conflicts on the books today: for instance, Cyprus, even though progress has been made recently with the resumption of the talks; and the Middle East, where an uneasy cease-fire still prevails.

Neither has the United Nations been able by itself to halt the arms race, and it has been unable to deal with serious remnants of colonization and of racial discrimination, although progress there, too, has been made with the recent announcement by the Secretary-General of a Special Representative to visit Namibia, and hopefully work toward the independence of the people of Namibia. Much also remains to be done in the field of economic development, and in the field of world-wide justice.

The UN today, indeed, is at a critical point. We face a financial crisis of significant proportions, aggravated indeed by some in the Congress who are unilaterally attempting to reduce the United States' contribution to the UN in the next calendar year.

I think the balance sheet is clearly a positive one. I think the achievements of the United Nations far outweigh its failures.

Even the failures, as I said, are not upon analysis, really the failures of the United Nations, because the institution can do only what the member states want it to do.

We're coming, it seems to me, into a new era in the relations of the nations of the world and the people of the world.

For the last 2 or 3 years, there has been a great movement toward a re-arrangement of the relationships among the great powers. The admission of Peking and the interaction between the United States and the People's Republic of China certainly are important steps. The Moscow talks have contributed to better understanding between the two superpowers.

We have seen progress in Germany with the initiatives of Mr. Brandt. We have seen progress in Korea, where the talks which were undertaken under the auspices of the Red Cross have a chance to develop into a significant political achievement. We note the recent talks between the Prime Minister of India and the President of Pakistan, hopefully the beginning of the resolution of difficulties that have plagued the subcontinent for the last 20-odd years.

We do, however, face a crisis of commitment. And you, all of you, who are here in the Congress of the United States as interns—most of you who were not born at the time the UN was founded—belong to a truly unique generation. Because, never before have young people all over the world crossed political boundaries and the boundaries of culture and tradition; felt them-

selves so intensely linked together in common hopes, in common ideals, in common aspiration.

It's natural for you to think of what unites the world, rather than what divides it. The United Nations is the one mechanism that can ultimately unite this world.

ARE FEDERAL EMPLOYEES SECOND-CLASS CITIZENS?

Mr. MOSS. Mr. President, the Federal Government's own employees continue to bear the heaviest burden of President Nixon's economic "game plan."

President Nixon has declared that the Federal pay comparability adjustments scheduled for October will be "frozen" until January, 1973.

This marks the third time in less than a year that Government pay increases, provided by Congress, have been turned into a political football by the incumbent administration.

Like everyone else, Federal employees felt the impact of last year's freeze on this Nation's wages and prices. Within-grade promotions, to be received by qualified general schedule employees on the basis of experience and performance, were suspended for the entire 90-day period.

Unlike other wage earners, however, the Federal employees were singled out for a special sacrifice. Under an administration order, all comparability adjustments scheduled for January 1972, were to be frozen for an additional 16 months.

Fortunately, Congress intervened. After a long legislative battle, the Government pay hikes went through as scheduled.

Federal employees were assured equitable treatment with workers in private industry under the wage-price controls program.

The attempted freeze on comparability adjustments, however, is only one example of the Nixon administration's treatment of the Federal employees as second-class employees.

In a broad range of areas, including health benefits, wage grade reform, and job security, Government workers have gotten what must be considered a raw deal.

HEALTH BENEFITS

The 1972 Blue Cross-Blue Shield rates are up almost 30 percent for the Nation's Federal employees. This 1-year hike in the cost of medical insurance, exorbitant by any standards, is especially unacceptable at a time when salaries and wages are being held under strict control.

Despite growing evidence that Blue Cross is rolling up a multimillion-dollar surplus on the Federal employee health program, the Nixon administration refuses to take action on the matter. To make matters worse, they have resisted every effort by Congress to increase the Government's contribution to the employees' health insurance premium. Instead, Federal employees are being asked to dig deeper and deeper into their pockets to make up for the administration's own economic bungling.

Here again, is another bold example of the administration's second-class treatment of Federal employees. On February 18 of last year President Nixon proposed that private industry should pay at least 65 percent toward their employees' health insurance program for the next two and a half years, and a minimum of 75 percent thereafter. When it comes to the Federal Government's own employee health benefit program, however, the administration's double standard is self-evident. President Nixon has threatened to veto any move by Congress to increase the Government's contribution to the health premium beyond its current level of 40 percent.

WAGE GRADE REFORM

On January 2 of last year, President Nixon vetoed a long-awaited measure to insure equitable pay standards for the Government's wage grade employees.

Until a few weeks ago, the President continued to delay action on meaningful wage grade reform. As recently as June 15, the administration's floor leader in the Senate attempted to table H.R. 9092, a modified version of the bill which President Nixon had vetoed last year.

Up to the very eve of this year's Presidential campaign, the threat of a veto was ever-present. Were it not for the national elections, wage board reform could well have been dead in this session.

JOB SECURITY

When President Nixon announced his new economic policy last August 15, Federal employees were the first to get the ax. With the Nation suffering from its worst unemployment in 10 years, the President announced a 5 percent across-the-board cut in Federal manpower levels, throwing thousands of Government workers onto an already overcrowded job market.

The President continues to show little interest in providing jobs for millions of employees who were riffed as a result of defense and aerospace cutbacks.

Two million American workers released from wartime activities were denied employment opportunities in the peacetime economy.

Ignoring the plight of these men, President Nixon vetoed two major jobs bills, the Manpower Act of 1970 and the Accelerated Public Works Act of 1971, measures which would have provided hundreds of thousands of jobs, especially for those who found themselves displaced by the peacetime transition.

As an attempt to cover up for this dismal record, the Republican administration has resorted to scare tactics concerning the Democratic candidate for President. As a supporter of Senator GEORGE MCGOVERN, I feel it is my responsibility to come to Senator MCGOVERN's defense on this matter.

GEORGE MCGOVERN is the only candidate for President this year with a comprehensive program to guarantee job security of the Defense Department's civilian employees. Unlike President Nixon, who showed little concern for the millions of riffed defense and aerospace workers, Senator MCGOVERN has given high priority to a nationwide program to devote the skills and experience of these workers to the real domestic challenges of our Nation. The development of mass transportation systems, environmental protection facilities, demand the best of our technically-skilled manpower. Senator MCGOVERN intends to create 1 million new jobs in these areas with the displaced defense workers receiving the first consideration.

It would be a mistake, however, to accept the administration's charges that Senator MCGOVERN intends to "dismantle" the Nation's defense program. In actuality, the cuts proposed by Senator MCGOVERN would have little impact on most of the Nation's defense installations. The Senator has proposed cutting expenditures on new weapons development, not on the maintenance of existing programs. Since most defense installations have as their primary mission the maintenance of existing weapons programs, they should not expect substantial manpower reductions.

Overall, Senator MCGOVERN has an excellent record regarding Federal employee legislation. Last December, MCGOVERN joined in the successful effort to crack the President's arbitrary freeze on Federal salaries. A long-time supporter of the principle of equitable treatment for Federal employees, MCGOVERN was an early supporter of legislation creating the pay comparability system. When President Nixon attempted to interfere with the scheduled adjustments, Senator MCGOVERN stood with the employees and supported an amendment to the Economic Stabilization Act defending the Federal employees' right to the pay increase.

This was not the first time Senator MCGOVERN moved to guarantee progressive treatment for Government workers. On October 3, 1969, MCGOVERN helped overcome a Republican attempt to weaken long-awaited retirement benefits reform. His actions saved the important high-three provision.

Today, many Federal employee issues remain unresolved. Due largely to the delaying tactics of the Nixon administration, many employee rights and benefits have yet to be guaranteed at an acceptable standard. Health benefits have yet to be extended on par with private industry; retirement annuities remain short of acceptable standards; pay comparability remains vulnerable to political manipulation; and a truly independent prevailing wage advisory board has yet to be established. On all of these questions Senator MCGOVERN has taken the fair and understanding position. President Nixon, on the other hand, has thrown up roadblocks to progress.

As a member of the Senate Committee on Post Office and Civil Service, I have had a unique opportunity to measure the record of both of these men on issues of vital importance to the Nation's Federal employees. I believe that this year's Presidential election offers these Government workers the clearest possible choice between progress and stand pat, between first-class and second-class citizenship. Where MCGOVERN supports, and has always supported, the principle of pay comparability, Nixon manipulates Federal salaries for short-term political gain. Where MCGOVERN supports progressive health and retirement benefits, Nixon urges an inferior status for Federal employees. Where MCGOVERN states,

loud and clear, his support for full collective bargaining recognition for all public employees, Nixon opposes. Where McGOVERN supports modernization of the Hatch Act, Richard Nixon devotes his energies to keeping Federal employees politically helpless. Nixon is bad news for Federal employees.

NBC–TV DOCUMENTARY ON PENSION REFORM

Mr. SCHWEIKER. Mr. President, one of the most important bills to be reported to the Senate this year is S. 3598, to provide for reforms and improvements in private pension systems.

This bill, the Retirement Income Security for Employees Act of 1972, has been drafted after more than 2 years of hearings and study by the Subcommittee on Labor, on which I am privileged to serve.

Existing laws are simply not adequate to protect the lifelong investment a worker makes, through his labor, in his pension plan. It has been estimated conservatively that between one-third and one-half of all workers now covered by pension plans will not realize a nickel from their pension plans when they retire. There is a particularly serious problem of workers losing their pension rights, and their hard-earned pension savings, when their companies go bankrupt, merge with other companies, or simply go out of business.

The pension reform bill, which I strongly support, would help correct this situation of retired workers being left with no pension whatsoever through four major features: First, it would guarantee a vested pension right after an employee has worked 8 years for a company; second, it would require pension plans to have a sound funding schedule, to guarantee that the pension funds actually have the money to pay their pensions; third, it would provide insurance for vested pensions in plans that are terminated; and, fourth, it would encourage businesses to institute "portable pensions" so that employees with vested pensions who change jobs can take their pension plans right with them.

Mr. President, the need for pension reform, and the serious problem of breakdown in our private pension systems, was dramatically shown to the entire Nation on September 12, 1972, on the NBC–TV national documentary, "Pensions: The Broken Promise."

This outstanding television special portrayed vividly the plight of the individual worker who is faced with the loss of expected pensions because of situations totally beyond the worker's control. Every Member of the Senate and the House of Representatives should see, or read, this important television documentary. NBC–TV is to be commended for its important public service in airing this issue for all Americans, and I ask unanimous consent that the entire transcript of the show be printed at this point in the RECORD so that my colleagues will have the opportunity to review this vital message.

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

PENSIONS: THE BROKEN PROMISE

SEPTEMBER 12, 1972

ANNOUNCER. Tonight NBC reports on Pensions: The Broken Promise.

MAN. I figure I had twenty-three years seniority filled up, possibly last up until I was in my forty year sometime at least before I retired and then to look back and see it all fallen away. Everything that you planned on. Just seems like a waste of time.

WOMAN. There must be thousands maybe millions of them that's getting the same song and dance that my husband got. When they reach their time for retirement there is no funds to pay them.

MAN. This man, Hoffa, on there, retired with a one point seven million dollar lump sum pension. And I can't get three hundred dollars a month out of them on there for my retirement.

MAN. Where does all this money go that's been paid into these pensions?

MAN. The pension system is essentially a consumer fraud, a shell game and a hoax. As a matter of fact, when you say it's a consumer fraud, you pay it an undue compliment, because typically, you think of consumer frauds in terms of short transactions, the purchase of an automobile, the purchase of a pair of pants, but with the pension system you really have a long term contract that may run fifty or a hundred years that's designed to guarantee the security of our population. Essentially, you have an insurance contract that doesn't perform. You have an insurance contract that can't be relied on. You have an insurance contract that can't be trusted.

MAN. And I think it's a terrible thing in this country where men who work forty-five years have to eat yesterday's bread. And I don't want to compete on my old age against other old men on old age running down a supermarket aisle to get dented cans and stale bread. I don't want to look forward to it. So I really have nothing to look forward to at sixty-five.

[Dance music.]

EDWIN NEWMAN. This is a story about ordinary people with the modest hope to finish their working careers with enough money to live in dignity. That is a modest hope but it's one that is all too often not realized.

* * * * *

NEWMAN. There is a widely held belief in this country that public disclosure is a good thing that it inhibits misconduct and helps to keep people honest. That's why these files are full of pension plans, private pension plans. Under the law, all such plans must submit annual reports on their activities to the Department of Labor. And these annual reports wind up here, roughly thirty-four thousand of them in a building in Silver Spring, Maryland, just outside Washington.

The Labor Department has the right to audit them and to a limited extent, where wrongdoing is discovered, the government may prosecute. Also, the reports are available to anybody who asks to see them, but as it works out that is a meager protection for the twenty-five million Americans who are in private pension plans.

There are millions of hopes and dreams in these files. If experience is any guide, very many of the hopes will prove to be empty and dreams will be shattered and the rosy promises of happy and secure retirement and a vine covered cottage will prove to be false.

Understandably, there's a good deal of bewilderment about this and bitterness among those who find nothing where they thought that pension plan payments were going to be. The Labor Department therefore receives in addition to the annual reports of pension plans complaints about them and appeals for help. A lot of these are passed along by members of Congress.

For example:

WOMAN. I understood that I was covered under a very good pension plan to which I did not contribute. It was a hundred percent paid by the company. But it did mean a lot to me and I had several other job offers which I refused or didn't even consider because I knew I had security to build up for the future.

MAN. I started when I was nineteen years old.

NEWMAN. Stephen Duane(?) used to be a warehouse foreman for the A&P supermarket people in New Jersey. Eighteen months ago the A&P closed the warehouse and discharged the men who worked there. Duane lost all his years of pension credits.

DUANE. . . . in my old age I would be happy and secure in the pension and the benefits that I thought I had with the A&P.

WOMAN. At the end of these fifteen years, the company was bought out and the new owners decided to close down the air(?) division so I had less than a week's notice and I was let go as well as everybody else in the air division with no severance pay, nothing, absolutely out in the street, after fifteen years with nothing.

DUANE. When the time came to talk about the pension, we were (unclear) . . . we did have books but nobody took bother in looking at the book, so you feel you're going to be pensioned and that's it. So when they finally told us that the men had to be fifty-five years and over to collect a pension, I was the big loser. I had a brother the same time as me down there. We were the big losers. Thirty-two years of our life was given up and we had nothing, absolutely nothing to show for it.

NEWMAN. Duane discovered what a lot of other people have, that it's not easy for a man in his fifties to find a new job. He wound up as a laborer in another warehouse, where he has to compete with much younger men. But no matter how hard Duane works, it's almost certainly too late for him to start building pension credits again.

DUANE. It's a terrible experience, an experience I would never like to see anybody else go through. That is why I feel so deep about this pension so that future men won't feel like I do. You wake up in the middle of the night, in a cold sweat, knowing all our work, all your life has gone down the drain. I was just a number, number seventy-two was my number. No Stephen Duane or a worker. I worked, I remember, I had seventeen years with only four days out. But what does that mean to them? That means nothing. They just turn you out in the street because it's an economy move. I personally wrote a letter to the president of the A&P, not yelling at him, I want to discuss some kind of moral obligation, just me and him, how does he feel, how does he put his head on the teller(?) knowing you have men walking the streets. I don't know. It's very—it's a deep emotional thing with me. Sometimes I'm ahead of it. Sometimes I'm not. That's my feelings on the thing.

RALPH NADER. We've come across in our questionnaires and other surveys, some of the most tragic cases imaginable. Where people who worked for twenty-five, thirty years and just because of a tiny quirk in the pension plan's fine print, they don't get anything.

HERBERT DENENBERG. When you get to be sixty-five, you're out of work and you need a source of money and that's what a pension plan is supposed to do. Unfortunately, it's woefully inadequate. Over half the people have nothing at all from pension plans and those that do typically have only a thousand dollars a year so even if you have social security, most pension funds are inadequate.

SAM ZAGORIA. And there are a lot of people who just believe because something is printed and because they've heard some glowing words about it, that that means it's a lead pipe thing, that they're actually going to have it when they need it. It may not be so.

NEWMAN. Many employees form their ideas about pensions by reading the slick brochures that their company or union gives them. Most of these booklets do make a pension seem a sure thing. The many restrictions and exclusions are buried in fine print or concealed by obscure language.

The Senate Labor Committee has been looking at these brochures as part of its general study of the pension problem. Senator Harrison Williams is chairman of the committee.

Senator WILLIAMS. I have all kinds of description of plans here and all of them just suggest the certainty of an assured benefit upon retirement. Here's a man—this was from a brewery, sitting relaxed with a glass of beer and checks coming out of the air; well, you see, this gives a false hope, a sense of false security.

NEWMAN. Senator, the way private pension plans are set up now, are the premises real?

WILLIAMS. The answer is, they are not.

NEWMAN. So you want to get some reality behind the premise, Senator?

WILLIAMS. Exactly. We don't want just these golden general descriptions of what can be expected under the plan; we want clear and precise and understandable descriptions of the reality. The worst example that I've seen is this description that is wholly unintelligible to anybody but an advanced lawyer.

NEWMAN. If an employee makes the election provided for, is that the one?

WILLIAMS. Yes.

NEWMAN. If an employee makes the election provided for in Subparagraph two of Paragraph B of this Section Six, his monthly pension is determined under either Section Three or Subparagraph One of Paragraph A of Section Four whichever applies, shall be reduced by the percentage set forth in Paragraph C of this Section Six as if the employee has made the election provided for in Subparagraph One of Paragraph B of this Section Six and shall be further reduced actuarily on the basis of the age of the employee and his spouse at the time such election shall become effective. The sex of the employee and the spouse and the level of benefits payable to the employee's spouse in excess of the level of benefits in the election provided in Subparagraph One of Paragraph B of this Section Six.

Maybe I didn't read it very well.

WILLIAMS. Well, of course, you understand it though.

DENENBERG. It's almost an obstacle course and the miracle is when someone actually collects with the plan. There have been studies that indicate that most people won't collect. I think we need controls of the same type we apply to insurance companies, your money should be funded so it's going to be there at age sixty-five. Today, it's almost a miracle if it's there at age sixty-five.

You have to go to work for an employer, you have to stay with him, you have to stay in good health, you have to avoid layoffs, you have to take your money, turn it over to the employer, hope that he invests it safely and soundly, you have to hope that when you're age sixty-five the employer is still around and he's not likely to be in terms of the high mortality of business, so there's almost a sequence of miracles which you're counting on.

Senator RICHARD SCHWEIKER. In one study made by our subcommittee of fifty-one pension plans, covering six point nine million workers since 1950, ninety-two percent of the workers in these plans left without any benefits whatsoever.

Workers are losing their pension rights when their companies go bankrupt, merge with other companies or simply go out of business. Workers are losing their pension rights when they are forced to leave one job to find another. We will hear testimony from five retired employees at Horn & Hardart, men and women in their sixties and seventies who have worked an average of forty years or more for the company. Today they are retired and forced to keep working because the company has hit financial difficulty and has had to give up its pension plan.

MAN. They called me into the office, they say, Grimes, you almost about time for you to go ahead. I say, is that so, well, I said, go out for what. I heard of people retiring, I mean, but they say, well, you know, everybody got to retire. And I say, I didn't know that. I say, I'm not ready to retire. I have no money. I say, I owe everybody in Philadelphia which I did. I said,—I told them, I'm not ready to retire.

WOMAN. They made me retire on account of the age. They call me in and Mr. Downey(?) was the man over the place at the time. And he said, (unclear) . . . what I would get and after taking out other compensations, I got fifty dollars and forty-eight cents a months.

MAN. They claim that this plan would make us financially independent along with our Social Security and whatever income we might have saved. They said that this plan, you will not have to worry about anything. Then all of a sudden, they said, we can't pay you anymore, cause the funds has run out. And we have to sell some properties in order to recuperate and get some more funds into this . . .

SCHWEIKER. And then that was cut off in October of '71 when they went into bankruptcy.

WOMAN. That's right. As Mr. Grimes said, we stop and then we started it again. And they finished it in November 1971 and that was it. I don't get anything at all. Nothing at all. For all of those years.

MAN. When I retired in '56, I was getting fifty-five dollars in pension money. I could make it with that with my Social Security.

SCHWEIKER. Had you expected to get a full pension for the rest of your life?

MAN. Yes, sir. At the time the pension plan was established, we got literature stating what we were going to get and I was satisfied with my—at that time I was satisfied with Social Security. I suppose I knew I could sort of make it like that. But when it collapsed, I collapsed with it.

SCHWEIKER. I have here a booklet called Horn & Hardart Retirement Pension Plan. I assume this was something that was passed out to the employee. No doubt you all have one. I'm sure that it spells out what you expected to get in terms of your benefits. I think significant on the inside back cover, it says: Happy Retirement to you when your turn comes.

(Laughter and applause.)

ANNOUNCER. Pension: The Broken Promise will continue after this message.

NEWMAN. This was the Baldwin-Lima Hamilton Heavy Equipment Plant near Philadelphia where thirteen hundred men used to work. They were the sort of people who thought security was important and they had passed up bigger wage increases in favor of a better pension plan.

When the plant closed in April, many of the men discovered their pension rights had disappeared.

MAN. I heard a lot of guys say, the only reason I stayed with it, for my pension. Now there is no pension. So in order to have all this go down the drain, let's face it, it affected every one of us in one way or another.

MAN. What's going to happen to me? Here I am. I'm now fifty-nine years old. When people get up in age and the bottom drops out, like what happened to us. It's a crime. After thirty years and I've got nothing. I mean, it's gone down the drain, thirty years of service. Now I can make up—I can get up into another place and I'll get fifteen years, but that's not going to amount to anything.

MAN. So there goes my future plans. I mean, I figure, well, I'd like to put the boys through college but what can I do now? I'm afraid to.

MAN. A younger person does have some chance to do it but at my age, you've made that round, there's no more. In other words, I missed the pension here by about four months.

MAN. Everybody was just relying on a pension and if they knew today all the stuff, they would have never stayed there.

MAN. Yeah, but George, you realize that there's so many people, working people under the impression that they've got a pension coming they don't even realize it they could be in the same fix . . .

MAN. . . . complacency. They don't realize that this can happen. They think, oh, I'm doing all right, I've got my paycheck and I've got a pension but he didn't read the fine print.

MAN. Well, we felt that way ourselves two years ago.

MAN. This is where I thought I had it. I thought when I reached the age of sixty-five or even sixty-two, I'd have approximately forty-five to forty-seven years with the company. And I could turn around and retire at six dollars (sic) for every year of service.

(Cross talk.)

MAN. As the years went on, that figure would have increased.

MAN. I lose faith in a government that allows things like this. Not long ago I was in New York and I saw that inscription on the Statue of Liberty. And it sounded wonderful, you know. Give us your tired and so on. But what it actually said was, give us your labor; get those honkies here where we can put them to work for nothing. That's what it amounted to.

NEWMAN. An employee becomes much more expensive to a company once he has been vested, that is guaranteed a pension. This man, Alan Sorenson says he helped to prove that point in a study he did for a large department store chain. After the study was made, so Sorenson says, the company got rid of many long service employees before they could achieve vested pension rights.

Sorensen himself was transferred out of company headquarters winding up in Salt Lake City as a store manager, that is Sorensen was a store manager until he was fired last year after twenty-two years of service. He now works as a check-out clerk in this Salt Lake City store.

Sorensen told us he had been only a few years away from his vested pension rights.

ALAN SORENSEN. I definitely feel that I was terminated because I was approaching an age when I would have vesting and they had terminated so many long service employees just prior to terminating me that it all seemed to fall into a very definite pattern.

INTERVIEWER. And the reasons you were given for being let go? How did they seem to you?

SORENSEN. They seemed very shallow. Because my past record was such that it was above reproach. I had never had a serious shrinkage in the total time that I had been a store manager. Within the last two or three years before I was terminated, they terminated a great many store managers with long service with the company.

INTERVIEWER. People who would be approaching the . . .

SORENSEN. Approaching the age of vesting and retirement. See, by terminating these people before they reached age sixty-five, this cuts their pension benefits back drastically.

Earl SCHROEDER. Out in Chicago. I worked

for twenty-four years for the Kelly Nut Company. And . . .

NEWMAN. Earl Schroeder was a corporate executive in a company that had been taken over by a large conglomerate. Several other executives had been fired and Schroeder was worried about what promised to be a substantial pension.

He was only six months away from his

SCHROEDER. . . . a retirement plan at age sixty by having put twenty years service with the company. I had put in my twenty years, in fact twenty-four years with the company, but I did not have the age requirement of sixty. I was called from my office to a lunch with one of the executives of Kelly Nut Company, Corn Products Company, our vice president for finance. And informed that henceforth I would no longer be with the company.

And I said, Walter, what do you mean? He says, well, Earl, I hired you twenty-four years ago, today I'm firing you. Why? Well, we decided you're too good for the company. And we have no other spot for you.

I was at the time assistant secretary of the company, the secretary of the company he was lopped off at thirty years' service. I had a warehouse manager in Albany, Georgia, Howell Free who was lopped off two months before he would be vested in the plan; he had his time, he had his age, this poor individual became so ill and upset over it that he shot himself, took his own life.

NEWMAN. Driving a truck in Chicago wears a man down fast, so the truck drivers have always been concerned about pensions. And in most respects, the pension programs run by the Chicago teamsters union locals are among the best. Benefits are generous and a teamster can retire as early as age fifty-seven. Many feel that after twenty or thirty years behind the wheel retirement can't come soon enough.

MAN. When I was young, I was like a bull. I thought I was big and tough. Then I started in the taxicab. Driving a cab. You sit. Your kidneys, your back, everything just goes.

MAN. Every truck driver I think thinks forward to the day that they're going to retire. And if you got the seniority you think you're well established. You're not thinking about somebody cutting, shooting you down or something. About cutting your pension off.

NEWMAN. The trouble is, every teamster local in the Chicago area runs its own pension plan. And it's common practice for a man to be forced to transfer from one local to another, every time he changes job. From driving to the loading dock, for example. Or from loading to checking weigh(?) bills. Or from an outside to an inside job.

Sometimes, different group of teamster members working for the same company or even in the same garage will be in different teamster locals.

A teamster must have twenty years of membership in one local to draw a pension. His pension rights are not portable. He cannot take them with him from one local to another.

A lot of drivers don't know that until it's time for them to retire. And when they do find out, they can't understand why it should be so.

MAN. When they started up this pension plan, I don't think they were strictly honest with people. I mean, with the people, I mean the truck drivers. They didn't come out in detail and say, you got to have twenty years in this local only that you can get a pension.

MAN. As far as I'm concerned, with the amount of years that I have with the company, I should get a full pension. I've got my twenty years with the company, but you got ten years over here, I got eleven years over here.

MAN. It's the same thing on there as you would put money in one bank and then go on the west side and put another part of your money into another bank on there and when it comes time to draw it out down there, they tell you, we're sorry on there, you put your money in two banks. We refuse to give it to you. This is the same principle. I have money in two different locals.

MAN. Almost twenty-one years with one outfit and I can't see why one local can't get together with the other local which I'm in and there is nothing to it, this one has to give me half, the other one gives me half and they make a whole out of it, all right, so, whats hard about that?

MAN. You go down to the unions, you beg, you talk to the people, they give you deef ear. Yeah, we'll take care of it. We'll take care of it. They don't.

MAN. The union was to me a brother. And that they wouldn't sell me down the river. They wouldn't deprive me of something on there that was paid for that I was looking forward to by a little technicality on there.

MAN. They're taking away by lying to the men, they're taking away by pulling out the fine print in their pension programs. They're taking away by keeping the men ignorant of these pension programs. Of these pension rules.

MAN. You cannot change unions. So what do you do then? If you can't change unions, if you have to get another job, and you have to go in another union, what are you going to do then? Do you start all over again? Are you going to go ahead and build up time time time? You can't do it.

INTERVIEWER. What are your plans for the future?

MAN. I have no plans. What can I do? I'm just going to have to live out my time and do the best I possibly can with (cross talk) . . . from Social Security.

WOMAN. And what we have in the bank.

MAN. That's all I can look forward to. Nothing else.

MAN. You've got people driving those trucks that are as high as sixty-eight years old. Sixty-eight years old driving a seventy-two or a seventy-three thousand pound unit. With such commodities as explosives, jet fuels, gasolines, oils, plastics, sixty-eight year old man driving this truck. They're not going to last. Somebody's going to get killed. They should have been pensioned about ten or twelve years ago.

MAN. That's the way I figured it was going to be. And that's the way we all figured. All the old timers, we figured that if we put in twenty or twenty-five years, when we retired, we would get a pension. But no because they got cheated they still have to work. But can you imagine a sixty-eight year old man on an interstate with anywhere from seventy-two to seventy-four thousand pounds coming at you?

ANNOUNCER. Pensions: The Broken Promise will continue after this message.

NEWMAN. The flaws in the private pension system have hurt middle class and working class people most. Rich people don't need pensions and the very poor never build up any pension rights they can lose.

People don't get the pensions they expect for many reasons. One is that most plans require you to work in the same place for twenty-five or thirty years or more. A lot of people lose their pensions because the plan runs out of money. At this moment the Coal Miners Fund is operating in the red and the Railway Retirement System is running an annual deficit.

It's also common for workers to get smaller pensions than they expect, partly because many plans treat highly paid executives much better than lower and middle level employees.

Women get the worst treatment. They seldom work in one place long enough to qualify. And the wife of a pensioner usually gets nothing after her husband dies.

What's wrong with the system is most evident to the social workers helping the aged and to a few labor leaders who take an interest in retirement problems.

VICTOR GOTBAUM. In the United States we have a magnificent ability to cover up our own diseases especially the disease of big business. Pensions in the private area are a mockery. They're a national disgrace. We know this.

MAN. The place where it gets very difficult is with your fairly average middle income middle class person. Who arrives somewhere between sixty-two and sixty-five at retirement, finds their income cut sometimes as much as seventy percent. These are the folk that I think have the most difficult time. They're sometimes our most difficult client because they're bitter. They're resentful. Our society being what it is they postpone thinking about old age and its problems. And all of a sudden, they find themselves old and poor.

EDWARD KRAMER. These people feel who worked all their lives and let's say they worked thirty-five forty years, and many of them have worked for one employer for all these years, are, they feel that now that they've retired, they're going to live a better life. They won't have to get up early in the morning. They won't have to work and they'll be able to do all the things that they couldn't do when they were working. And then they find themselves in the position that they have no money, they have no friends. And they live in squalor and they can't do these things. So what—they've really been cheated, cheated by the pension system, cheated by social security, cheated by their employer and they feel very angry at themselves because I think in the back of their mind, they knew this was going to happen. They knew that when the day came that they would retire, they would be worse off than when they were working. But they're afraid to admit it.

GOTBAUM. They don't eat meat. It's soup. It's lower economic. When they go into the supermarket, something of a thing you discover is that they're the special hunters. Their housing situation is an atrocity. We know this. We've now discovered them so we're trying to build housing for the aged. And there's a thrust in this direction. The aged poor. Well, there's not enough housing, there's not enough housing for the aged poor. So that, you'll find that the ghettos, interestingly enough, fascinating area, the ghettos are composed mainly of the black and Puerto Rican poor and then you will find spotted throughout aged whites as well as the black and Puerto Rican. This is integration of the poor, integration based on lower economic status.

KRAMER. They're kind of waiting around. See, what we've done in our country is create God's waiting rooms all over the country, in Miami, New York, and Boston, and Los Angeles, and Philadelphia, where old people kind of wait around for the day to come when they're gcing to die.

MAN. We're living too long. I some area if we could just disappear, it would be very nice to the community at large. But we are not disappearing, we're still here. And we're growing older and older. The aged now are ninety and ninety-five is not too uncommon. Even a hundred is not too uncommon. And the result is this, that we have made no plans to retire.

MAN. You can't make it on social security, maybe after that twenty percent increase we can. Far as I'm concerned. If you had just say a hundred and a half more a month, we could make it pretty good. But now when a bill comes up, you gotta figure how you're gonna meet it. See, if the car breaks down for a hundred dollars, you gotta start skimping or go to the bank—you got two, three hundred left in there and draw one of them out. And that's like pulling teeth.

WOMAN. We'll get by, we'll just have to get by, we'll have to eat less. If we had any in-

debtedness at all, we'd never make it. Makes you feel bad and a lot of times you just sit there and think, at my age, what am I going to do, where am I going to? (unclear) . . .

MAN. The average person—elderly person who lives on social security, old age assistance and perhaps some money they've been able to save. Income runs about a hundred and eighty dollars a month. They've literally got to watch every nickel and penny.

KRAMER. Going to a movie is a big expense, taking a bus to a clinic to visit a doctor is a big expense, buying a new pair of shoes is a big expense, getting ill and having to get medicine is a big expense. This is where, if there was an adequate pension system in the United States, along with Social Security, some of these problems could be avoided.

NEWMAN. Retired people like to live in places that are warm and cheap. There are towns in California and Florida where more than half the adult population is retired. Years ago, older people lived with their working age children. Now, in our mobile society, the elderly have taken to living in trailer parks filled with other retired people.

That means retirement is a lot more expensive than it used to be. And the elderly are complaining much more about needing money.

The average retired person depends on Social Security for most of his income, so the big day is the third of the month, the day the Social Security checks arrive.

MAN. Everybody's out, they're standing at the door for the mailman, they grab this little check and they haul off to the bank with it. And we get in line up there to get your check. And we try to let it go till the next day because it takes too much of your time standing there. And then you run off to the grocery store. And the grocery stores all run big sales. On the day they're going to have this—you can get yourself a steak. If you're lucky for a dollar and a half. But retirement's not, unless you can adapt yourself, it's not for the lively person, somebody that's sickly, he can't enjoy it, there's nothing to enjoy about it. But if you can prepare yourself to accept a quiet life and you and your wife figure what you want to do with yourself during the day, then you can make it.

We have fishing and take an umbrella and a couple of chairs and go down to the beach and sit there for the early part of the day before it gets too hot and then we come back and turn the air conditioner on, spend the afternoon in the house. We have a couple of friends around here we visit with, but it's nothing exciting. And you don't have the money to get exciting. I mean, the wife likes to go and I would love to go too but you can't afford to drop ten or twenty dollars. You go down to these restaurants, none of them have a meal less than three dollars. But they got some beautiful malls and one thing and another, you can loaf around in air conditioned. We went in one yesterday, Ma's, I think it was, and . . . pull about four bolts of material there . . . how do you like this and I go through the routine, it's a litle loud, or a little conservative and she throws them back in the pile and walks on. And the girls follow around (UNCLEAR) . . . .

But that keeps them busy, you know, they got something to do. I imagine all these old people do that, I don't know.

NEWMAN. The crux of the matter now is that increasing numbers of Americans are reaching retirement age, they should not be expected to live in poverty or near poverty or a cut or two higher, lead a drab, penny-pinching sort of existence. Nor, obviously, is that anything the rest of us would want to look forward to. The refrain that runs through what we've been hearing is a kind of incomprehension. What emerges over and over again is that these people played the game. They did what Americans are expected to do: they worked and met their obligations. But at the end of their working lives, they found that they were in trouble. Put simply, they did not have enough money. The pension plans that they thought were going to take care of them didn't. Now, it may be that some of them did not save as much money as they might have. The urge to consume in American life is very strong. Also inflation played its part and maybe they were careless about what the pension plans they were in actually could do.

In any case, at the end of their working lives, they feel cheated and cast aside.

ANNOUNCER. Pensions: The Broken Promise will continue after this message.

FRANKLIN D. ROOSEVELT. This social security measure gives at least protection to fifty millions of our citizens who will . . .

NEWMAN. Most people didn't have any sort of steady retirement income until the first Social Security law was passed. Social Security was to take care of working people when they got old. At least that was the impression given by this government publicity film but no one who ever had to live on Social Security alone has ever considered the monthly benefit to be enough. It was enough perhaps where people also saved money for their old age or got help from their children.

The private pension system really got started when wage controls were put into effect during World War II. Fringe benefits were exempt from controls and since labor and management couldn't talk about much else, they began to negotiate pension plans. Companies also started using pension plans as a way to keep skilled employees. The idea was that a man would not be tempted to look for another job if he had a paid retirement to look forward to.

Today labor unions consider pension benefits to be part of the wage package, higher income workers now want more insurance that they'll actually get their pensions. Lower income workers think they have a right to better pensions than they get now.

For that matter, major league baseball players struck last spring for improved pensions.

In New York, not long ago, angry municipal workers paralyzed the city by opening drawbridges and blocking highways. They wanted their pensions improved to match the gains made by policemen and firemen. And by some workers in private industry.

If there is a pension crisis, it is, at least, in part, a crisis of rising expectations.

Another crisis of sort involves the vast amounts of pension fund investments. James Hoffa was convicted of criminally mishandling pension fund investments. So was the leader of a Chicago barbers union.

Pension funds have outgrown the laws regulating them. No government agency has enough staff or authority to control them. The Justice Department's labor section believes it's common for pension money to be incompetently or dishonestly invested.

RICHARD BENVINISTI. Well, we've prosecuted cases involving embezzlement of pension funds, misuse of pension funds, for the personal benefit of the labor union officials who are charged with administering these funds. We've also prosecuted cases involving the receipt of kickbacks by pension fund employees and trustees for the granting of loans and for the use of this pension fund money.

BENJAMIN SCHENCK. It could be something as simple as using the money to buy a new vacation home for one of them, it could be more complex, more subtle situations where the money in the trust fund is for example loaned to the employer, to build him a new factory or loaned to the union to finance a new recruiting campaign.

CHARLES RUFF. We have no real idea of how much fraud there may be in the pension plan area. But you're talking about an institution, the pension plan area, generally, that deals in hundreds of billions of dollars. And when you have that much money involved, the federal government ought to take a more active role than it does.

DENENBERG. We regulate insurance completely. We regulate the agent, the contract, reserve, the policies, the sales technique, the investment, we regulate insurance companies from birth to death. And yet we have a gigantic pension system, almost the size of the insurance industry, a hundred and fifty billion dollar business that's essentially unregulated.

Can you imagine what would happen if we would let insurance companies do whatever they wanted to? We can't even protect the public with full regulation in insurance, but essentially we have a pension system which is precisely an insurance plan and which is almost unregulated.

NEWMAN. This is where most of the pension money now goes. To Wall Street. To be invested.

It's estimated that private pension fund assets now amount to something like a hundred fifty-three billion dollars. The way they're growing, they very likely will amount to two hundred fifty billion dollars by the end of this decade.

Pension funds are now the largest institutional investors in the country; they've passed the mutual funds and there is no end in sight.

Typically, the management of pension fund money is handed over to banks, mostly very big banks. Banks for the piling up of pension fund money. A few banks may administer significant and even controlling amounts of the common stock of very big corporations.

An example:

More than ten percent of such companies as IBM, Ford, IT&T, J. C. Penney, Westinghouse, and Boise-Cascade is held by three banks. Fifteen percent of Trans World Airlines is held by two banks. Morgan Guaranty Trust and Chase Manhattan.

MAN. We remain confident beyond 1973 on a . . .

NEWMAN. There is so much pension fund money to invest, that just finding productive uses for it can be a problem.

This is something few outsiders see, an investment meeting at Bankers Trust Company in New York.

MAN. One of our major concerns is to protect our accounts against risk, risk being defined as underperforming the market in a down market which it is true we do not forecast. My question is, how do you think the chemical stocks would fare in the event we do have a weak market over the next six months?

MAN. Jerry, I was just talking this morning . . .

NEWMAN. Critics of the big banks claim that they stick too much to safe investments in big corporations. The bankers insist that their industry is competitive and that all banks seek the highest return with the least risk.

Bankers and critics agree that the trust and investing industry has grown tremendously. The institutions managing trust funds have become so big that they often prefer to trade large blocks of stocks among themselves by computer, rather than using the stock exchange.

Pension fund money has become so important to the economy that nobody knows what would happen if the system were to be drastically changed. Incorporated in social security, for example.

Ralph Nader opposes that. Nader wants to take pension funds away from the banks and have the government set up new set of institutions, responsible only to the pensioners.

Other critics would concentrate on insuring pension benefits and making it possible to take pension rights from one job to another. But almost everybody agrees that some changes are needed.

RALPH NADER. I think time is running out. On the private pension system. And if its abuses continue to pile up, and if its enormous popular disappointments begin to be more and more revealed, it might collapse of its own weight, and social security will have to take up the slack.

RUSSELL HUBBARD. Over a good number of years, the track record is excellent. It's unfortunate that every now and then some of the tragic cases make the newspapers and the headlines. But it's a question of perspective and balance. When you consider that there are thirty million people covered by the plans, that there are five million people receiving about seven billion dollars in benefits. I think that's a pretty good record. That's not to say that there aren't a few remaining loopholes that need closing. But we ought to make sure that we don't throw out the baby with the wash water.

VICTOR GOTBAUM. The solutions in the wealthiest country in the world is not to do what they've been doing in terms of pensions. You fund a pension. You fund it on the basis of men's ability to live. You tie it into cost of living. The wealthiest country in the world ought to be able to do it.

KENNETH ANDERSON. You must remember that the corporation has set this plan up voluntarily. They have not been required by law to set it up.

INTERVIEWER. So that it gets from the employer to the employee?

ANDERSON. That's what it amounts to.

DENENBERG. I say it's the employee's money and I think that is the economic fact of life and I think in terms of the morals of the problem and in terms of the economics of the problem, that anyone would conclude that it does belong to the employee and yet it's not being used for his benefit.

ANDERSON. These pension plans are a part of a fringe benefit package. Like hospitalization insurance and so forth, but it's still a voluntary thing on the part of the corporation.

GOTBAUM. So all I can say is my God, how can you hold to that view? Do you mean, people are supposed to starve, that people are supposed to live on a subsistence money because they are not unique, and that, by the way, is the same attitude. That gives top management stock options, gives them retirement after a small serving period whereas the middle worker, the lower economic worker takes a terrible beating.

Senator SCHWEIKER. What we're proposing to do a little bit what was done with the bank failure problem. We didn't go in and take over the banks but we did, by means of insurance and federal deposit insurance corporation come in and guarantee that no depositer would lose his savings under a certain point. And I think that's what we're saying here, that once a worker has put in eight years time, once he's reached a certain age, once his company's reached a certain point, then he doesn't lose it, regardless of what happens to his company or the country.

MAN. What are they waiting for? What the hell are they waiting for? Do they have to give us a certain quota, a certain number of people that have to be victims? Do they have to give us a certain amount of money? How many billions must it take before they do something about this? How many people have to starve? How many people have to lay on the sidelines and just hope and pray. How much misery do they want before they actually act upon it?

NEWMAN. This has been a depressing program to work on but we don't want to give the impression that there are no good private pension plans. There are many good ones. And there are many people for whom the promise has become reality. That should be said.

There are certain technical questions that we've dealt with only glancingly, portability, which means, being able to take your pension rights with you when you go from one job to another, vesting, the point at which your rights in the pension plan become established and irrevocable.

Then there's funding, the way the plan is financed so that it can meet its obligations. And insurance, making sure that if plans go under, their obligations can still be met.

Finally, there's what is called the fiduciary relationship, meaning, who can be a pension plan trustee? And requiring that those who run pension funds adhere to a code of conduct so that they cannot enrich themselves or make improper loans or engage in funny business with the company management or the union leadership.

These are matters for Congress to consider and, indeed, the Senate Labor Committee is considering them now. They are also matters for those who are in pension plans. If you're in one, you might find it useful to take a close look at it.

Our own conclusion about all of this, is that it is almost inconceivable that this enormous thing has been allowed to grow up with so little understanding of it and with so little protection and such uneven results for those involved.

The situation, as we've seen it, is deplorable.

Edwin Newman, NBC News.

A CONSUMER GUIDE FOR AIR TRAVELERS

Mr. CANNON. Mr. President, as chairman of the Subcommittee on Aviation, I am well aware of the problems of some air travelers due to the lack of adequate information as to their rights and obligations.

The Civil Aeronautics Board is moving to help solve this problem through a publication to be issued by its Office of Consumer Affairs.

Entitled, "A Consumer Guide for Air Travelers," the booklet will answer many of the questions posed by air travelers who have problems dealing with denied boarding, baggage loss, charters, and so forth. This is a matter of deep interest to Senators as well as to the traveling public, and accordingly, I ask permission that a copy of the CAB's booklet be printed in the RECORD.

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

CONSUMER GUIDE FOR AIR TRAVELERS

What does consumerism mean in air travel? Simply stated, it is the customer receiving what he pays for, no more, no less. It is the holder of a transportation ticket expecting and receiving certain minimum standards of service en route to his destination and an uneventful reunion with his baggage once he arrives there.

As in any other contractual arrangement between the consumer and the provider of the product or service he buys, the airline passenger has a right to know, in advance, the service he can expect, the cheapest available fare, the restrictions and conditions applicable to the fare, and any additional charges he will have to pay for audio and visual entertainment and beverages he may consume. He has the right to be fully informed, in advance, of the carrier's limit of liability for damaged or lost baggage, and of the alternatives open to him to protect his possessions beyond those liability limits. The oversold passenger has the right to be fully apprised of the carrier's obligations to him. And he has the right to expect his complaints to be handled with the same kind of speed to which we have become accustomed in this air age.

On the other side, the consumer has obligations to act with the same honesty and fairness that he expects of the airline—to book only flights which he actually intends to take and to submit honest and unexaggerated claims for loss or damage.

It is for this purpose—to increase the consumer's knowledge of what he can expect from an airline, and what the airline expects of him—that this booklet is written.

INTRODUCTION

If you have a problem with an airline—whether fares, baggage, poor service, delayed flights, or any kind of treatment which you feel was unfair or discourteous—your first action should be to report the difficulty to the airline. The field of air travel is a competitive business, and airlines are anxious to provide service that is satisfactory to the customers. Some have even established consumer offices to handle problem situations.

If the airline does not respond or fails to settle your claim within a reasonable period of time, write the CAB Office of Consumer Affairs for assistance. Any member of the public who feels he has a grievance against a CAB-regulated air transport organization may file an informal complaint.

The CAB regulates the economic activities of all U.S. certificated airlines providing domestic, overseas or international service, and regulates the economic activities of foreign airlines to the extent that these carriers operate to and from the U.S. Intrastate carriers and air taxis including commuter carriers, are exempt from most CAB regulation. Air taxis are small operators flying small aircraft ordinarily with a maximum of 30 seats.

Complaints submitted to CAB must be in writing, but no special format is required. They should be addressed to:

Office of Consumer Affairs
Civil Aeronautics Board
Washington, D.C. 20428

Transportation analysts review every complaint received and contact the airline involved to request that the company settle the matter promptly and report back to CAB on the action taken.

The Board does not have the authority to adjudicate claims for damages, require the airlines to pay refunds or otherwise settle such disputes with their customers. If an airline is found to be violating provisions of its tariff, regulatory action is taken; and new regulations are proposed when the volume of complaints in a specific area indicate a need.

I. FARES

All air fares are approved by CAB. Every airline is required to file a tariff, and keep it open to public inspection at every location where tickets are sold. The tariff contains the airline's schedule of rates, charges and rules pertaining to air transportation. Any passenger may inspect the tariff at any time. If you wish to see the tariff, ask the airline personnel. If you don't understand it, ask for an explanation.

Changes in air fares

You must pay the fare in effect on the day you fly. If the fare has been increased since you purchased the tickets, you will have to pay additional money. If the fare has decreased, you will get a refund.

Unless you buy your ticket more than a month in advance of your trip, this should not be a problem since most changes in air fares are made effective only on 30 days notice to the public.

Special fares

It's a good idea to check with the airline when planning a trip to see if you qualify for a special fare. A number of special fares are available, and you can save yourself a sizeable amount of money by taking advantage of them.

Make sure that you know in advance all the conditions which apply to a special fare. For example, excursion rates apply at only

certain times of the day, and certain days of the week. And the length of the period of travel is specified by the airline.

You must comply with conditions *exactly* in order to qualify for the special fare. If you violate the conditions—by staying a day longer than planned, for instance—you will have to pay the additional charges for regular fare.

Extra charges in flight

As a minimum, the price you pay for an airline ticket includes transportation from airport-to-airport for one passenger and a limited amount of baggage. It may also include a meal and nonalcoholic beverages served in flight, but additional charges may be made for beverages or in-flight movies. The airline sometimes provides additional services at no extra cost, such as arranging for rental cars at your destination.

II. DENIED BOARDING COMPENSATION

This is what is meant by denied boarding compensation: The CAB's regulations require certificated carriers to offer compensation to passengers holding confirmed reservations for a particular flight who have been denied boarding because that flight has been oversold. Generally, foreign, intrastate, and Alaskan carriers, as well as air taxis, are exempt from this requirement.

In short, if you get bumped, under certain conditions specified by CAB, you are entitled to a payment from the airline equal to the cost of your first flight coupon.

The conditions which must be met in order for the passenger to be eligible for denied boarding compensation are as follows:

1. The passenger must have a confirmed reservation. A reservation is not confirmed unless there is an "OK" written in the "Status" column on the airline ticket.

2. The passenger must comply with the airline's check-in requirements. He must be at the airline's check-in point at the required time, which is usually 10–20 minutes prior to the scheduled departure. Required check-in time and location of the check-in point are often printed on the inside of the ticket envelope; if not, the information can be obtained from the ticket agent.

3. The airline is unable to book the passenger on another flight scheduled to arrive at the destination of the particular flight from which he was bumped within 2 hours of the originally scheduled arrival for domestic flights or 4 hours of scheduled arrival for international flights.

If the airline is unable to honor your reservation when these conditions are met, it is required to offer you compensation equal to the price of the flight for which you are checking in, but not less than $25 nor more than $200. However, acceptance of such payment is optional with the passenger; any passenger may refuse the offer and seek other avenues of redress.

If you are bumped, do not leave the check-in area. Airline personnel are required to give you a written statement of the CAB provisions for denied boarding compensation immediately after the denied boarding occurs, and to offer you compensation as noted above. Airline personnel also will assist you in reaching your ultimate destination. Don't walk away and try to make your own arrangements.

CAB regulations state that the airline must pay you the money for denied boarding compensation within 24 hours. If you have not received the payment within that period of time, you have 90 days to file a claim. The airline is required to keep ticket records only three months, and if you delay you may not get the money due you.

To avoid getting "bumped"

Arrive at the airport early. Allow yourself sufficient time to check in and get to the gate. If you are in a strange city, consult the airline system timetable. Often it will show the length of time it takes to get to the airport, and the transportation available.

Allow extra time during the hours of heaviest traffic at airports, which are usually 7–9 a.m., and 4:30–7:00 p.m., on weekdays; evening hours on Sunday, Thursday, and Friday, and morning hours on Monday and Saturday.

III. FLIGHT DELAYS AND CANCELLATIONS

Airlines do not guarantee arrival and departure times—some delays are unavoidable due to weather conditions, airport congestion or mechanical problems. An airline's obligations to its passengers in situations involving delay or cancellation are largely controlled by the carrier's applicable tariff rules. These generally provide that if a flight is cancelled, airline personnel will assist you in reaching your destination. If they cannot arrange to do so, you may have your money refunded.

Generally speaking, complimentary services will be provided when the passenger holds a confirmed reservation and the flight delay involves a period of 4 or more hours. Airlines are required to list in their tariffs the expenses they will cover for all delayed passengers.

IV. RECONFIRMING

Airlines largely set their own rules with respect to reconfirmation. These rules may of course be found with the applicable tariff. Generally, on most U.S. flights reconfirmation is not required. Exceptions are flights to Miami, Puerto Rico, the Virgin Islands, and other points as specified by the airline.

It's a good idea to reconfirm domestic flights, just to make certain your reservation is in order, and to leave a telephone number where the airline can reach you in case there is any change in the flight schedule.

However, most international flights must be reconfirmed at least 72 hours before the scheduled departure of the return flight (whenever you have a stopover longer than 72 hours). Reservations not reconfirmed within the time limit are cancelled.

The ticket agent will usually remind you of the reconfirmation regulation when you purchase tickets, and the regulation is printed on the ticket coupon.

However, the responsibility for reconfirming rests with you, the passenger. If you fail to reconfirm and are cancelled, you have no recourse.

V. BAGGAGE

One of the most irritating of all problems that can beset the air traveler is the loss of his baggage. Statistics show that the percentage of pieces of baggage lost or delayed is very small compared to the total number shipped, but statistics mean very little to the person who is inconvenienced because his baggage did not arrive at the same time he did. What he wants to know is what he can do to get his baggage as quickly as possible.

First—report lost baggage immediately.

If you are still waiting at the baggage claim area after everyone else from your flight has picked up their baggage, notify the airline personnel immediately. It is possible that your baggage may still be aboard the plane you arrived on, and if you report your loss in time, the plane will be searched before it takes off again.

Second—see that airline personnel fill out a "loss or damage" report form on your baggage.

Each airline has a special form made up for reporting lost or damaged baggage. Airline personnel will usually fill out the form for you. You will be asked to describe the bag and its contents, the date each item was purchased, original cost, and value when lost.

The airline ordinarily has three days to find your baggage. If they cannot find it, they will then evaluate your claim and determine how much to pay you for your loss.

The money usually should be paid to you within two to four weeks.

Report your loss accurately and honestly—don't exaggerate.

Exceptionally large claims which exaggerate the value of baggage contents—claiming large amounts of cash or jewelry, for example—are checked by the airlines, and phony claims are usually detected.

Hold on to your baggage claim check—don't surrender it until you have received your baggage.

If your baggage is found, the airlines will notify you so that you can pick it up. Many airlines deliver delayed baggage to your home but this is a courtesy on their part.

Baggage allowances

Baggage allowances may differ for some airlines, but most U.S. airlines allow you to check two pieces of baggage on domestic flights at no additional cost. In addition, you may carry on board one piece of baggage if it will fit under the seat. If you try to carry on anything too large, the airlines may ask you to check it through and pay excess baggage charges.

On overseas flights, you are allowed 44-pounds of baggage if traveling economy, 66-pounds if traveling first-class. Your flight bag and any additional large carry-on luggage are weighed and included in this limit.

When arranging for an overseas flight, ask the airline personnel of the carrier you are using about what you will be allowed to carry on board as hand luggage.

Be careful when packing for overseas trips. Have your baggage weighed to see that you do not exceed the weight limits allowed on international flights, and leave some room for any additional items you plan to purchase while overseas.

How you can help minimize the danger of lost or damaged baggage

1. Put your name, address, and telephone number on the outside and inside of each piece of baggage. If the outside label is torn off accidentally, airline personnel will be able to identify your baggage from the inside label.

2. Lock luggage.

3. Don't overpack. If you have to sit on a piece of luggage to close it, it's too full. Airline companies will not pay for damage to overstuffed luggage that breaks.

4. Don't pack—

Glass or breakable items

Fragile items are not covered by the carrier's liability. You will not receive any reimbursement for breakage. If you must take fragile items on board, pack them in a small box and place them under your plane seat.

Damaged baggage

If the airline damages your baggage by dropping it, tearing off handles, or damaging it in any other way which could have been prevented, they will pay for the damage. They will not pay for damages for which you are responsible, such as breakage of fragile items packed in your baggage, or damages caused by packing luggage too full.

Report Damaged Baggage as Soon as You Discover it—Airlines will not honor damage claims if you wait too long to report them. Report the damage to airline personnel at the airport, or ticket office. The agent will complete a Baggage Damage Report form, and ask you to describe the bag and the damage.

Carriers liability

Misunderstanding on the part of consumers as to the limits of an air carrier's liability for lost or damaged baggage accounts for a large number of complaints received by the CAB. Briefly on domestic flights, the carrier's liability is $500 per fare-paying passenger. Liability on international flights is based on baggage weight, not value.

To say that the carrier's liability is $500 does not mean that your baggage is insured for that amount. It means simply that the

maximum the airline will pay is $500, but the company may pay you any amount from $1–$500 based on their assessment of your loss. CAB does not tell airline companies how much to pay to settle a claim.

According to CAB regulations, the carrier's liability limit must be printed on every ticket and on every published schedule. You will also see liability limit signs posted in ticket offices.

If your baggage is worth more than $500, you may insure against loss above that amount by declaring excess value and paying an additional fee for additional coverage. That fee is approximately 10 cents per $100 valuation. Ask the ticket agent for an Excess Value Declaration at the time you check in for your flight.

Cash, jewelry, or other valuables

Carry these items with you.

Medicines

Carry any essential medicines with you, such as insulin or digitalis.

5. Remove baggage checks at the end of a trip.—Don't try to collect labels on your baggage showing all the places you have traveled—it only confuses the baggage handlers and increases the probability that your baggage will be sent to the wrong destination. The only label on your baggage should be the one for the current trip.

VI. CHARTER FLIGHTS

Certain kinds of charter flights are legal—other kinds are illegal. Thousands of Americans have been stranded in Europe as a consequence of taking an illegal charter flight.

When a travel agent arranges an overall tour, which includes hotel costs, entertainment, sight-seeing, and charter air transportation, that is known as an "inclusive tour charter", and such charters are permitted under the Boards' rules. Of course, you should make certain that you are dealing with a reputable travel agent when arranging such a tour. Also, be sure to get a brochure from the charterer that explains in detail what you will receive for your money.

A charter flight which includes air transportation only must comply with the following regulations established by CAB:

Charters for transportation only, or "Travel Group Charters" are permitted under CAB regulations made effective in September 1972. These regulations permit groups of 40 or more persons to be formed for the purpose of chartering all or part of an airplane providing that the charter and the charter organizer comply with prescribed conditions. These include:

The members of the groups must share equally in the cost of charter.

The charter must be round trip and for a minimum period of 10 days, in most of the world, or at least 7 days within North America.

Participants must sign charter contracts and pay at least a 25 per cent *nonrefundable* deposit at least three months before the scheduled flight departure date. (The deposit is refundable under certain circumstances in case a charter participant becomes ill or dies.)

The organizer must safeguard the participants' payments through bonding or escrow arrangements with a bank.

The organizer must file Travel Group Charter papers with CAB no later than three months before the scheduled departure date, and only those persons whose names are included in the TGC papers will be permitted to fly with the group.

These regulations permit charter organizers to advertise in mass media, which is a change from previous charter regulations. If you see a charter advertised, try to learn something about the organizers before you send them any money.

Illegal charter organizers, who do not comply with the CAB requirement of placing advance payments in escrow, may take your money and skip out without ever providing any transportation. Or, they may send you on a charter flight to your destination, but leave you stranded there with no way to get home.

One indication that a charter may not be completely on the up-and-up is the refusal of the promoter to tell you the name of the airline on which you will travel. It may mean that he does not have a contract with any airline, and is waiting until he signs up enough passengers to fill a plane before he arranges for the plane. He may take your money but never arrange a flight.

If you are considering signing up for a charter flight, and you have questions about whether or not it is legal, check with CAB before you sign any papers or pay out any money. Remember that CAB can do little to help you recover money you have paid to an illegal charter.

The Board and its staff, particularly the Office of Consumer Affairs, are available to protect the air traveler and promote air transportation consistent with the public convenience and necessity. If you have a problem or a question, contact the Board's Office of Consumer Affairs.

FLOOD CONTROL BELOW CHATFIELD DAM ON SOUTH PLATTE RIVER, COLO.

Mr. DOMINICK. Mr. President, during the session on September 27, 1972, the Senate passed, S. 4018, a bill reported by the Committee on Public Works, which has as its purpose the authorizing of construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control and related purposes. A portion of that bill concerns the subject of flood control below Chatfield Dam on the South Platte River in Colorado. This portion of the bill is identical to provisions of a bill, S. 3226, which I had previously introduced on behalf of myself and my colleague from Colorado (Mr. ALLOTT) on February 23 of this year. That bill and now section 203 of S. 4018 amend prior legislation which authorized a flood control project below Chatfield Dam. Under the amended legislation a portion of the authorized funds can be used for acquisition of lands for a flood plain park.

Pursuant to the Flood Control Act of 1950, 6.4 miles of channelization had been authorized to prevent down stream flooding during periods of high discharge after completion of Chatfield Dam.

The city of Littleton, Colo., through which the South Platte flows, has proposed a natural flood plain park as an alternative to channelization for a portion of the 6.4 miles segment. Under this alternative, the first 2 miles would be left in its natural state. Approximately 475 acres along the river would be acquired and used as a park. In times of high water, the park would be closed. Since there would be no development, little damage would occur. At the end of the 2-mile stretch, dikes are provided to direct the river back into its channel.

S. 4018 allows the Corps of Engineers to utilize the already authorized channelization funds for purchase of the required lands. The voters of Littleton have already approved a $400,000 bond issue for use in the acquisition of this land. The bill reaffirms my conviction that the authorization for the channelization is broad enough to permit use of corps funds for acquisition of the flood plain lands.

The alternative plan by the city of Littleton is an imaginative concept in flood control and will demonstrate that concrete is not necessarily the only answer to flood control.

Many of my constituents in Colorado have expressed concern about the environmental effects of channelization projects. The plan which I am describing as the Littleton plan is a creative alternative to the typical channelization project and I am pleased that the Public Works Committee has seen fit to incorporate this legislation in the Omnibus Flood Control bill, which has now passed the Senate.

NEW U.S. SUBMARINE BASE IN ITALY

Mr. FULBRIGHT. Mr. President, I was disappointed but not surprised to read in the New York Times this morning a report upon the proposed accord with Italy for a new base for nuclear submarines on the island of Maddalena, off the coast of Sardinia.

A few years ago, before the abdication of the Congress from its role in the making of foreign policy, the Congress would have been informed about proposed new submarine bases in the Mediterranean and there would have been some discussion of the matter, and the advice and consent of the Senate requested by the Executive.

Today, so far as I am aware, there has been no information about the matter given to Congress. How much it will cost and how useful it will be is not for the Congress to decide or even be told.

What a travesty of our constitutional system we have now achieved. There are hard-fought elections for places in the Congress, giving the public the impression it is a position of significance; some propagandists pretend the Republican National Committee is trying to win a party majority in the Congress, as if that is important.

The President is reported not to be very interested in joining in the effort to obtain Republican Party control of Congress.

The President recognizes that he does not need and probably does not want a Republican majority in the Congress.

Such a majority would deprive him of the convenient excuse of blaming the Democratic Congress for his failures, which are many.

And perhaps most important of all, the nominal Democratic Party majority is as subservient on most issues, especially in foreign policy, as a Republican majority would be.

The so-called joint leadership speaks of bipartisanship—which is no-partisanship—and is a denial of the basic duty of the opposition party to discuss and refine issues and thereby inform and educate the public.

The Congress, on a joint, bipartisan basis, has simply surrendered to the Executive all pretense of independence, as an institution coequal with the executive branch.

As matters now stand, the Democratic

Party has the responsibility in the Congress without power, and the President has power to do as he pleases without responsibility.

With further reference to the submarine base in Italy, it is a major political issue, widely discussed in Rome. In Washington, where it will be paid for, we have a bipartisan blackout, a moratorium on news and discussion. It is for us to vote the money, and ask not the reason why.

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

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

ITALIANS DEBATE U.S. PORT PLAN—NAVY WANTS A SUBMARINE FACILITY NEAR SARDINIA

(By Paul Hofmann)

ROME, October 1—A proposed accord that would allow the United States Navy to acquire a home port for a submarine tender on a small island off Sardinia's northern coast is becoming a major political issue here.

Although no one has said so officially, the tender is presumably meant to service nuclear submarines as well as conventional ones. The prospect is frightening many Sardinians and other Italians.

The Communist party and other left-wing groups have seized on the draft agreement as proof of Government subservience to the United States. Communist members of Parliament have submitted requests to Premier Giulio Andreotti to provide official explanations on the proposed agreement to the Chamber of Deputies and the Senate.

The regional government of Sardinia, which has just resigned for reasons of local politics, in one of its last official actions appealed to the central Government in Rome to re-examine the proposed agreement with the United States. A parliamentary debate is scheduled for next Friday and the Government is withholding information until then.

The United States Navy announced earlier this month that an agreement between the United States and Italy to assign the submarine tender Howard W. Gilmore from Key West, Fla., to the island of Maddalena off Sardinia was "in the final stages of completion."

NAVY GIVES ASSURANCES

Navy officials have privately given assurances to Italian authorities that no nuclear submarine or missile would ever come close to Maddalena, and that the tender would be permanently stationed well off the island. Some stores and other installations will reportedly be located on the small island of Santo Stefano, south of Maddelena.

The accord described as a home-port arrangement, will enable some 800 dependents of officers and enlisted men serving aboard the Gilmore to live on the island.

Maddalena is the main island of an archipelago between Sardinia and Corsica. The rocky island, which has long been an Italian naval base, has fine bathing beaches and has lately become a favorite of scuba divers. Maddalena is linked by a causeway and bridge with Caprera Island, where Giuseppe Garibaldi, the 19th-century hero of Italy's unification, is buried.

RADIATION IS STRESSED

The Communist compaign against the proposed home port at Maddalena emphasizes dangers of atomic radiation in an already heavily polluted sea. Misgivings are also shared by non-Communists. Corriere Della Sera of Milan, Italy's largest newspaper and a constant critic of Communism, wrote last week that "in a few months Italy will have the doubtful privilege of hosting the first base for American nuclear submarines in the Mediterranean."

Another Milan newspaper, Il Giorno, asserted that the United States had pressed for Italian facilities for submarines 10 years ago, but had "met with the resistance by the government of that time, headed by Amintore Fanfani." The newspaper said that later Italian governments had diminished their opposition to an agreement, and that the Andreotti Cabinet at last gave its consent two months ago.

The people of Maddalena are divided in their reaction. The local Communist party organization has started a drive to arouse the islanders. But Giuseppe de Ligia, a Christian Democrat and Mayor of the island's only town—La Maddalena—says: "I don't believe that the Americans in a sinister plot to contaminate our coastline and endanger our health will expose themselves and their families to the same horrendous threats."

TODAY'S "CRISES"

Mr. FANNIN. Mr. President, the explosive growth of America in the past quarter century has given us many benefits and many problems. Each of these problems, in today's high speed era, is a "crisis." So we have an "environmental crisis," a "pollution crisis," a "transportation crisis," and an "urban sprawl crisis."

The objective of militant groups obviously is to turn every problem into a crisis, and then advocate extreme measures to correct the situation. Certainly we have plenty of extreme remedies being proposed every day for various problems, real and imagined.

Americans are being bombarded with propaganda based more on emotion than on fact.

If we are to benefit from the great progress of our time, and if we are to solve the problems we and our children face, then we must take a much more realistic look at the facts.

Mr. President, some very interesting and informative facts were published in the Washington Post on September 26, 1972. The article, in an advertising supplement, consisted of quotations from an excellent speech by Francis Turner, the Federal Highway Administrator, last May 31. The speech punctures many myths manufactured by certain of the so-called consumer advocates, environmental extremists, and others who would take America back to "the good old days" of horse-and-buggy technology. 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:

THIRTY HANDY FACTS ON SAFETY, HIGHWAYS AND EMISSIONS

The following quotes from a speech by Francis Turner, Federal Highway Administrator, on May 31, 1972.

1. Maximum carbon monoxide levels measured in ambient air in heavy traffic situations, such as a traffic policeman directing traffic in downtown Manhattan in an 8-hour period, have less effect on a human being than does the smoking of two cigarettes in one hour.

2. Total man-made pollution, especially the kind of pollutants coming from automobiles, is small compared to the amount of those same pollutants given off by natural sources, i.e. vegetation, ocean organisms, etc. Currently, it has been estimated that natural sources of hydrocarbon going into the air give off over fifteen times as much as do total man-made sources. In the case of carbon monoxide, recent researchers estimate that twenty-five times as much carbon monoxide goes into the air from natural sources as it does from man-made sources. As for oxides of nitrogen, over fifteen times as much is given off by natural sources as man-made sources and over one hundred times as much ammonia goes into the air from natural sources, which results in subsequent formation of oxides of nitrogen.

3. According to government figures, transportation sources, principally the automobile, account for 42% of total man-made air pollution on a weight basis. On the other hand, on a toxicity basis, transportation sources account for 5%–12% of total air pollution. This is because some pollutants, notably sulfur dioxide and particulates, are much more harmful than others on a weight basis, and the automobile is a very small contributor of these harmful pollutants.

4. The 1970 Clean Air Act Amendments (the Muskie Bill) actually requires reductions in unburned hydrocarbons of 97% compared to those from uncorrected cars. The carbon monoxide reduction required is 96% and the oxides of nitrogen reduction is 93%. Controlling pollutants gets increasingly expensive as the amount of reduction approaches 100%, so that the last 5% of control usually costs ten to twenty times as much as the first 20%. This is what we mean when we say that the required amount of control for automobile pollutants has gone far past the point of diminishing returns with the 1970 Clean Air Act Amendments.

5. Measured maximum concentrations of carbon monoxide in busy traffic situations, such as the Chicago Loop and downtown Manhattan, are less than a third of the concentrations measured in the same locations back in the early 1930's.

6. Air pollution from automobiles is decreasing at an increasing rate as new cars replace old cars and will continue to decrease until 1980, even if car pollution is never reduced beyond the amount required by the 1973 Federal Standards.

7. The degree of control required by unburned hydrocarbons for 1975 is such that if those levels are reached more unburned hydrocarbons will be given off into the air during the filling of the gas tank than will be given off through the car exhaust while that same gasoline is being burned in the engine.

8. We don't know how to meet the 1975 Standards yet over the five-year or 50,000 mile period. Nor do we know yet how to meet the 1976 Standards with individual, specially-adjusted laboratory cars. But the extra cost to the customer for the devices that we anticipate having to put on these cars in hope of meeting these standards will run from $300 to $500, excluding what we might have to charge for maintenance and warranty.

9. Questions concerning the advisability of our current vehicle emissions policy were raised by the RECAT Committee report prepared for the Office of Science and Technology. The report stated, "It appears, therefore, that the nation is embarked on an air-pollution-control program of enormous scope, complexity, and cost, with little measure of the relative harmfulness to health of the several pollutants being considered."

10. More unburned hydrocarbons are given off from the grass and bushes in a normal 100' x 100' backyard than would be given off by an automobile meeting the 1975 Standards running average mileage during a comparable period of time.

11. The RECAT report concluded, "The imposition by statute of arbitrary time deadlines may not only impose unnecessary short-term costs on the public, but it may also

postpone or foreclose research into alternative means of providing more efficient long-term solutions to the public. The 1975–1976 motor vehicle emission requirements of the Clean Air Act may have just such an unfortunate effect."

12. The RECAT report states that the average retail price of an automobile by 1976 resulting from compliance with already planned regulations for safety damage-limiting design and emission controls is expected to increase by about $873. They estimate $350 of that amount would be for emissions and $523 for safety.

13. In comparing the costs versus benefits of the 1976 emission controls, the RECAT Committee estimated that the net excess costs over benefits for the ten-year period, 1976–1985, would be anywhere from $49 billion to $76 billion to the car buyer, with the difference being due primarily to problems assessing the dollar benefits from such controls.

14. All the air pollution man has produced doesn't equal the amount of particulates and gases from just three major volcanic eruptions (Krakatoa, Mt. Katmai, and Hekla).

15. The United States has the lowest fatality rate per 100 million miles of any country in the world, and the fatality rate continues to decrease. The fatality rate in West Germany is about twice as great and in Japan it's over three times as great as in the United States. The next best accident rate of any country is in Sweden, where it is still about 35% higher than the United States.

16. The 1974 bumper standards require that front and rear bumpers for all cars meet each other (be similar in height). They further require that the bumper systems be able to take 5 mph pendulum impacts at any point along the bumper face. These bumpers will be over three times as strong as the bumpers we used to have in the "good old days".

17. Accident statistics show that heavier cars are much safer than lighter cars. If a car is involved in an accident, the chances of a serious or fatal injury are 2½ times as great if the car is a subcompact car weighing less than 2,000 pounds as they are if the car is a full-size domestic car. The heavier the car, the less chance of a serious or fatal injury.

18. If we exclude fatalities to pedestrians, motorcyclists, and bicyclists, the number of U.S. fatalities due to automobiles is reduced from 55,000 to less than 35,000.

19. Australia recently enacted mandatory use of lap and shoulder belts laws (first for the State of Victoria and now for all Australia). The latest reports from New South Wales (Sydney) indicate that serious injuries and fatalities have been reduced by about 24% since enactment of the mandatory belt usage law—and less than 50% of the cars on their roads have belts installed! Thus, the outlook is that serious injuries and fatalities may be reduced by 48% when the entire car population is equipped with belts.

20. 50% of the accidents which result in serious injuries or fatalities in the United States involve drivers who are legally intoxicated. Stiff penalties (including jail sentences) for driving while intoxicated in Sweden have resulted in a substantial decrease of serious injuries and fatalities.

21. In 1901, when 26 million horses traveled some 12 billion miles, some 3,850 people were killed in accidents involving horse-drawn vehicles. Then we had a death rate of over 30 per 100 million miles traveled. Our latest figures for the automobile show a death rate of 4.7 per 100 million miles traveled.

22. Completely ban the automobile from the city, they say, or the city is dead. The fact is, if we ban the automobile from all of downtown, then downtown is going to be dead. We should, of course, experiment as we are doing with auto-free pedestrian malls or zones, accessible to close-by transportation, either by auto or mass transit. People and automobiles are synonymous, and people and life, economic or social, are synonymous. Without people, downtown would quickly lose its reason for being.

23. They say highways and the automobiles have caused "urban sprawl." The fact is that the automobile didn't cause people to move from the center city to low-density single family residential developments in the suburbs—it enabled them to. And in so doing, it permits us to enjoy that life-style which the vast majority of Americans today prefer.

24. They say that we must stop building new freeways in our urban areas. The fact is that we must continue to provide our urban areas with the modern highway systems that are their lifelines—because for the vast majority of American cities, due to economic, geographic and population reasons, highways will continue for as far as we can see into the future to serve as the principal or sole means of transportation, including bus mass transit, which is the major part of all mass transit.

25. They say our cities are continuously enmeshed in hopeless traffic jams. The fact is that, generally speaking, except for the morning and afternoon rush hour, there is no real problem—people can travel quite freely in their cars in all directions throughout the entire metropolitan areas. The problem is to reduce the rush hour congestion. . . . Overall, our highway system works at only about 25 percent of its theoretical capacity. During many hours of the day and night, it has large amounts of capacity not being used. We need to recognize this fact and build a solution on it.

26. They say, too, that we are paving over our cities. The fact is that as much area was used in cities for horses and wagons and buggies in pre-automobile days as is being used today. Right here in Washington, D.C., for example, a higher percentage of the city was devoted to streets when L'Enfant planned it almost two centuries ago than is used for streets today.

27. They say that highway construction adversely affects land values. The fact is that owners of property adjacent to improved highways almost always benefit in terms of land value gains; and improved highways—freeways in particular—exert a very favorable influence on urban and suburban property values in general.

28. They say that highway construction results in ratables being removed from the tax rolls. The fact is that long-range effects of highway construction on tax rolls is generally very favorable. Highway improvements almost always result in the development of vacant and other unproductive land. Thus, the loss of some property from the tax rolls is offset by increased assessments on property which benefits from highway improvement or construction, and thus there is in the big majority of cases a net gain rather than a loss.

29. They say new freeways bring more air pollution to a city. The fact is just the opposite. Freeways tend to reduce stop-and-go driving, and this, in turn, greatly reduces the emission of air pollutants and the production of undesirable noise.

30. They say that automobiles have no redeeming social values. The fact is that the automobile has vastly expanded the horizons and the freedom of the working man, and has opened up to him wide new recreational vistas.

STANDARDS TO IMPROVE STRUCTURAL INTEGRITY OF SCHOOLBUSES

Mr. NELSON. Mr. President, 1 year ago yesterday the School Bus Safety Act (S. 2582) was introduced in the Senate by my colleague from Wisconsin (Mr. PROXMIRE) and me, calling for the Department of Transportation to set minimum construction standards to improve the structural integrity of schoolbuses.

On September 22, the National Transportation Safety Board—after investigating a Congers, N.Y., schoolbus-train collision in which five persons died—called for the same thing the bill would accomplish.

The Board report states:

> We believe that standards should be established for the basic school bus structure.

Secretary of Transportation John Volpe, however, in a May 26, 1972, letter to Representative JOHN E. MOSS, chairman of the House Subcommittee on Commerce and Finance, stated that he believed the bill to be "unnecessary," and that "enactment of specific vehicle requirements would not be desirable."

Department of Transportation General Counsel John W. Barnum, in a February 14, 1972, letter to the Senator from Washington (Mr. MAGNUSON), chairman of the Commerce Committee, stated that the:

> Department does not favor the enactment of this legislation.

Both letters say the existing law gives the Department sufficient authority to do what the bill calls for.

If this is so, why have some 16 proposed regulations affecting the construction and performance of schoolbuses still not been issued, after years of bureaucratic preparation? It has taken 6 years for the Department to reach the point of preparing a proposal for more protective seat standards for schoolbuses. That standard will not be implemented for months.

One thing must be made clear: The bill we propose would not write into law specific design or construction standards. It would require the Secretary of Transportation to set minimum standards for schoolbus construction. These could be changed with changing technology.

As Secretary Volpe wrote Representative Moss:

> Current legislative proposals regarding school bus safety underline the need for action in this area.

The fact that the Department of Transportation has only one individual in charge of pupil transportation safety gives some measure of the priority afforded school bus safety.

In 1971, the National Safety Council says 150 children were killed in schoolbus accidents; 31 actually inside buses, the others approaching or leaving the bus. While this number is small compared to the blood bath from automobile use on our highways, everyone agrees that the potential for tragedy is great.

In New York State in 1971, there were more than 900 schoolbus accidents, resulting in eight deaths and 402 injuries.

In Wisconsin last year, schoolbuses were involved in 564 accidents—five of them fatal.

In Prince Georges County, Md., a schoolbus overturned when the left rear wheels fell off—"due to apparent wear"

and poor maintenance, according to the police accident report.

The School Bus Safety Act also would require that buses be test driven and inspected by manufacturers and dealers before they are used to transport children. It requires investigation into the causes of schoolbus accidents resulting in fatalities; and it calls for building a prototype schoolbus.

The same bill has been introduced in the House by Representative LES ASPIN of Wisconsin and 80 cosponsors.

The National Transportation Safety Board has finally recognized what the bill proposes to do: insure that stronger, more crashworthy schoolbuses transport the Nation's 18 million children in the 20,000 school districts across the country.

The technology exists, and the cost of improving the structural integrity of schoolbuses is estimated to be $400 per bus—a small price for improving the safety of schoolbus transportation.

Mr. President, I ask unanimous consent that an article in the Evening Star and Daily News, September 22; Secretary Volpe's and Mr. Barnum's letters; and the Safety Board report be printed in the RECORD.

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

[From the Evening Star and Daily News, Sept. 22, 1972]

NEW ALARM RISES ON STRENGTH OF STRUCTURE OF SCHOOL BUSES

(By Miriam Ottenberg)

On a sunny October morning in 1967, a Waterloo, Neb., schoolbus was hit by a train. Four children were killed and nine others injured. Investigators found that the bus seemed to have pulled apart at the seams.

That triggered the first alert from the National Transportation Safety Board that the structure of school buses needed to be strengthened. Despite the alert, no official action was taken to require stronger construction standards.

The board has no regulatory authority itself but gets its clout from publicizing its recommendations.

Today, five years and a number of fatal schoolbus accidents later, the NTSB issued its third and most urgent call for immediate corrective action to strengthen schoolbus bodies.

Meanwhile, children have been cut, maimed and killed by the sharp edges of bus panels pulled from inadequate mooring in crashes. Children have fallen through the floors of buses disintegrating in collisions, and trees have penetrated bus walls.

When NTSB sounded its second alarm on schoolbus structures in 1970 after investigating two fatal 1968 accidents in Alabama, it noted that in both cases the interior panels of the buses presented "exposed, sharp edges because of widely spaced and inadequate fastenings . . . ."

The board reported that far more fasteners are used in commercial buses than in schoolbuses and joints are stronger. The failure of the structural parts to support each other in crashes, the board warned in its 1970 report "is an implied threat in future schoolbus crashes."

All the calls for action have been addressed to the Department of Transportation's National Highway Traffic Safety Administration (NHTSA) or its predecessor agency. Each time, NTSB urged adoption of a standard requiring schoolbus manufacturers to strengthen their vehicles, particularly at the joints.

"This critical weakness of schoolbus bodies must be eliminated as quickly as possible," the NTSB wrote Douglas W. Toms, administrator of NHTSA.

For one reason and another, Toms' agency has failed until now to take action.

Agency spokesmen have argued that working on standards for schoolbus bodies had a low priority since so few children are killed on school buses compared to the many thousands killed in other forms of transportation.

National Safety Council figures for 1971 showed 150 children killed in schoolbus accidents but only 31 actually being killed inside the bus. The rest were hit approaching or leaving the bus.

Another reason for inaction offered by NHTSA officials is that school boards must consider costs in buying school buses and NHTSA has to weigh costs against benefits to be derived from stricter requirements.

Commenting on that argument, NTSB Chairman John H. Reed told The Star-News: "The Safety Board did consider whether the cost of better structural joints should be measured in terms of the number of children's lives to be saved. But it wasn't really a matter of choosing the best way to save lives. Weak joints are simply not acceptable when children have been entrusted to public care."

Another argument advanced by NHTSA officials was that the agency had decided to give priority consideration to proposing strong seats with higher backs to protect children in buses.

In a few more weeks, the agency said, it will have a notice of proposed standards for stronger, safer seats. Then, in a few months, a hearing will be held and eventually a seat standard will be announced.

It has taken six years to get this far on a seat standard. No one will venture to guess how long it will take to get a standard on a safer bus structure.

The NTBS's latest call for action was prompted by its investigation of a March 24 collision between a train and a school bus at Congers, N.Y., when five children were killed and 45 injured.

The rear third of the bus was pulled away from the forward portion, some of the bus body pulled away from the chassis frame, a large portion of the roof was separated from the remainder of the body, the side walls separated from the floor and the floor sections separated from the chasis frame, the report said.

The construction method which employed relatively few widely spaced rivets and other fasteners throughout the body of the school bus "appears to have contributed to the large-scale disintegration of the bus body and chassis," the report contended.

This is the same criticism offered after the 1967 crash, after the two Alabama incidents and again in today's report—too few fasteners too far apart to keep the school bus in one piece in a crash.

The board pointed to structural improvements voluntarily made by two bus manufacturers in response to the safety board's earlier recommendations. There are six major schoolbus manufacturing companies.

It also noted that in January 1971 the Vehicle Equipment Safety Commission (VESC), a safety standards unit participated in by most of the states, proposed a regulation which, when implemented by individual states, would require that all school buses under local purchasing authority have substantially strengthened structural joints.

One way of getting this increased strength, according to VESC and testimony before the House Government Operations Committee, is by vastly increasing the number of rivets in the body of the school-bus.

The bus company which has added the most rivets is Ward School Bus Mfg. of Conway, Ark. Company President Charles D. Ward told The Star-News his 66-passenger safety bus has 10,572 rivets compared to 2,790 in his standard bus and 1,714 in a competitor's bus.

ADDITIONAL $390

Another method of achieving the goal of stronger bus structure apparently is through fewer but larger panels—the theory being that with larger panels, there would be fewer "seams" and less likelihood that parts of the bus would separate from each other.

That is the method used by the Wayne School Bus Co. of Wayne, Ind. Its sales manager, John Eggemeyer, said the Wayne safety bus eliminates 60 percent of the seams.

The Ward bus is already in production and Wayne expects to start production the first of next year. Ward's many-riveted bus will cost school boards $390 more than his regular bus. Wayne hasn't figured the cost yet but hopes to make up most of it.

Some 80 congressmen have joined in pushing for stronger schoolbuses, led by Rep. Les Aspin, D-Wis., who has been calling for safer buses since a Kenosha, Wis., child was killed in a bus crash last year.

PERFORMANCE TESTS

On the other hand, the School Bus Manufacturers Institute said it had been unable to get an interpretation of the method used to measure or test compliance with the new VESC standard.

NTSB Chairman Reed predicts "Eventually schoolbus structural safely will have to be controlled by full-scale crash performance tests. The board's recommendation would solve a major structural shortcoming more quickly by controlling the performance of weak joints."

The Committee on Government Operations warned after hearing NTSB testimony: "Because schoolbus bodies differ, the children who ride in them are exposed to a greater degree of risk and a greater chance of severe injury and death, than if they were riding in the family automobile . . . It does not seem fair to provide school children with an inferior and inherently more dangerous form of transportation."

SECRETARY OF TRANSPORTATION,
Washington, D.C., May 26, 1972.

Hon. JOHN E. MOSS,
Chairman, Subcommittee on Commerce and Finance, House of Representatives, Washington, D.C.

DEAR MR. MOSS: Thank you for your letter of May 4, 1972, concerning school bus safety.

The National Highway Traffic Safety Administration is in the process of preparing rulemaking actions to provide improved safety for bus passengers. Two new standards which apply directly to bus passenger safety were published earlier this month. Highway Safety Standard No. 17, "Pupil Transportation Safety," is intended to improve State programs for transporting pupils safely by setting requirements for proper equipment; maintenance of equipment; and selection, training, and supervision of drivers and maintenance personnel. Federal Motor Vehicle Safety Standard No. 217, "Bus Window Retention and Release," establishes minimum requirements for strength of window glazing and frames in all buses to prevent passenger ejection during crash situations—a critical problem in many rollover crashes. A third rulemaking action relating to bus passenger safety is underway. A notice of proposed rulemaking is slated to be published in the next few weeks, titled, "Bus Passenger Seating and Crash Protection." This notice will propose greatly improved passenger protection in the form of strong, well-padded, high-backed seats to form passenger compartments which will restrain and protect passengers in most crash situations.

We are aware of the structural inadequacies in school bus bodies and have conducted preliminary studies. School bus manufacturers are developing some very promising approaches. In January of this year, Wayne Corporation of Richmond, Indiana,

displayed a new prototype school bus at Department of Transportation headquarters. This prototype had full length side and roof panels with a minimum of joints to separate under impact.

I am enclosing (1) a summary of our recent preliminary analysis of school bus body joint design, (2) a copy of the comments we made to the Vehicle Equipment Safety Commission on their proposed standard for school bus construction and equipment, and (3) a copy of "Special Study—Inadequate Structural Assembly of School Bus Bodies," by the National Transportation Safety Board. Four additional enclosures describe the present status of rulemaking activity affecting school buses.

Current legislative proposals regarding school bus safety underline the need for action in this area. Our comments on individual items of such legislation submitted to us by your Committee either have been already furnished the Committee or are in the process of being completed. In general, I believe that these proposals may be unnecessary. Our existing authority enables us to regulate school buses to the extent necessary to ensure passenger safety. As I mentioned above, this authority is being utilized to establish standards that will secure increased passenger protection in the most critical areas of school bus safety.

Further, I believe that enactment of specific vehicle requirements would not be desirable. Such enactment would be incompatible with our need to be responsive to the constantly changing technology in the area of motor vehicle safety. If specific requirements were incorporated into the Act, they could not be amended or replaced except by further legislative action. As a consequence, the institution of a more effective school bus safety program would be delayed.

Careful consideration is being given to all aspects of the bus passenger protection problem. We should be frank to recognize, however, that strong support for the costly and difficult steps needed to be taken in school bus safety must extend far beyond Washington. The public should realize that those responsible for manufacture, procurement and operation of school buses will have to depart from past practices largely guided by cost and economic factors and give greater heed to the technical and management safety requirements. I enlist your help in getting that message to the American public.

Your interest and involvement in this important transportation safety problem are greatly appreciated.

Sincerely,

JOHN VOLPE,

SECRETARY OF TRANSPORTATION,
Washington, D.C., Feb. 14, 1972.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response for the views of the Department of Transportation on S. 2582, a bill

"To amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize design standards for schoolbuses, to require certain standards be established for schoolbuses, to require the investigation of certain schoolbus accidents, and for other purposes."

This bill would require the Secretary of Transportation to issue, within 18 months after the enactment of this bill, minimum design or performance standards covering specified aspects of schoolbus safety performance. "Schoolbus", as defined in this bill, includes any motor vehicle designed primarily for the purpose of transporting children to and from schools. The aspects of performance would be (1) emergency exits, (2) interior protection for occupants (including restraint systems), (3) floor strength, (4) seat anchorages, (5) crash worthiness of body and frame, (6) vehicle operating systems, (7) windows and windshields, (8) fuel systems, (9) exhaust systems, and (10) flammability of interior materials.

The Secretary would be required to procure an experimental safety schoolbus not later than three years after the enactment of this bill.

Schoolbus manufacturers and distributors would be required to follow special certification procedures in addition to those presently specified in the Act. The manufacturers and distributors would be required to certify that each new schoolbus had been individually inspected and test driven for the purpose of determining its conformity with all applicable safety standards. Further, dealers would be required to certify that they had test driven each new schoolbus.

This bill would also require the Secretary to investigate and report to the public the probable cause of each fatal schoolbus accident and of each fatality in such accidents.

The Department recognizes the need to ensure the well-being of school children while they are being transported to and from school in schoolbuses. To this end, the Department is working to improve schoolbus safety under both the National Traffic and Motor Vehicle Safety Act and the Highway Safety Act. Under the former Act, the Department has issued or is developing standards relating to eight of the ten schoolbus performance areas specified in section 3 of this bill. A complete list of these standards is attached to this letter.

Among the proposed standards are ones relating to bus seating, window retention and release. and tires. The proposal on bus seating would require stronger seats and seat anchorages, substantial padding in the immediate seat area, and increased seat back height for improved occupant protection. It would also require the elimination of lethal surfaces. A notice of proposed rulemaking on the proposal will be issued next year.

Notices of proposed rulemaking have already been issued with regard to the other two proposals. The window notice proposes minimum escape criteria and requirements for the integrity of the structure and latching mechanisms of bus windows. The tire notice proposes performance requirements for pneumatic tires. Final rules with respect to both notices will be issued early next year.

Under the Highway Safety Act, the Department is nearing issuance of a Highway Safety Program Standard on Pupil Transportation. The standard is intended to improve State programs for transporting school children safely by setting requirements for safe routing; proper and safe schoolbus equipment; maintenance of schoolbuses; and selection, training and supervision of schoolbus drivers and maintenance personnel. Implementation of this standard will improve the already good safety record of the schoolbus. The fatality rate (based on each hundred million hours of travel) for schoolbuses is approximately 1 as compared to 96 for passenger cars.

In view of the Department's rulemaking activity on schoolbus safety, the requirement for the promulgation of standards covering specific performance areas appears unnecessary. The authority clearly exists for promulgating standards with respect to the specified performance areas and is being so used.

The authorization in section 1 of this bill for the formulation of safety standards for schoolbuses in terms of either design or performance is also unnecessary. We understand the present Vehicle Safety Act as conferring authority to set performance standards which affect design so long as they are stated in objective terms and regulate only those features of vehicles and equipment which bear on their safety performance.

The value of performance standards is that they provide the manufacturer with latitude in his choice of a method of compliance. In addition, they permit him to innovate and adopt superior methods of compliance as they are developed. This opportunity enables the manufacturers to compete with each other in the extent to which their vehicles exceed the level of safety performance required by the standards.

Design standards, i.e., standards that contain a detailed description of every significant aspect of a product, including materials and processes used, would unduly inhibit innovation and competition. If several methods of providing a particular type of safety performance were available, the Department would probably be compelled to issue a design standard for each of them. Further, new methods of compliance could not be adopted until the Department had had an opportunity to evaluate them and then promulgate additional design standards for those methods providing the necessary level of safety.

Issuance of performance standards would obviate the necessity for issuing multiple standards for the same aspect of vehicle performance. A well-drafted performance standard would also make generally unnecessary amendments or new standards as new methods of providing the required level of safety were developed. Only when the technology of the new methods had advanced substantially beyond that of the methods existing at the time of the drafting of the standard might an amendment be necessary.

The additional certification procedure specified in section 5 of this bill is unnecessary and impracticable. Manufacturers and distributors of schoolbuses are already required by section 114 of the Vehicle Safety Act (15 U.S.C. 1403) to certify the conformity of each schoolbus with all applicable safety standards. Failure to issue such a certification is a violation of the Act and punishable by a civil penalty of up to $1,000 per violation. Further, the issuance of a certification by a person who, in the exercise of due care, has reason to know such certification is false or misleading in a material respect is also a violation of the Act. While testing of a vehicle in accordance with the test procedures specified in the safety standards is not required under the Act, it is the best method for establishing the requisite care.

Several bus safety standards which have been issued or are being developed specify destructive test procedures, such as a collision into a fixed barrier. Thus, the testing by manufacturers and distrbutors of each new schoolbus in accordance with such test procedures would clearly be impossible.

Furthermore, even as to those procedures which are nondestructive, no guidance is provided in this bill as to what conduct would satisfy the inspection and test driving requirements in section 5. While the ambiguity might be eliminated by promulgation of interpretive regulations under section 119 of the Act (15 U.S.C. 1407), such rulemaking would duplicate the effort expended in devising the test procedures in the standards. More importantly, such regulations might, by specifying requirements other than the complete test procedures in the standards, dilute the due care provision. Instead of establishing minimum requirements for the measures which would have to be taken to satisfy the due care provision in the case of schoolbuses, this section and the regulations might be construed as establishing maximum requirements.

Section 7 of this bill, which would require the investigation of all fatal schoolbus accidents, may also be unnecessary. The Department has already been directed under section 106 of the Act (15 U.S.C. 1395) to investigate motor vehicle accidents to collect data on the relationship between vehicle performance and accidents and deaths and

injuries resulting from such accidents. Pursuant to that authority, the Department has established multi-disciplinary accident investigation teams to collect the necessary data. This data is invaluable in identifying the need for developing new safety standards. It is also useful in verifying the efficacy of existing safety standards.

In selecting schoolbus accidents to be investigated, we give special attention to those accidents likely to yield the most new knowledge on schoolbus safety. We believe that this practice of selective investigation should be continued since it permits us to maximize the amount of new knowledge on the safety performance of different types of vehicles.

In view of the foregoing discussion, the Department does not favor the enactment of this legislation.

The Office of Management and Budget advises that there would be no objection from the standpoint of the Administration's program to the submission of this report to the Congress.

Sincerely,

JOHN W. BARNUM,
General Counsel.

[Adopted by the National Transportation Safety Board at Its Office in Washington, D.C., on the 30th Day of August 1972]

SAFETY RECOMMENDATION H–72–30

The National Transportation Safety Board is investigating an accident involving the collision between a train and a schoolbus at Congers, New York, on March 24, 1972. This accident resulted in five fatalities and injuries to 45 occupants of the schoolbus.

The performance of the schoolbus in the crash has been initially observed and analyzed by the Safety Board, assisted by the Cornell Aeronautical Laboratory, the latter agency acting under its contract with the National Highway Traffic Safety Administration (NHTSA). Both agencies have tentatively concluded that the gross disintegration of the schoolbus body was made possible by widespread failures of the schoolbus body at the joints. Approximately the rear one-third of the bus was separated from the forward portion, with failures occurring at joints within the body and also at joints between the body and the chassis frame. A large portion of the roof was separated from the remainder of the body, the side walls on the right side were separated from the floor, and the floor sections were separated from each other and from the chassis frame. The construction method employing relatively few widely spaced rivets and other fasteners throughout the body of the schoolbus appears to have contributed to the large-scale disintegration of the schoolbus body and chassis.

In addition, the window columns failed in one portion of the schoolbus which was inverted after being torn away, and there were widespread failures of seats at their fastenings to the floor.

Analysis of the fatality and injury causation is not yet complete; however, some very evident factors appear to justify immediate corrective action by NHTSA standards. The seat anchorage failures and other seating factors are already the subject of NHTSA standards proposals. We believe that standards should be established for the basic schoolbus structure. The Safety Board has analyzed the problem of extensive failures of structural joints in schoolbuses in a special study, "Inadequate Structural Assembly of Schoolbus Bodies," issued July 29, 1970. The Board also recommended on September 18, 1968, that the National Highway Safety Bureau, predecessor to NHTSA, ". . . consider the need for requirements for structural strength of schoolbus bodies in connection with its study of desirable standards for protection of schoolbus occupants. In particular, the Board recommends that program A.1.1.4 of the National Highway Safety Bureau titled 'Design, Fabrication, and Test of a Safe Schoolbus Interior,' be expanded in scope to include consideration of structural integrity and intrusion into the school interior."

As stated above, there are indications in the Congers accident that the failures of structural joints contributed to the injuries of the occupants. The speed of the schoolbus was slow and the speed of the train was moderate, apparently not more than 30 miles per hour. Although about two-thirds of the bus structure was accelerated to the full speed of the train by the impact, a majority of the schoolbus occupants survived and some received only relatively minor injuries. However, the penetration of the gross structure of motor vehicles in crashes, or the disintegration of the structure, generally does tend to reduce the probability of survival and increase the probability of injury.

In this connection, structural improvements which have been made by other agencies and private manufacturers in response to the Safety Board's earlier recommendations are important. In January 1971, the Vehicle Equipment Safety Commission (VESC) adopted a regulation which, when implemented by the States, would require that all schoolbuses under State purchasing authority have substantially increased strength of structural joints. The exact wording of this part of the regulation is attached as Appendix A. At least two schoolbus manufacturers have built and exhibited prototype buses which apparently meet this requirement. These prototypes are constructed of much larger steel sheets to reduce the number of joints, in effect providing 100-percent joint efficiency wherever a joint was eliminated. In addition, many more rivets are used to join sheets and structural members. An analysis by one manufacturer indicated that approximately half the joints have been eliminated and that about six times as many rivets are used in meeting the VESC specification than were used in the earlier designs which had unspecified joint strength. It appears that changes in the VESC specification increases the strength of the joints in a schoolbus body approximately fivefold.

The technical feasibility of implementing the VESC structural specification appears to be well established by these prototype buses. One of the manufacturers has stated that the change in sale price of a bus having more complete assembly of structural joints was only approximately 5 percent of the total cost.

The Safety Board is aware that the VESC specification does not insure the structural strength of schoolbus bodies. It is, no doubt, preferable to control the structural strength of bus bodies and chassis as a unit through the development and application of large-scale crash tests. However, the development of such tests and their use as standards have been very slow, as even passenger cars are not yet subjected to such testing. This critical weakness of schoolbus bodies must be eliminated as quickly as possible. Additionally, the VESC specification, in part, meets the statutory requirement of DOT that safety characteristics be controlled by performance rather than design.

It is the Board's opinion that the very high value that society places upon the protection of children riding in schoolbuses establishes the need for improvement in structural design. The adoption of a standard to control the assembly of structural joints in schoolbuses should not be regarded as a novel initiative to reduce schoolbus fatalities, but as correction of a long-standing failure to employ normal engineering practices in schoolbus construction. Many existing schoolbuses do not meet rivet-spacing recommendations of SAE Standard J–492, Rivets and Riveting, June, 1961.

While NHTSA is taking steps to correct the structural inadequacies of schoolbus bodies through the establishment of standards to control strength of joints, they should resolve the problem of the column strength of schoolbuses. The failure of the window columns is very evident in the accident at Monarch Pass, Colorado, as well as in this accident at Congers, New York. Because of the similarity in construction methods used for domestically produced schoolbuses, the overall strength of schoolbus bodies possibly could be controlled through performance requirements of individual structural elements prior to the development of the full-scale tests which are more technically complete.

For the above reasons, the National Transportation Safety Board recommends that:

"The National Highway Traffic Safety Administration expeditiously adopt a Federal Motor Vehicles Safety Standard to control the strength of structural joints of schoolbuses. In this connection careful consideration should be given to requirement 5.6 Body Structure, of the Vehicle Equipment Safety Commission. This standard should also apply to the strengthening of the window columns of schoolbuses."

This recommendation will be released to the public on the issue date shown above. No public dissemination of the contents of this document should be made prior to that date.

Reed, Chairman; McAdams, Burgess, and Haley. Members, concurred in the above recommendation. Thayer, Member, was absent, not voting.

JOHN H. REED,
Chairman.

Issued on September 22, 1972.

APPENDIX A

(Vehicle Equipment Safety Commission, Regulations VESC–6, Minimum Requirements for Schoolbus Construction and Equipment, Approved January 1971, Revised February 1972, Washington, D.C.)

5. Body Structure:

5.6 Strength of structural joints of Schoolbus bodies. It is the intent of of this section to insure that all structural joints within bus bodies which employ discrete fasteners, including those between heavy guage members and those which join panels to panels or panels to heavier structures, achieve a significant proportion of the strength of the parent metal, so that all available panel materials are capable of serving as part of the structure. Accordingly, in all joints of the above named types which employ discrete fasteners such as rivets, screws or bolts, the pitch of fasteners shall not exceed 24 times the thickness of the thickest material used in the joint. Alternatively, for any method of joining such structural members, it shall be demonstrated by calculation that the strength of such joints is at least 60% of the tensile strength of the thinnest joined members.*

A MATTER OF INTERNATIONAL CONCERN: THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the Genocide Convention was unanimously adopted by the General Assembly of the United Nations in Paris on December 9, 1948. In June of the following year President Harry S. Truman transmitted this Convention on the Prevention and Punishment of the Crime of Genocide to the U.S. Senate. And here it has languished for almost 24 years.

The basic purpose of the convention is the prevention of the destruction of any human group. The convention defines genocide to mean certain acts, enumerated in article II, committed with the intent to destroy, in whole or in part, a national, ethical, racial, or religious

*(Board Comment: This sentence states the requirement in terms of performance.)

group, as such. The first resolution of the General Assembly on this subject stated:

Genocide is a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings.

The distinction between those two crimes, therefore, is not a difference in underlying moral principles, because in the case of both crimes, moral principles are equally outraged. The distinction is that in homicide, the individual is the victim; in genocide, it is the group. The General Assembly also at this time pointed out in a resolution that the physical extermination of human groups is of such grave and legitimate international concern that civilized society is justified in branding genocide as a crime under international law. On September 23, 1948, Secretary of State Marshall said:

Governments which systematically disregard the rights of other nations and other people are likely to seek their objectives by coercion and force in the international field.

To say that genocide is a matter of international concern is to understate its importance. Yet for 23 years this Genocide Convention has lain dormant in the Committee on Foreign Relations, and the Senate has done nothing toward ratification of this very basic declaration of human rights—the right to live. The time is now long overdue for the Senate to ratify this most important treaty.

ADMIRAL McCAIN SEES VIETNAMIZATION A SUCCESS

Mr. SCOTT. Mr. President, the New York Times of September 28, 1972, contains an excellent article by Adm. John S. McCain, Jr., who for the last 4 years was chief of U.S. forces in the Pacific. Shortly he will retire. The article, in which he sees Vietnamization as being successful, is brought to the attention of the Senate, because of the importance Admiral McCain places on a strong defense and the examples he uses in what this strong defense has accomplished.

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

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

THE FORMER COMMANDER OF ALL U.S. FORCES IN THE PACIFIC, JUST RETIRED, SEES VIETNAMIZATION AS A SUCCESS AND HOLDS IT "ABSOLUTELY ESSENTIAL" TO REMAIN A POWER IN THE PACIFIC

(By John S. McCain, Jr.)

HONOLULU.—Viewing my tenure as commander in chief of Pacific forces, I am struck by the realization that there have been tremendous changes in this vast area within these four years. The United States has made great strides in attaining the goals of the Nixon Doctrine, which call for continued United States leadership in the Pacific—but with reduced American forces.

Under the Nixon Doctrine, foreign policy and our national security strategy of realistic deterrence, we have carefully and safely reduced our military manpower in the Pacific command from a high of more than one million servicemen and servicewomen to less than 500,000. United States military withdrawals are continuing as our friends and allies assume ever greater responsibility for their own defense.

In South Vietnam, successful Vietnamization has permitted continued disengagement and redeployment of United States forces, so that by Dec. 1 we will have reduced our commitment there from over half a million men to less than 27,000. From a military viewpoint, I feel this is a sound figure. Were it not for the hordes of new North Vietnamese invaders into South Vietnam this spring, the United States military presence throughout South Asia could have been even further reduced.

President Nixon's plan to reduce the total United States troop commitment in South Vietnam is a result of our confidence that the South Vietnamese can continue to improve their capability for their own defense. We are seeing a much-improved South Vietnamese fighting force. The South Vietnamese are doing sound military planning; the South Vietnamese Army has come of age; and the South Vietnamese Air Force is performing a steadily growing role in support of South Vietnamese Army ground forces. Vietnamization is successful.

During the last four years South Vietnam has survived two major offensives from the North. The first was the Tet offensive of 1968. The second came last Easter weekend.

Many factors contributed to the halt of this most recent North Vietnamese invasion. The most important is the gallant manner in which the South Vietnamese armed forces rose to stop the enemy. They have shown the enemy and themselves they can succeed. They are good. The second most important resulted from the President's decision to mine the port of Haiphong and other North Vietnamese waterways, and to attack North Vietnam's logistics lines and war-making capability.

The President's decision to mine the harbors and renew the air attacks was a most courageous one. All of the ports have been mined, and the minefields have not been crossed or breached since then by any merchant ships. While we have seen some minor lightering activities, this has been minimal; and we have destroyed many of the small craft involved in that lightering activity. The effect of the mining will be most apparent as the stockpiles of the North Vietnamese are depleted and her ability to mount major military activities on strict timetables is thereby denied.

The United States forces have fulfilled their role in supporting the South Vietnamese in a superb manner. Particularly noteworthy and effective have been the United States air operations against the invading enemy forces. The B–52's, naval surface ship gunfire, the Air Force and Navy tactical air support aircraft, the gunships and air transports working on a round-the-clock basis in conjunction with the growing Vietnamese Air Force—all contributed a decisive role in beating the enemy invaders in Kontum, in Anloc, and now in Quangtri. This United States naval and air power has assisted the South Vietnamese ground forces in taking the initiative on the battlefields against a highly mobile invading force of superior numbers and sophisticated firepower.

Two other factors have a direct influence on the North Vietnamese failure. First, North Vietnam's leaders had counted on a general uprising among the populace of South Vietnam. It did not take place. The South Vietnamese people, unwilling to go over to the other side, moved south by the hundreds of thousands to avoid coming under control of the northern forces, just as they did in 1954.

Another area of significant change in the Pacific came on May 15, 1972, with the reversion of Okinawa to Japanese prefectural status. Since the end of World War II, Okinawa had been under United States control. Planning for this reversion began in 1969, and culminated last May. The agreements with Japan provide that the United States may retain military bases there, a key requirement for the United States deterrent posture in the Pacific.

Korea is a third area of dramatic change. The conflict that had dominated that area for more than 25 years began to be eased in July as the Governments of North and South Korea began bilateral talks. These talks, coming on the heels of twenty years of vituperation and conflict, directly reflect the wisdom of President Nixon's policy of normalizing our relations with all nations, particularly the People's Republic of China.

As commander in chief of all United States Pacific forces, I have had the responsibility for the defense of our national interest and our deterrent posture from Arctic to Antarctica and across the broad expanse of the Pacific from California to the western Indian Ocean. Indicative of this great expanse and indicative of the importance of even the most remote parts of this broad area of United States interest, we are building a communications facility on the island of Diego Garcia in the middle of the Indian Ocean. This facility is being built wth the cooperation of the United Kingdom, and the United States will continue to operate ships in the Indian Ocean periodically.

Free world security throughout East Asia continues to rest on a combination of United States defense treaties, such as the Southeast Asia Treaty Organization (SEATO) and ANZUS; the other strong regional agreements among Asian nations; and the five-power defense arrangement for Malaysia and Singapore, which involves forces from Great Britain, New Zealond and Australia.

I have regularly and strongly upheld the wisdom of maintaining adequate military defense in the Pacific through collective security during my four years as commander. Lately, I find it necessary to remind my countrymen that the finest weapons systems won't mean a thing if we don't support the men who defend our people and our soil.

I visited Vietnam on a regular basis as commander in chief in the Pacific. I have been out in the heartlands to the tiny base camps and fire-support bases. I have visited the major military installations. Throughout these visits, I have talked with hundreds of our soldiers, sailors, marines and airmen. I find this group of American youn men as outstanding as any youth I have known anywhere any time. They are intelligent, dedicated to the performance of their duties, and a credit to our country. I am exteremly proud of them. Our nation can be proud of them.

Looking to the future, the strength of our United States air and naval forces in Southeast Asia will depend on the political actions taken to resolve the conflict, and on the enemy's military actions. I am convinced the months immediately ahead are critical for the preservation of all that the United States and allied forces have achieved thus far in Indochina.

Our ultimate goal in the Pacific is the encouragement of strong, viable economies and the right of self-determination for all the peoples of the region. I have no doubt that our assistance will be required and will be forthcoming in Asia in the years ahead. It is absolutely essential for the stability of the free world that the United States remain a Pacific power.

THE SPACE SHUTTLE

Mr. MONDALE. Mr. President, the National Journal of August 12, 1972, contains an article by Claude E. Barfield, entitled "Intense Debate, Cost Cutting Precede White House Decision To Back Shuttle."

The article documents the strong reservations of high-level Nixon administration officials concerning NASA's multi-billion-dollar space shuttle. According

to this article, Donald B. Rice—Assistant Director of the Office of Management and Budget until April 1, 1972—"fought to the very end" against the shuttle configuration approved by the President on January 5, 1972. And the OMB's Evaluation Division "never was convinced that the shuttle would be cost effective as opposed to current or upgraded expendable rocket systems." Based on interviews with William A. Niskanen, the former OMB Assistant Director who headed the Evaluation Division, and other OMB officials, Mr. Barfield observed that the Evaluation Division "posed questions about the—shuttle—that were strikingly similar to those raised by shuttle opponents in Congress."

As this article points out, opposition to the shuttle from within the Nixon administration was not limited to the Office of Management and Budget. In the summer of 1971, Edward E. David, Jr., President Nixon's science adviser, appointed a special panel of the President's Science Advisory Committee to review the arguments for and against proceeding with development of the shuttle.

This panel, which was presided over by Alexander H. Flax, president of the Institute for Defense Analyses, and which included space scientists, engineers, economists, and specialists in systems development and analysis, met monthly with NASA officials and shuttle contractors.

On October 19, 1972, Mr. Flax submitted a confidential interim assessment of the panel's collective views on the shuttle. According to Mr. Barfield's summary, this report concluded:

That on the basis of prior experience, a 30% to 50% cost overrun on the shuttle should be anticipated, thus making the total nonrecurring costs for the shuttle $15 billion;

That "the scientific community in the large doubts that the potential benefits of the space shuttle will be significant for science in relation to the large costs involved;"

That a decision to proceed with the shuttle would demand a national commitment equal to that of the Apollo program and would require "expanding rather than level space budgets . . . over the next 10 years;

That the space shuttle cannot be justified on a purely economic basis for the unmanned part of the space program in view of the marginal benefits which can be shown and the high risks (that) both recurring costs and operational costs may be sufficiently in excess to cause economic losses rather than savings in the 13-year period of operation 1978–90.

As Mr. Barfield noted, this report, which reflected many of the points made by those of us opposed to the shuttle, "challenged some of the basic arguments that have been advanced by shuttle proponents."

The contents of this report, Mr. Barfield continued:

Had opponents of the project seen, the document would certainly have become a center of controversy during the 1972 Congressional debates on the shuttle.

Needless to say, we were not aware of this crucial document during the recent debate on the shuttle.

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

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

TECHNOLOGY REPORT/INTENSE DEBATE, COST CUTTING PRECEDE WHITE HOUSE DECISION TO BACK SHUTTLE

(By Claude E. Barfield)

The outcome of this year's Presidential election could determine the fate of the largest civilian high-technology program now under development in the United States—the National Aeronautics and Space Administration's space shuttle.

While President Nixon on Jan. 5 said that "the United States should proceed at once" with this "entirely new type of space transportation system," Sen. George S. McGovern, D-S.D., has called the shuttle "an enormous waste of money" and a "Nixon boondoggle."

These statements cast in stark relief the differing points of view that exist within the federal government about the merits of the shuttle system, on which the Nixon Administration plans to spend $5.15 billion over the next six years.

The space shuttle—a two-stage rocket-propelled system whose orbiting component would fly back to earth like an airplane—is justified as an economical means of sending men and satellites into each orbit.

It already has passed the most detailed scrutiny within the executive branch, and easily overcame, challenge in the Senate this year.

But should McGovern be elected to the Presidency in November, NASA could expect once again to be questioned closely on its arguments for a project that holds the key to its future as an important government agency.

Contracts: Although NASA officials deny that there is a political as well as a programmatic timetable for the space shuttle, the awarding of huge development contracts has been well orchestrated for maximum impact on the elections of 1972.

Thus, on July 26, the space agency announced that the biggest shuttle prize of all—a $2.6-billion contract for orbiter development and integration of the orbiter with other shuttle systems—would go to California's North American Rockwell Corp.

North American Rockwell will begin hiring additional personnel immediately, and NASA officials say the orbiter contract will generate some 15,000 jobs during the peak employment years, 1976 and 1977. In those years, all elements of the shuttle project will provide jobs for 50,000 persons, they estimate.

Most of the in-house work performed by North American Rockwell will be located at its plant in Mr. Nixon's home state. About 53 per cent of the work—worth some $1.4 billion—will be subcontracted, and company executives project that 48 of the 50 states will get a piece of the action and that a number of states, including New York and Pennsylvania, will benefit from contracts worth well over $100 million.

On July 31, the new Democratic national chairman, Jean M. Westwood, issued a statement attacking the contract award and saying: "I regard this decision as the latest, and perhaps most blatant example of President Nixon's calculated use of the American taxpayers' dollars for his own reelection purposes."

Administration divisions: The President's decision to go ahead with the shuttle project was by no means favored unanimously by his top advisers.

Donald B. Rice, who was an assistant director of the Office of Management and Budget until April 1, fought to the very end against the configuration finally chosen. And the OMB's Evaluation Division never was convinced that the shuttle would be cost-effective as opposed to current or upgraded expendable rocket systems; it posed questions about the project that were strikingly similar to those raised by shuttle opponents in Congress.

Alexander H. Flax, the chairman of a prestigious panel of the President's Science Advisory Committee, reported to Presidential science adviser Edward E. David Jr., last fall that his group disagreed with some of the most important assumptions behind the justification for shuttle development. Flax argued that the shuttle could never make its way on purely economic grounds and that it would have to be justified in part for other reasons—advancing technology, boosting national prestige, or fostering international cooperation.

Some of these skeptics argued against development of any flyback shuttle vehicle, saying that upgraded Gemini capsules would suffice for missions that really needed men in space. Although they lost on that point, the arguments they raised helped justify a big reduction in the development costs of the shuttle.

A year ago, NASA was hoping to build a shuttle with two components, each capable of flying back to earth. That system's costs over a six-year period were estimated at $9.92 billion. Costs of the system now under development are projected at $5.15 billion over the next six years, and only the orbiting component of the shuttle will fly back.

Arguments: NASA and its supporters argue that the shuttle is well worth the investment—that it will save the nation billions of dollars by 1990. Because it is reusable, the shuttle will reduce the costs of launches, and payloads can be produced at reduced cost since they will be carried into orbit by the shuttle, and thus will not have to withstand the direct battering of an ascent through the atmosphere.

Said Sen. Howard W. Cannon, D-Nev., one of the shuttle's leading proponents in the Senate: "I know of no other civilian development project that has been subjected to the kind of close analysis that went before the decision to go ahead with the shuttle. The process cut development costs in half, and resulted in a lean and fully defensible system. I honestly can't see what more shuttle opponents could want."

Political opposition to the space shuttle is centered in the Senate and is led by Sen. Walter F. Mondale, D-Minn.

A bipartisan coalition of 61 Senators handed Mondale a convincing defeat this year, when Mondale attempted to kill the project on May 11. Only 20 of his colleagues voted with Mondale. (See Senate vote 179, Vol. 4, No. 22, p. 922.)

Opponents of the shuttle challenge NASA's cost-benefit analysis, contend that the shuttle should not be produced until a comprehensive plan for space activity in the next three decades has been developed, and they attack the expenditure of billions of federal dollars that could be devoted to other domestic needs.

Mondale and his allies vow to continue their fight. Mondale predicts that during peak-funding years, when NASA's shuttle budget will exceed $1 billion annually, "we'll get a better hearing." But he adds, "I'm afraid that as with the SST (the Administration-backed supersonic transport aircraft killed by Congress last year) the country is going to waste a lot of money before Congress wakes up."

OPTIONS

In the complicated debate that has emerged in the last two years over NASA's plans to develop a space shuttle, several fundamental facts have tended to become obscured.

Use of space: The first, and most important, is that while Mondale and NASA Administrator James C. Fletcher disagree on many things, they do not disagree on one premise: that the United States cannot turn its back on the potential of space.

Mondale says: "I don't know of a single opponent of the space shuttle in the Senate who wants to do away with the entire space program or even abolish NASA for that matter."

With the exception of one crucial area, also, the two sides do not disagree on the prospective uses of space. The most fruitful opportunities, both would agree, are found in the sciences, including physics, astronomy, the life sciences and planetary (unmanned) probes; in space applications, including already substantial benefits from communications, navigation, weather observation and earth resources satellites; and in enhanced defense capabilities.

The clash comes over the place of man in space. Mondale argues that it "is a colossal waste of money and a distortion of national priorities to build a multibillion-dollar vehicle just to keep men in space. The United States can fulfill all the potential benefits without manned space flight."

Fletcher argues, on the other hand, that "the shuttle's basic economic justification is grounded on its utility for unmanned missions; but at the same time it also affords easy and flexible access to space for men."

Launch systems: Interestingly, none of the three launch systems that the Administration and NASA considered as the space transportation system for the future would have absolutely precluded manned space flight; the differences concerned the relative ease and cost of manned space missions.

Current expendable rocket system: The United States over the past decade has built up a sizable stable of expendable booster rockets, from the small Scout at one end of the spectrum through the Atlas, Titan and Saturn rockets at the other end. That stable could have been used indefinitely and manned missions could have been flown in upgraded Gemini capsules launched by Titan III rockets.

New expendable rocket system: Research and development funds could have been used to improve the reliability and cost-efficiency of existing rocket systems, and to develop new expendable rocket technology. Once again, a manned vehicle could have been lofted on expendable boosters. Last year, the idea of placing a space glider—an unpowered fly back orbiter—attracted a lot of interest.

Space shuttle: The most technologically advanced system that was explored was a man-operated, fully reusable two-stage system. Although it would have been expensive to develop ($9.9 billion), its proponents argued that ultimately it would make space transportation much cheaper than expendable systems, that it had a greater capability to perform space tasks and that it would continue manned space flight without interruption. Because of budget considerations and uneasiness over the high technical risks associated with this system, the Administration opted for a compromise shuttle configuration: an unmanned, recoverable booster, coupled with a manned orbiter with expendable fuel tanks.

This system will be considerably cheaper in the development phase ($5.15 billion). It will retain the mission capabilities of the more expensive system, but costs per flight will be more expensive than with the more advance system.

SETTING THE STAGE

For NASA, the first year of the Nixon Administration was marked by a superb technological achievement and by high hopes for the future of U.S. activity in space.

In July 1969, Neil A. Armstrong landed on the moon and took his "one small step for a man, one giant leap for mankind."

At the same time, a high-level Administration Space Task Group, chaired by Vice President Spiro T. Agnew, was charting the future of NASA activities in terms that foresaw a space program exceeding the Apollo program in scope and expense.

The Agnew group's report, published in September 1969, listed three main program options for the 1970s and 1980s.

All three options included plans for the development of a small 12-man space station, a space shuttle, a 100-man space base, and lunar orbiting and surface stations. Two of the three foresaw the first manned expedition to Mars in the mid-1980s and projected funding levels of $8 billion to $10 billion for NASA by the late 1970s. The less ambitious third option—which included simultaneous development of the space station and shuttle—peaked at just under $6 billion in fiscal 1977. NASA's top budget during the Apollo years was $5.9 billion, in fiscal 1966.

These expansionary projections did not seem unrealistic to NASA, elated as it was at the time with the success of its moon-landing program.

NASA, moreover, believed it had an ally in President Nixon, who always has shown a keen personal interest in the space program and has often welcomed astronauts to the White House.

Budget difficulties: But the President's enthusiasm was not shared by his closest political and budgetary advisers, who argued successfully that the political climate in the country and the keen competition for federal dollars would not allow for a space program approaching the scope of NASA's ambitions.

William E. Kriegsman, who from 1969 to 1971 was the Domestic Council staff member most deeply involved with space issues, and Clay T. Whitehead, another key aide on the council (who now is director of the White House Office of Telecommunications Policy), were among those who pressed the cautionary view in the White House. The two prepared the President's major statement on the U.S. space program in 1970. Delivered to Congress on March 7 of that year, the document alluded favorably to the shuttle but carefully stopped well short of an endorsement.

The most insuperable and unfamiliar difficulties for NASA came in its dealings with the President's budget office. Accustomed during the peak Apollo development years of the 1960s to carte blanche treatment of its budget requests, the agency was shocked when, in the summer of 1969, its fiscal 1971 budget submission was rejected out of hand.

In an interview last year, said Dale D. Myers, NASA associate administrator for manned space flight, "we were still planning in terms of concentric circles—first the space station, supplied by the shuttle, then a lunar station and base and finally planetary exploration."

But the fiscal 1971 budget request was cut back substantially, and, said Myers, "by early 1970 we had begun to lower our sights."

It had become clear that the Administration judged that post-Apollo lunar missions and manned expeditions to Mars were simply too expensive to undertake in the foreseeable future.

Space station, shuttle: That left the space station and shuttle, and of the two, the station was much the furthest along in design definition. NASA had planned to develop both systems concurrently, at a cost of about $5 billion each.

But this hope, too, soon went aglimmering. Julian E. Franklin, vice president for space systems and applications at North American Rockwell, gave this explanation of the process by which the shuttle came to the fore: "The space station development program had a good head of steam up in 1969 and a hell of a lot of supporters, but in 1970 it became very evident that there wasn't going to be enough money to develop the station and the shuttle simultaneously. At that point, an ominous fact took over—that unless you had some kind of low-cost logistical supply system, you'd eat up all of your budget just supplying the station. Economically, NASA couldn't afford to delay the development of the shuttle five or six years after the station as it first thought of doing.

"Thus, a great reversal of priorities took place; and the shuttle, which hadn't received much attention previously, came out the top space development program for the 1970s."

Shuttle alone: Not only did the shuttle come out the top-priority item, but since 1970 it also has been decoupled from the space station and other manned ventures almost completely. It is now justified mainly as a utilitarian, cost-effective transportation system for placing into orbit, retrieving and repairing satellites designed for civilian space sciences and applications and for Pentagon missions. In the two years since the shuttle came to the fore, NASA has constructed a wholly new rationale for its development.

There were two important outside factors behind NASA's new justification:

The clear indication that the OMB would not approve the shuttle unless it passed a rigorous cost-benefit test to prove its worth in a future space program dominated by unmanned space science and applications missions, Pentagon flights and commercial traffic;

The realistic political judgment that neither the 91st nor the 92nd Congress was willing to fund expensive new starts in manned space flight. In the first big congressional debate that erupted over the shuttle in 1970, Mondale's most potent argument was that the system "will be the initial phase of a program with an estimated cost of $50 billion to $100 billion over the next 15 years." Had he and other opponents been able to tie the shuttle to the station, the space base or planetary expeditions, there is little doubt Congress would have rejected the project.

Shuttle planning: Detailed planning of the space shutle began in January 1969, when NASA awarded so-called Phase A feasibility study contracts to four companies—General Dynamics Corp., Lockheed Aircraft Corp., North American Rockwell Corp. and McDonnell Douglas Corp.

In November 1969, after getting the results of these preliminary assessments, NASA established a fully reusable, two-stage shuttle as the baseline configuration. The first-stage booster was to be approximately the size of a Boeing 747; the orbiter about the size of a Boeing 707. Both vehicles were to be piloted by two-man crews and capable of landing on conventional runways. Both would be reusable for a minimum of 100 flights over a 10-year lifetime.

At this point, NASA was projecting development costs of $5.2 billion for the fully reusable shuttle.

The President's budget office believed this estimate to be unrealistically low—with good reason for, by the spring of 1971, the fully reusable system's development costs were put at $9.9 billion. Budget officials also were by no means persuaded that the reusable shuttle would be cheaper in the long run than existing or improved expendable rockets systems.

In the spring of 1970, the OMB directed the space agency to conduct an in-house cost-benefit analysis of the shutle, and at the same time strongly urged NASA to contract out a much more detailed independent study.

Shortly thereafter, in June, NASA awarded one-year Phase B detailed design contracts for the full reusable shuttle to two teams of companies, one headed by North American Rockwell and the other by McDonnell Douglas.

But in recognition of the trend in Administration thinking, the agency also took two actions in June that eventually helped lead to the decision to scrap the fully reusable shuttle:

Following the OMB'se advice, NASA signed a contract with Mathematica Inc. of Princeton, N.J., to conduct a one-year study of the

economic merits of three alternate space transportation systems, a new group of expendable rockets and the space shuttle system.

It extended its Phase A feasibility studies, awarding contracts to investigate less complicated and expensive shuttle designs to three companies: Lockheed, Grumman Aerospace Corp. and Chrysler Corp.

Grumman received the largest extended Phase A contract, and it joined forces with Boeing Co. to complete the work.

Among the alternatives the Grumman-Boeing team looked at was an orbiter configuration with expendable fuel tanks and several phased-development approaches, including one in which the orbiter would be developed first and coupled initially with an expendable booster—a Titan III or Saturn IC stage. Later a fully reusable booster would be developed.

The aim of the phased approach was to lower peak funding costs in the mid-1970s.

Funding: While awaiting the results of the economic analyses, NASA chafed to get forward with the program, but the budget office kept a tight rein.

In fiscal 1971, NASA asked the Administration for $170 million for the shuttle and was allowed $80 million; in fiscal 1972 the space agency wanted $190 million and got only $100 million.

CHANGE OF RULES

In June of last year, with negotiations about to begin on the shape of the fiscal 1973 budget that the Administration would recommend to Congress seven months later, the stage seemed set for a straight up-or-down decision on the fully reusable, two-stage shuttle.

But then NASA drastically changed the ground rules of the competition for the shuttle design contracts and sent the companies back to the drawing boards.

Said one aerospace executive whose company was a major competitor for the orbiter contract: "Some people saw it coming and some didn't—but whatever the case we all knew by July that the whole damned system had suddenly gone up for grabs."

New instructions: The new instructions directed the companies to reduce peak-annual-funding requirements.

As a means of accomplishing this, they were to explore the use initially of existing hardware and materials for the shuttle engines, avionics (electronic guidance control) and thermal protection. That baseline orbiter became a vehicle with an expendable hydrogen-oxygen fuel tank.

NASA and the contractors looked at substitutes for the advanced orbiter engines, but their main attention centered on alternative, "off-the-shell" propulsion for the booster.

The favored candidates during most of the fall for a manned, flyback booster were the F-1 engine that had been used in the Saturn V and a modified version of the Saturn IC.

One effect of the new ground rules was to catapult the Grumman-Boeing team back into the center of the competition. For a full year, Grumman had been studying alternate, less expensive approaches, and Grumman the fuel tank outside the orbiter.

In addition, Boeing was the developer of the Saturn IC stage, one of the main candidates for the initial booster engines.

Reasons for change: NASA's aboutface, representing a reluctant admission by the agency that its hopes were dead for immediate development of an advanced fully reusable two-stage shuttle system, had three basic causes:

The results of the Mathematica study, which seemed on the surface to justify the advanced fully reusable system but actually amounted to a solid warning against proceeding with that advanced design.

Increasing uneasiness among NASA officials and executives of contractor companies about the sizable technical risks involved in the advanced shuttle, particularly with the booster;

NASA's discovery in the first fiscal 1973 budget sessions that the OMB, with full backing from the White House, had no intention of approving a space budget over the next decade that would support the advanced system.

Mathematica conclusions—Using the most conservative assumptions, the Mathematica report pronounced the fully reusable two-stage system cost-effective if the U.S. space program launched 566 flights between 1978 and 1990, for an average of about 44 flights a year.

At that level of activity, Mathematica figured, the shuttle could incur $12.8 billion in cost-effective as compared with expendable systems.

(Non-recurring costs include research, development, testing and evaluation as well as procurement of an operating fleet for the 13-year period and construction of two shuttle bases.)

In its directions to Mathematica, NASA had postulated that the shuttle would be used 736 times from 1978 to 1990, a level of activity that could have supported $15.4 billion in nonrecurring expenditures.

But Mathematica judged that NASA's mission model was unrealistically high. It substituted a model that assumed 600 missions during the 13-year span, and found that nonrecurring expenditures of $12.9 billion could be justified on that basis.

This calculation meant that the shuttle would be barely cost-effective.

But Mathematica spokesmen readily admit that inevitable cost overruns would have made the shuttle system diseconomic at the level of activity the company projected.

(In making its analysis, Mathematica used a social-discount rate of 10 per cent. The social-discount rate is the interest rate charged by the government to new development projects to justify tying up federal money that could be used for other purposes.)

Technical risks—Linked to the question of cost overruns were problems associated with the technical risks involved in the advanced fully reusable system. By the spring of last year, some government officials and executives of contracting companies had developed nagging doubts about the chances of completing the system without encountering time-consuming and costly technological obstacles.

NASA Administrator Fletcher says that "worries about the technical risks were not a major concern to me personally, although I may have been somewhat naive in that regard." But Fletcher admits he feels "much less pressure with the simpler design we're now building."

Much of the anxiety centered on the design of the huge booster, which was to be 296 feet long, or the size of a Boeing 747, and which had to combine the liftoff capability of a huge rocket with the aerodynamic qualities of an airplane.

Said Charles J. Donlan, acting director of NASA's space shuttle office: "In retrospect, I think, 'Thank God we didn't have to build that design.' Flying the booster would have been a thankless and even potentially dangerous task for the flight crew."

"At best," said George J. Vila, manager of space systems for General Dynamics Corp., "it was a lousy airplane."

And William A. Anders, the former astronaut who is executive secretary of the interagency National Aeronautics and Space Council, says he "was no great fan of the original configuration."

"It wasn't anything you could really put your finger on, but I thought we were pushing the state of the art and with so many things to keep moving there was a good chance something would go wrong . . . I guess I sort of got to the point of intuitively feeling 'big is bad,' in both costs and designs."

Budget—The final and perhaps the most important nail driven in the coffin of the advanced fully reusable system came from the OMB. The budget office, reinforced by the Mathematica conclusions arrived at the negotiating table determined to pull NASA back from its ambitious plans.

"When we first sat down with them in the summer to discuss fiscal 1973," said William E. Lilly, who is NASA's chief budget officer, "they told us that our total budget in fiscal 1973 and for the next few years would not go much above its present level ($3.3 billion). When we calculated it out, it meant that if the Administration approved the shuttle project, we'd have to live with about a $1-billion peak funding figure."

The fully reusable shuttle configuration would have required a federal outlay of at least $2 billion in peak funding years.

Congressional reaction: Congressional supporters of the space program also had been worrying about the costs of the fully reusable system.

A blunt warning was delivered to NASA in a May 18, 1971, speech by Rep. Joseph E. Karth, D-Minn., who was then a member of the House Science and Astronautics Committee. He said that NASA funding estimates of $12 billion to $13 billion for shuttle development were subject to a wide margin of error, and predicted that cost overruns would eventually bring expenditures to between $15 billion and $20 billion. Karth told a gathering of key federal space officials and NASA contractor executives at the National Space Club: "I would predict that the politics—if not the economics—will not justify a $20-billion figure or even one approaching that amount."

Yet many members of the congressional space committees also were deeply disturbed when NASA changed the rules of the game—just at the time when the panels were reciting the virtues of the fully reusable two-stage shuttle for the fiscal 1972 NASA authorization and appropriations bills.

Rep. Don Fuqua, D-Fla., says there was "great consternation" among House space committee members. "We had just finished defending one configuration on the floor and then suddenly they announced they were going to change it. Tiger Teague (Rep. Olin E. Teague, D-Tex.) got the top brass from NASA over here and raked them over the coals.

"We all wanted to know how long they had known they were going to change and how much of this kind of thing was going on behind the committee's back. They explained the reasons behind the changes, and everybody calmed down.

"After that, though events moved pretty fast, they did try to keep us reasonably well informed."

On the Senate space committee there was also a "good deal of anxiety," said Sen Cannon, "but there was a great deal more worry about the peak-annual-funding question—authorizations of $2 billion would have been a lot tougher than the scaled-down system we finally got."

Start of the scramble: The decision in early summer to scrap the design targets of the last 18 months did not alter the December deadline the Administration had set for a final determination on a Presidential endorsement.

The result was a six-month frantic search for the most cost-effective and technically sensible alternate configuration.

The Nixon Administration, NASA and the strong proponents of the shuttle in Congress all felt compelling pressures to get a decision by the end of the negotiations leading to publication in January 1972 of the Administration's fiscal 1973 budget.

NASA worried that stretchout costs would begin to plague the program and that for

financial and psychological reasons it would have trouble holding its industrial teams together if the shuttle were deferred for another year.

In an interview, Donlan said: "We were worried as hell that we'd lose the momentum the program had gained, and beyond this we seriously doubted that the prime contractors could, or would, continue to pump in their own dollars."

Congressional proponents of the shuttle likewise feared stretchout problems, but they worried more that indecision would allow opponents in Congress to argue that there were serious, unacknowledged flaws in the shuttle.

Rep. Louis Frey Jr., R-Fla., said: "The deferral of a decision would have been just the opening shuttle opponents were looking for. We'd beaten them easily for two years, but we'd have had a lot of trouble this year if the President had sent NASA back to the drawing boards."

For the President, 1972 was clearly the year for the announcement of full-scale development if he decided to go ahead. The continuing depression in the aerospace industry and the relatively high unemployment rate among the nation's scientists and engineers were sure to become Presidential-election issues.

In interviews with *National Journal* during the fall, John D. Ehrlichman, executive director of the Domestic Council Staff, on several occasions cited the situation in the aerospace industry as an area of "deep concern" to the Administration.

Concurrently with the final evaluation of the shuttle project, the Administration mounted a major drive, under Presidential special assistant William M. Magruder, to come up with a package of civilian-oriented new technological initiatives.

Although Administration officials emphatically deny there was any connection, the failure of the Magruder operation to produce important new technology projects undoubtedly increased the political pressure for a go-ahead on the shuttle project. (*For a report on the Magruder operation, see Vol. 4, No. 19, p. 756*).

But the change of signals on the shuttle configuration not only meant that a whole new look at a bewildering array of shuttle designs was necessary but also raised anew broad questions about the basic value of the project itself, the shape and scope of the future U.S. space program. NASA's future as an important government agency, and funding priorities among domestic programs.

The Nixon Administration was obliged to consider whether it could defend such an expensive development project at a time when it was holding the line on other domestic programs for fear that federal outlays were getting out of control.

In these deliberations leading to a final decision, the OMB and the President's Office of Science and Technology played crucial roles, as did Mathematica. And while NASA thus was required to submit its decision-making to the intense scrutiny of other parties—and was forced to compromise severely its original goals—Fletcher indicated that he is glad that the exercise was undertaken.

"I knew there were dangers in opening up the whole project to basic questions again," he said, "but I intuitively felt that we'd be better off in the end."

FLETCHER AND NASA

Administration officials and NASA contractors give Fletcher much of the credit for persuading the space agency's key administrators of the necessity to plan for alternate, less expensive configurations.

Had NASA not done that, they say, the result might well have been deferral or even death for the space shuttle.

New approach: An executive for one of the companies that competed for the orbiter contract said: "Well into the spring of 1971 the top brass at NASA refused to consider contingency planning. They were still adopting an adversary approach to the OMB and making it clear to us that they would not take kindly to suggestions for substantially different configurations."

That attitude began to change a few months after Fletcher took over at NASA in March 1971. His "basic approach," said William Lilly, NASA's top budget officer, "was summed up in a sentence that became famous around here: I just don't buy your assumptions on this.' . . . He even asked why we need manned space flight at all."

There were, however, limitations to Fletcher's acquiescence to the OMB's economic pressure. One Administration official, who was deeply involved in the final negotiations put it this way: "He brought a lot of common sense to his job. But the fact remains he is the head of a mission agency. He's bound to be concerned with the continuation of that bureaucracy. What would happen, for instance, to the huge space centers at Houston and Huntsville if there were no space shuttle? And it's the manned space program that has given the agency its high visibility and public acclaim—could he really allow that to expire? Finally, NASA's a high-technology agency—Fletcher could curb but he couldn't eradicate the desire to go for a complicated new technology 'because it's there.' "

Basic posture: Possibly it was this combination of factors that produced NASA's basic posture during the fall negotiations. The space agency, while accepting the funding constraints imposed by the OMB, tried to retain as much as possible of the advanced two-stage system—at least as a concrete goal within a stated time frame. This led NASA to press upon its contractors a number of phased development schemes, which would have provided initially for two manned vehicles, employing, however, less advanced technology than NASA originally wanted, especially in the case of the booster. Development work would have continued into the mid-1980s under these schemes, and NASA at the end would be rewarded with advanced vehicles for both of the shuttle stages.

The OMB and the OST were attracted to less expensive and technologically simpler configurations. The two groups seriously examined the possibility of using upgraded rockets—particularly among the Titan III family—as the basic launch system.

Says Klaus P. Heiss, who directed Mathematica's cost-benefit analysis: "It's amazing how configurations appeared and disappeared. And those which some people thought had the best chance were dismissed by others out of hand or in some cases never even looked at."

THE OMB

The Office of Management and Budget, aided by arguments articulated by Mathematica and by the panel of the President's Science Advisory Committee (PSAC), succeeded in cutting development cost estimates for the space shuttle nearly in half during the last six months of fiscal 1973 budget negotiations.

The budget office's top leadership now argues that there was little thought given to completely scrapping the shuttle project and no dissent within the agency to the configuration finally agreed upon. But in fact some elements within the OMB expressed severe doubts as to the basic merits of the space shuttle.

Weinberger: Caspar W. Weinberger was deputy director of the OMB during the time the shuttle decisions were being made. (He now is the director of the office, succeeding George P. Shultz, who became Secretary of the Treasury.)

In an interview, Weinberger said that his own approach to the shuttle decision "probably wasn't typical of the narrowly cost-conscious stereotype of a budget officer."

"My feeling is that we have to use some imagination in assessing research and development projects like the shuttle," said Weinberger. "Just as we do with basic scientific research, there are some things about the shuttle we have to take on faith. For instance, as to what exactly it is the shuttle will be taking up and back to orbit, I must say I don't know. But I start with the presumption that the nation has a future in space, and that being the case we'll need the shuttle."

Sensitive to the political problems an open admission of dissent within his agency could cause, Weinberger said, "There was no disagreement among my people at the end. Everyone thought the system we settled on was the best compromise."

Weinberger's assertion, however, glosses over the fact that during the fall hard questions and serious reservations about the shuttle surfaced from two centers within the OMB: from Rice and the staff he directed and from the Evaluation Division, then headed by OMB assistant director William A. Niskanen.

Many of the questions raised and the doubts expressed—particularly by the Evaluation Division—were striking similar to those of opponents of the shuttle in Congress and outside the government.

Evaluation Division: The OMB, established under an executive reorganization plan in 1970, gave to its Evaluation Division a broad mandate to scrutinize federal programs to determine costs and payoffs. The division, however, has had no line responsibilities in the actual budget process. One OMB official told *National Journal* some months ago, "Those guys over there have only a marginal impact on the budget itself because they're not wired directly to the negotiations."

Under the direction of Niskanen, who is a disciple of Chicago economist Milton Friedman, the division consistently took a skeptical view of large government development projects. Niskanen, for instance, publicly registered a strong dissent to the Administration's ambitious drive in the fall to develop a program to subsidize civilian R and D projects—a dissent which prompted his superiors to order him to avoid the press.

And NASA officials still have not quite recovered from a memorandum they received from the Evaluation Division requesting them to explore the possibility of turning over the entire civilian space program to private enterprise—which then would sell launch-and-recovery services to government agencies and commercial enterprises.

On June 1, Niskanen resigned from the OMB to join the faculty of the University of California. His staff is being dispersed and the division phased out.

Niskanen views—In an interview, Niskanen stressed that his own views of what had taken place and the causes for it were "highly individual." For instance, he said: "My impression looking back on it all is that the Administration some time before the negotiations last fall had made a commitment to go ahead with some kind of shuttle. . . . However, even people on my staff didn't agree with me on this."

Niskanen then added: "It certainly was different from the SST fight where early on the Administration told us to stop studying the economic pros and cons. In this instance, a window remained open until December, and they were willing to listen at least to a restricted range of arguments."

Issues—Niskanen said he wanted the OMB to take a tougher line with NASA than did Rice, to challenge the basic assumptions and premises that underlay NASA's rationale for development of the shuttle.

In dealing with the space agency's carefully prepared arguments. Niskanen said, "I'd like to have seen us not shy away from questions that went to the heart of the issue

of whether or not we really needed the shuttle."

He listed a number of areas in which shuttle proponents' arguments are weak in his view:

Mission model: "My impression is that the mission models that NASA is projecting for the 1980s, are unrealistic. They start at a number that strains credibility and go up from there."

Payload cost reductions: "'A large part of the presumed savings comes from relaxed design, repair and refurbishment of satellites. I was struck, however, with the fact that payload design is so far down the road—in miniaturization, sophistication and reliability—that you wouldn't get manufacturers or users to go for much relaxation."

High-altitude missions: "NASA never talks about it but more than half of the shuttle missions will end up in orbits beyond the near-earth shuttle operating orbit. This means you need expendable rockets or the space tug. Nobody ever explained the tug technology or economics satisfactorily. How many satellites, for instance, would you really want to retrieve or repair?" (The space tug is a reusable vehicle that will be used to transfer payloads from low-earth to high-altitude orbits.)

Expendable systems: "There were and are a number of people who think this alternative always looked better than either NASA or Mathematica were willing to admit."

Alternatives—In meetings with NASA and the PSAC panel, the Evaluation Division put forward two alternatives: new expendable rockets or a space glider.

The more expensive of the two ($3 billion in development costs) was the glider—an unpowered, manned orbiter that would have been placed atop a Titan III missile.

The expendable system also could have provided for manned space flight—by placing an upgraded Gemini capsule on a Titan rocket.

But both NASA and Mathematica insist that the shuttle is a better deal in terms of performance and economics.

Rice: Donald Rice was the central figure for the OMB in the shuttle negotiations—at least until the final meetings when Fletcher refused to deal with him and would talk only to Shultz and Weinberger.

Rice, who left the OMB on April 1 to become president of the Rand Corp., never allowed interviews while he was in government and he continues to decline comment on the shuttle decision.

There are, today, varying views about his personal opinion of the shuttle and of the instructions he had been given by the Administration.

A high NASA official who was deeply involved in the talks with the OMB said, "My own belief is that he was never convinced of the economic utility of the shuttle. But he saw the tide running against him, that gradually the idea of a shuttle was gaining acceptance. Then, with input from dissident industry sources and some members of the PSAC committee, he started raising new questions and new problems. I think he and those feeding him information hoped that the whole thing would get bogged down and the decision postponed for another year."

Conversely, a White House staff aide, argued: "I think Rice was just determined to get the cheapest and simplest system possible and not get snowed by NASA's quest for advanced technological challenges. . . . To accomplish this, he kept after them to provide data and cost out alternatives they really preferred not to discuss."

Niskanen maintains that the tactical path Rice chose led him inevitably "to get clobbered at the end with massive attack of technical briefmanship from NASA."

In October and November, Rice and the PSAC panel actively explored new expendable systems and variations like the space glider. But in December, possibly fighting a rearguard action as the NASA official indicated, Rice got deeply involved in the design of the shuttle itself. He suggested a smaller payload capacity, smaller weight capacity, less advanced engines and raised other possibilities designed to reduce the over-all costs.

It was this last series of questions that so incensed NASA officials. Recalls Fletcher: "There's always a tendency when you throw open the decisions on a big project like this for everyone to want to go back and reinvent the wheel. In this case, I finally had to say to the OMB: 'We know the technology and you the economics.' I think they had overstepped the bounds and told them so."

Late in December, Fletcher appealed directly to Shultz, and the final decisions were made at meetings between Shultz and Weinberger (in consultation with Edward David, the President's science adviser) on the one hand and Fletcher and George M. Low, associate NASA administrator on the other).

Says Weinberger: "The final design was not what Rice's people wanted, but it wasn't what NASA original recommendations suggested either."

Looking back on it all, an OMB staff member said: "Our best bet was to hammer away at the total development costs and their impact on the budget. When you consider that we cut the shuttle R and D cost by half, you can see that we carried those arguments a long way."

OST, FLAX PANEL

To help him advise decision makers on the matters of the space shuttle, Presidential science adviser David in mid-summer of 1971 established a high-level independent scientific panel to study the issues.

It was composed of experts in space systems development and management, aeronautics, space science and engineering, and was chaired by Alexander Flax of the Institute for Defense Analyses.

The panel held its first meeting in August and from then until December met at least once a month with space agency officials and representatives of the leading contractors in the shuttle-design competition.

Views of panel: Navy Capt. Russell D. Drew, who until July 1 was technical assistant for space in the OST, said that the group "was given an open-ended mandate to explore anything from hardware design to launch costs and payload savings."

Drew, who is now chief of the Navy Department's Office of the Naval Operations in London, had been the OST's space expert since 1967 and followed the shuttle development since its inception.

"They did not adopt an adversary approach," said Drew, "but they did challenge some assumptions and press NASA for alternatives. They continually asked the 'what if' questions, and I am sure to some of the program managers at NASA they seemed like provocateurs."

The panel worked closely with the OMB, and budget office staff members attended all of its meetings. "Their questions illuminated and clarified a lot of issues for the staff people and for Rice," Drew said.

"I don't think they had much influence on the final determinations," said Fletcher, "but from the tenor of their questions I suspect that—like Rice—they hoped for an even less expensive shuttle than the one we chose. Whatever their views, though, Dr. David fully concurred with the decisions we made at the end of December."

Oct. 19 report: Like Rice, the Flax panel got deeply involved in shuttle design; but like Niskanen and the OMB's Evaluation Division, it also at one point in the fall raised more fundamental questions that go to the heart of the controversy over the shuttle.

On Oct. 19, Flax, in an interim assessment for David, summed up the thinking of the group. He stressed in a covering letter that other members of the panel had had no opportunity to review his conclusions. But subsequently, members of the group were given copies and no dissents were registered.

Although the report did not recommend a negative decision on the shuttle, it challenged some of the basic arguments that have been advanced by shuttle proponents. And had opponents of the project seen its contents, the document would certainly have become a center of controversy during the 1972 congressional debates over the shuttle.

Among other things, Flax said that:

Cost overruns of 30 per cent to 50 per cent could be expected from past experience, and thus a shuttle system now estimated at $6.5 billion might cost $10 billion before completion—and up to $15 billion if one took into account all non-recurring costs.

The scientific community doubted that the "potential benefits of the space shuttle will be significant in relation to the large costs involved.

To justify the shuttle, it is "necessary to postulate expanding rather than level space budgets for the Defense Department and NASA over the next 10 years."

It is "unlikely" that reduction in space-program costs or solid rate of return on investment "could be more than a minor factor" in justifying a commitment to the shuttle.

While making no single recommendation, Flax said that at that date the panel found three options attractive: defer a decision, go to a ballistic recovery system (new expendables) or develop a winged orbital vehicle (glider).

Drew: Drew claims the report represents "a kind of snapshot" of the panel's collective mind which was in process of changing—particularly in regard to configurations and options, while conceding that some of the general views expressed in the report raised questions much beyond the choice of configuration.

Drew maintained that "most of the panel" fully supported the shuttle configuration President Nixon endorsed on Jan. 5. He also personally took issue with the views of OMB's Evaluation Division, saying: "I think those guys raised excellent questions at the beginning of the discussions; but I also think NASA came up with good answers."

MATHEMATICA

Inevitably as the desperate search for the right combination of design and economics developed during the fall, the Mathematica staff was called upon for quick analyses and advice. Though he had no official function or authority, Heiss, who directed the Mathematica study, became deeply involved with contractors, NASA and OMB and OST staff members.

Key fact: Heiss says that by the end of the summer Mathematica's analyses were showing one important fact and pointing to one or two configurations as clearly the most cost-effective.

Heiss says that Mathematica's studies had revealed "one important thing"—that even if per-launch costs rose to $10 million, all but 5 per cent of the shuttle's planned missions would be cost-effective as compared with similar missions using expendable rocket systems.

(The $9.9-billion fully reusable, two-stage shuttle system would have had a projected per-launch cost of $4.6 million.)

"If you could go to $10 million," Heiss said, "then some kind of thrust-assisted orbiter shuttle beat out all other systems. It had the lowest development costs of any system capable of sustaining continuous manned flight."

It was a thrust-assisted-orbiter shuttle. (TAOS) system—an unmanned booster and a manned, flyback orbiter—that the Nixon Administration finally chose in January.

Confusion: According to Heiss, it was difficult to get a serious hearing late in the summer, because "everybody in Washington was designing a shuttle."

"There seemed to be a hundred pet ideas about the design, and for a while nobody listened to anybody else," he said.

Working behind the scenes, Heiss pressed the case for the TAOS system. Helping him was a NASA official, Robert N. Lindley, who, said Heiss, "was one of the few people over there to grasp clearly the real economic and design tradeoffs."

Lindley, at the time was director of engineering and operations in NASA's Office of Manned Space Flight. He had done NASA's 1970 in-house cost-benefit analysis, and he formed the liaison with Mathematica during the course of their studies. He is now director of projects at NASA's Goddard Space Flight Center.

NASA resistance: For some months key officials at NASA resisted the TAOS configuration in favor of phased approaches that would produce two-stage flyback systems of some sort.

Heiss thinks there were two reasons for this: "In the first place, there was the irresistible urge to go for the most advanced design and technology possible. And then there was a deep-seated bureaucratic bias for two manned vehicles. When we pressed the TAOS, for a long time some people over there kept seriously telling us—'We can't go that route, because we've got to have something for the Marshall Space Center as well as something for the Houston Space Center."

(The George C. Marshall Space Flight Center at Huntsville, Ala., was slated to handle the difficult problems of manned booster development, while the Houston Manned Spacecraft Center is to supervise orbiter development and systems integration.)

Heiss and Lindley pressed McDonnell, Douglas and Grumman throughout September and October to include the TAOS design in their presentations to NASA, but, said Heiss, "some NASA officials kept telling them to forget it, the configuration had no chance."

(As late as Oct. 15, NASA failed to include the TAOS configuration in its presentation to the PSAC panel.) OST, OMB: Meanwhile, Heiss said, the "OST and OMB were going off on all kinds of dead ends and design tangents of their own. Flax even had his own staff at IDA design a shuttle."

Heiss dismisses the space-glider concept, which attracted much support from the two agencies, as "making no sense at all when closely examined."

He flatly denies also the contention of some OMB officials that the new expendable system looked better than the TAOS system economically.

Oct. 28 memo: "At the end of October, said Heiss, "we thought the whole program was on a catastrophic course. There were still many people in NASA who believed they could sell the Administration an $8-billion to $10-billion two-stage flyback system. At the other end of the spectrum, the OST and OMB seemed to be drawing back toward some kind of advanced expendable system . . . We decided to try to get to Fletcher before the major November design review."

On Oct. 28, Mathematica sent Fletcher a strongly-worded memorandum stating that its studies showed the TAOS to be the "economically preferred choice."

Among the reasons given for its economic superiority were:

Lower development costs—less than $6 billion;

Lower development risks;

Equal capability with the originally proposed orbiter in payload bay size and payload weight carrying capacity;

Abolition of the need for an immediate decision on a reusable booster;

Opportunity to fund early development of the space tug, which is necessary to achieve full cost benefits.

"TAOS assures NASA an *early program definition*, and a purpose to the agency."

Mathematica's memo also contained an admonition—and an implied warning—that has appeared in every report of the corporation to the space agency. The "key question," said the memo, is "Does there exist a precise and detailed NASA and national space program for the 1980's?"

Shuttle mission profiles, it said, "continue to change substantially. . . .

"The point is sometimes made by NASA that technological possibility of a space shuttle program suffices by itself to justify its construction, independent of the economic analysis . . . (However) it is difficult to see how a program like the space shuttle can be undertaken without a complete economic justification."

Mathematica is uncertain of the impact of its memo. Heiss said: "Fletcher seemed glad to get it; but whatever was their attitude, we made it clear that this would be our conclusion when we published our final report in January."

Fletcher said that the "Mathematica memorandum was only one of a number of important facts we took into account during November and December." But it is quite likely that when Rice and the OMB began pressing for simpler designs—either space glider or smaller orbiter—Mathematica findings constituted a significant ace in the hole.

FINAL DECISION

According to Fletcher, the debate over the nature of the configuration went almost to the time of the President's announcement.

"We probed for weak spots right up to the very end," Fletcher said.

On Jan. 5, after a 45-minute meeting with Fletcher, Mr. Nixon issued a statement giving the go-ahead for thrust-assisted-orbiter shuttle system. Still left up in the air at the time was the question of propulsion for the booster. In March, the space agency chose solid-fueled rocket engines for the booster over pressure-fed liquid rockets.

SHUTTLE ECONOMICS: A SKEPTICAL VIEW

Last fall, in the midst of the most intense deliberations over the development of a new space transportation system, a prestigious panel of the President's Science Advisory Committee challenged some of the major arguments advanced in favor of NASA's space shuttle.

Presidential science adviser Edward E. David Jr. had appointed the panel to advise him on the difficult and complex issues raised by the shuttle project. The group was chaired by Alexander H. Flax, president of the Institute for Defense Analyses, and included space scientists, engineers, economists and specialists in systems development and analysis. Beginning in August, it met monthly with NASA officials and shuttle contractors.

The PSAC panel never made a final recommendation to David, but on Oct. 19 Flax submitted a confidential interim assessment of the group's views on the project. In a covering letter he stressed that the full panel had not participated in writing the analysis and that it represented his perceptions of their collective views. But panelists later were shown copies of the Flax document and no dissents were registered.

Flax assessment: Following are key points raised in the Flax document:

Costs—Flax criticized Mathematics Inc., a consulting firm hired by NASA to provide an independent appraisal of the project, for dismissing too lightly the likelihood of cost overruns. "Prudent extrapolation of prior experimence would indicate a 30-per cent to 50-percent overrun," he said.

Thus, Flax projected that a shuttle whose development costs were now estimated at $6.5 billion could be expected ultimately to cost $8.5 billion to $10 billion in the development phase. He said additional overruns might occur after development had ended and that total non-recurring costs for this system might reach $15 billion.

Role of man—"No significant role for manned spaceflight has been identified in (civilian or military) space applications or scientific experimentation," Flax wrote. NASA's talk of a space laboratory had "evoked no enthusiasm" among space scientists, he said, although he conceded that this might change once the shuttle was completed.

The panel felt, Flax said, "That, at least at present, the scientific community in the large doubts that the potential benefits of the space shuttle will be significant for science in relation to the large costs involved."

Economic justification—A decision to go ahead with the shuttle, Flax wrote, would demand a national commitment equal to that which underwrote the Apollo budget and would require "expanding rather than level space budgets for the (Defense Department) and NASA over the next 10 years. . . . It seems unlikely that the aim of reducing space program costs and achieving a return on the investment 10 to 20-years hence could be more than a minor factor in sustaining such a commitment."

The panel believed, Flax said, that "the space shuttle cannot be justified on a purely economic basis for the unmanned part of the space program in view of the marginal benefits which can be shown and the high risks (that) both recurring costs and operational costs may be sufficiently in excess to cause economic losses rather than savings in the 13-year period of operation 1978–90."

The shuttle thus "must be justified," the panel said, on the non-economic criteria of: introducing a new capability for more effective utilization of space; contributing to the retention of national leadership and prestige in space and advancing technology; and providing an easy, safe and flexible access to space for men "if a program involving intensive and frequent manned space flight is to be undertaken."

David response: Although the views expressed by Flax on the role of man in space, on cost overruns and on other points would seem to be applicable to any space shuttle system, David argues that the group's comments were directed primarily at the expensive configurations that NASA was advocating last fall, not at the configuration finally agreed upon.

He said also that not all panel members agreed with the Flax assessment and that "several came to me later to express their dissent."

CHARACTERISTICS AND MISSION OPERATION

The shuttle configuration President Nixon endorsed on Jan. 5 includes four elements: a large expendable propellant tank, twin recoverable solid-fueled rocket motors and a manned orbiter vehicle.

Orbiter: The orbiter will be about the size of a DC–9 aircraft (120 feet long). It will have a cargo compartment 15 feet in diameter and 60 feet long, and will be capable of carrying 65,000 pounds of payload up to low-altitude easterly orbit. Each vehicle will be reusable for at least 100 space missions.

Like commercial airplanes, the orbiter will be designed to survive malfunctions of many of its systems and return safely to earth.

The orbiter will be equipped with two turbojet engines for use during the latter phases of reentry. It will be able to maneuver laterally during reentry over a distance of 1,100 miles.

The orbiter crew will consist of a pilot, copilot, systems monitor and specialist to check out and deploy satellites.

Operation: At launch, twin solid-fueled rocket motors will ignite simultaneously with the three liquid-fueled orbiter engines and burn in parallel with the orbiter engines up to an altitude of about 25 miles.

The rockets then will detach and descend by parachute to the ocean, to be recovered, refurbished and reused. They are expected to be capable of at least 10 reuses.

After the detachment of the rockets, the orbiter, powered by its own engines, will proceed to a low-earth orbit (100 to 600 nautical miles of altitude). When the orbit is achieved, the propellant tank will be expended into water (most likely in the Indian Ocean).

When the mission is completed, the orbiter will return to earth, landing as a conventional airplane.

NASA projects that the cost permission of sending a payload to low-earth orbit is $10.5 million.

Space tug: It is likely that more than half of the satellites carried into space by the shuttle will be placed in orbits higher than the shuttle can reach.

To accomplish these missions, NASA plans to build eventually an orbit-to-orbit transfer vehicle, known as the space tug. In the interim, existing rockets will be used to propel the satellites from the shuttle into a higher orbit.

Use of the space tug will add between $500,000 and $700,000 to the cost per flight; the expendable rockets will add between $500,000 and $5.5 million per flight.

FOOD AND THE CONSUMER

Mr. HARTKE. Mr. President, oftentimes the press of business causes us to lose sight of the importance of certain issues to the average American man and woman. This is a year when crippling unemployment and inflation made pocketbook issues of paramount importance.

Earlier during the session, I introduced the Truth in Food Labeling Act (S. 3083). Cosponsored by the distinguished Senator from Utah (Mr. Moss), the Truth in Food Labeling Act is designed to provide for full disclosure of supermarket information. Among its provisions are sections dealing with quality-grade labeling, nutritional labeling, content labeling, and open dating of perishable foods.

Clearly, complete labeling is information which the consumer wants and needs to know—a fact which is brought out by an address by Miss Lorna Opatow before the annual conference of the American Marketing Association earlier this year.

Mr. President, I ask unanimous consent that Miss Opatow's address be printed in the RECORD.

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

CONSUMER OPINIONS OF OPEN DATING, NUTRITIONAL LABELING, PACKAGING, AND POLLUTION (RESULTS OF A PRELIMINARY STUDY)

(Presented by Lorna Opatow)

This session is concerned with Full Disclosure in Packaging and my job is to present the consumer point of view—not the view of the professional consumer, not the views of the people charged with safeguarding the consumer, not the views of those whose business it is to serve the consumer whether they are in the government or the private sector—but the general public.

By all rights, there should be a great deal of information about public awareness and reaction to open-dating, nutritional labeling and packaging and pollution. Certainly, there is no lack of media coverage in regard to these subjects. Coverage is practically guaranteed through the sheer volume of pending legislation and regulations on the federal, state and municipal levels; through the activities of university, citizen and governmental study groups, through the activities of consumer advisory groups both private and public, and even through industry-sponsored advertising and merchandising efforts.

Given the volume of messages beamed to the public, it seemed not unreasonable to assume that at least a modicum of information might be available dealing with what messages had been received, what people thought about the subjects and, regardless of their opinions, what actions they had taken.

Perhaps when this presentation is released, some additional information will come to light. Very little appeared to be available just three months ago when my company decided to invest in a preliminary study to cover three general topics: Pollution, Open-dating and Nutritional Labeling.

Today, I would like to share with you that portion of the study results dealing with Open-Dating, Nutritional Labeling and Packaging and Pollution. This presentation, then, is in the nature of a survey report.

To briefly describe the study method, telephone interviewing was conducted among a probability sample of male and female household heads in both listed and unlisted telephone homes in the Philadelphia Standard Statistical Metropolitan Area. The sample was selected from each of the eight counties comprising this SMSA, in direct proportion to the distribution of households according to the 1970 U.S. Census. The following counties were included: Philadelphia, Montgomery, Chester, Bucks and Delaware in Pennsylvania; and Camden, Burlington and Gloucester in New Jersey.

In all, 407 interviews were completed: 210 with women and 197 with men. The results are based on the responses of these individuals.

The study must be considered preliminary for three reasons. First, the subject matter covered is limited. Further, this study is no different from any other in that the results answered the questions we asked and then raised a few new ones which should be answered in subsequent surveys. Those of you who use survey research know that this is par for the course.

Second, the geographic area is limited. The questionnaire was pre-tested in Manhattan and a comparison of Manhattan with City of Philadelphia responses show that there are some striking differences. As a minor example, close to three out of ten Manhattan respondents specifically included "dog litter" among their list of factors which contribute to pollution. In the City of Philadelphia, only 6% mentioned it. In any case, we know that there are differences between the two cities and assume that there would be some differences among various metropolitan areas across the country.

The third limitation is in the number of people interviewed—the sample size—which was adequate for our purposes but small in terms of examining detailed segments of the population within the study area.

Keeping these limitations in mind, what kinds of people were interviewed? About four out of ten claimed to live in a city and half in a suburban community. Close to three out of ten city dwellers and four out of ten who live outside of the city had continued their educations beyond high-school graduation. About half of the city dwellers lived in households with annual family incomes below $10,000, compared with about one-third of those who lived outside of the city. Eight out of ten respondents were married. Among those who lived outside of the city, nine out of ten were married. While only seven out of ten of the women interviewed described their occupations as "homemaker", 94% stated that they were responsible for the household shopping. By the way, one-fourth of the men interviewed claimed to be responsible for the household shopping.

Close to three out of ten males respondents and one out of ten female respondents were employed in professional, executive or technical occupations. The occupational relationships were roughly the same for blue-collar workers. Close to six out of ten engaged in some outdoor recreational activity and men, those who were educated beyond high-school, those under 55 years of age and those with incomes above $10,000 were more likely to do so for all of the obvious reasons. As far as we have been able to tell, this description is similar to data from other sources in regard to the household population of this particular area.

So much for the people we spoke to, now for a look at what they had to say. Information in regard to Open-Dating was elicited only from the 248 respondents who claimed to do most of the household shopping, 20% of whom were men. Six out of ten of these respondents had heard of Open-Dating. Just to get the cliches out of the way, younger respondents and those who were better-educated were somewhat more likely to have heard of it.

However, awareness was exceptionally high regardless of age or income:

Aware of Open-Dating

(Based on chief marketers—248)

[In percent]

All respondents	61
High school graduate or less	58
More than high school graduate	67
Under 35 years of age	65
35 to 54 years	59
55 years or over	58
Live in a city	66
Live outside of a city	57

The differences in awareness between those who live in a city and those who do not may be partially a function of differences in education between the two groups and perhaps differences in Open-Dating regulations and enforcement within these particular cities.

Regardless of whether or not they had heard of Open-Dating, those responsible for the household shopping were given the following description of it: "Where there is open-dating, a specific day, month and year is printed on the package. This is the last date when the package can be used and the contents will still be fresh."

They were then asked to indicate how important this information was to them *personally* and results were as follows:

Importance of Open-Dating

(Based on Chief Marketers—248)

[In percent]

Pre-Designated Levels of Importance:	
Extremely important	45
Very important	40
Somewhat important	9
Not too important	4
Not at all important	2
Don't know (less than .5)	0
Total	100

Obviously, these respondents did not agree with the manufacturers and retailers who claim that Open-Dating is of little importance to the consumer and an unnecessary expense to business. Surprisingly, those with educations beyond high-school were somewhat *less* likely to state that Open-Dating was "Extremely important" than were other respondents. About half of those under 35 years of age indicated that open-dating was extremely important compared with only

four out of ten of their older counterparts in the survey group. (Throughout this presentation, I will mention differences in the responses of various sub-groups, but will not mention factors where there are no differences.)

The questions regarding Nutritional Labeling followed those about Open-Dating and this question order seemed to have influenced some of the results. Those responsible for the household shopping were asked the following: "Some food or beverage products have information on the package about the nutritional value—the amount of vitamins, iron, protein, etc. the product contains. Do you look for this kind of information on any of the food products you buy?" Seven out of ten claimed that they do look for information on the package but responses to a subsequent question indicated that only a portion of the information sought has to do specifically with nutrition. Based on the results of this study, we believe the whole subject of labeling requires a more extensive series of questions than those we asked in order to get a better picture of what kinds of information the consumer seeks and for which product categories.

Again, the younger and better-educated shoppers were more likely to seek information on the package but proportions among all groups were exceptionally high:

Seek Information on Food Packages

(Based on Chief Marketers—248)

[In percent]

All respondents	69
High school graduate or less	65
More than high school graduate	79
Under 35 years of age	73
35 to 54 years	72
55 years or over	53

The 171 shoppers who claimed to look for nutritional information were asked to describe the kinds of products. Responses were revealing in several respects. First of all, Mr. Choate has been quite successful in getting his message across. About half of these respondents stated that they look for nutritional information on cereals; 61% of those under 35 years of age. Second, while only 15% of these shoppers specifically stated that they check for ingredients, additives, calories, nutrition, size, date—"everything"—a number of the products mentioned indicated a search for information other than nutrition. Milk, bread, soft-drinks, margarine, eggs might fall in this category. Some respondents explained exactly what kinds of information they were looking for on each of the products mentioned; others did not. In any case, we did not specifically ask for this information and were unable to construct it from the responses to the question we did ask.

Regardless of whether or not they claimed to look for nutritional information on the products they bought, shoppers were asked to indicate how important nutritional information on packages was to them personally. The assigned level of importance was considerably lower than that given to open-dating, but higher than we had anticipated based on other studies we have seen.

Importance of Nutritional Information

(Based on Chief Marketers—248)

[In percent]

Pre-Designated Levels of Importance:	
Extremely important	25
Very important	38
Somewhat important	20
Not too important	13
Not at all important	4
Don't know (less than .5)	0
Total	100

While we did not determine which of our respondents had children and which did not, we believe this factor might influence the degree of importance attached to nutritional information. Women, those respondents with incomes of $10,000 or less, and city-dwellers attached more importance to nutritional information than did others among those surveyed.

While there seems to be no wild clamoring for nutritional information on food packages, we believe there is solid evidence of the acceptability and desire for information of varying kinds. In other words, there is a climate of acceptance which may presage a welcome for those who provide the information, whether it be by government regulation or by industry fiat. In fact, for some producers, there may be merchandising advantages in full disclosure.

Up to this point in the presentation, we have been discussing information which appears on the package. And, to date, the bulk of packaging legislation has concerned itself with words. Certainly there is ample evidence that words can be powerful. Given their demonstrated power, it is surprising that more attention is not paid to packaging copy beyond the satisfaction of legal requirements. If a manufacturer must feature net weight on the front panel of his package, perhaps he should examine that information in terms of its possible marketing advantages. After all, Pepsi-Cola initially built a substantial franchise on a net weight proposition.

As each packaging copy requirement has been announced by local, state and federal authorities, industry has moaned and then complied. Compliance has been costly—more so to some than to others—but to date it has simply required changes on the surface of the package. We are now starting to witness a wave of pending legislation which deals with the package itself and the bulk of this new legal front is geared to the solution of environmental problems—specifically waste disposal.

Some segments of industry have also become involved in the search for solutions to our waste disposal situation primarily through labeling programs designed to inform the consumer of the re-cyclable nature of certain containers and the fact that others are constructed of re-cycled material. There have also been a number of programs designed to reduce littering. Not as obvious, but perhaps more important, producers are seeking to improve the disposability of packaging materials.

Based on a number of studies, we have evidence that consumer concern for the ecology is increasing. There have also been hypotheses that consumer attention to packaging has increased as packaging has become a more visible component of our staggering quantities of personal garbage, and the pressure of efficiently and safely disposing of municipal wastes mounts. The time is long past when business can ignore environmental problems and attribute the fuss to a "small group of nuts."

To date, we have little information about how the public looks at or talks about the problem. We do not know how packaging relates to total environmental concern and we should. We should have some idea of what people think pollution is, what factors they think contribute to it, what they think the individual can do about the problem and what changes, if any, they are making in their purchasing habits.

It was in an initial attempt to help fill this information gap that we included the subject of pollution in the Philadelphia SMSA survey. Only those findings relating to packaging and pollution have been abstracted for this presentation.

In order to lead into the subject, respondents were asked if they had heard or read anything about pollution during the six months preceding the interview. Regardless of the response, they were asked how they would describe pollution to someone who had never heard of it. Only 5% of the 407 household heads interviewed could not provide a description and these 22 people were not asked any further questions about the subject. Responses ranged from a simple "pollution is something you shouldn't eat or breathe" to fairly complex descriptions of our current energy crisis. Packaging per se was not mentioned and only 15% of the respondents made any reference to "Waste, Trash or Litter"—references we later discovered are associated with packages. Those who lived outside of the cities were far more likely to mention these items than were other respondents.

Those respondents who could provide some description of pollution were told that "there are many things which may contribute to pollution" and were asked to name all of the things they could think of. The responses were recorded in the order in which they were mentioned. Only 2% of the respondents mentioned packaging or packages first and only 7% specifically mentioned it at all. However, half of the respondents mentioned "Waste, Trash or Litter," with younger respondents somewhat more likely to include these items than the older counterparts.

Those interviewed were asked to indicate the importance of eleven specific pollution contributors. The order in which the pollution contributors were presented was rotated and the following introductory statement was used: "Here are some things that other people across the country have mentioned that they think contribute to pollution. I'd like to know how important you think each of these are in contributing to pollution—extremely important?, very important?, somewhat important?, not too important? or not important at all?" Of the eleven contributors included, litter was considered seventh in importance and empty packages, bottles, cans and other containers was ninth. Responses in regard to these two factors were as follows:

IMPORTANCE OF LITTER AND EMPTY PACKAGES, BOTTLES, CANS, AND OTHER CONTAINERS (BASED ON THOSE WHO DESCRIBED POLLUTION—385)

[In percent]

Predesignated levels of importance	Litter	Packages
Extremely important	34	27
Very important	33	36
Somewhat important	19	22
Not too important	11	12
Not at all important	3	3
Don't know		(1)
Total	100	100

1 Less than 0.5 percent.

Later in the interview, three groups of respondents were identified who might be expected to have a higher level of concern for the environment than others. These were: individuals who belonged to or contributed to organizations which are working toward reducing pollution (24% of the total sample), individuals who engaged in outdoor recreational activities (57% of the total sample), and shoppers who claimed to have made changes in their buying which might help to reduce pollution (57% of those responsible for the household shopping). When we examined responses to the questions regarding the importance of litter and packaging, we found a high degree of association between the two in that a high proportion of those who indicated that one was important tended to assign the same level of importance to the other. Women assigned more importance to both Litter and Packaging than did men. Those involved in an organized effort to reduce pollution, those 35 years of age or over, those in middle and lower income groups were all more likely to state that litter was an "extremely im-

portant" contributor than were others in the survey sample.

When we asked respondents if they believed people like themselves could do something about pollution, no matter how small, 89% answered "yes." Those interviewed were then asked to indicate what people can do or their reasons for believing that nothing could be done. Surprisingly, even those who had stated that the individual could do nothing had some suggested action which could be taken. On the average, each respondent made 2.5 suggestions and only 5% of these had to do with activities beyond the scope of the individual. Although the question was specifically related to the individual, 2% of those interviewed mentioned "inventions or research", a far lower proportion than we are accustomed to seeing. This may be an indication of an erosion in the old commonly-held belief that "science and technology will provide".

Here is a re-cap of the grouped responses in regard to what the individual can do about pollution:

What People Can Do About Pollution

(Based on those who described pollution—385)

[Total includes multiple answers, in percent]

Net Grouped Responses:	
Individual actions requiring no change in purchasing	57
Political/group-oriented action	37
Individual actions requiring changes in purchasing	33
All mentions of packaging	18

Packaging-related responses increased across income groups with only 13% of those with incomes below $10,000 mentioning it, compared with 20% of those in the $10,000 to $15,000 income group and 27% of those with incomes of $15,000 or over.

We believe that what people think they can do is important because it indicates a willingness to consider action. The next question is whether or not action will, in fact, be taken. We were specifically interested in actions related to changes in purchasing. Those respondents who claimed responsibility for the household shopping were asked if they had made any changes at all in their buying of food, beverages or household supplies which they believed might help to reduce pollution. Close to six out of ten had made some changes; 71% had changed their detergent and 37% had made some packaging-related change.

Those buying changes related to packaging were as follows:

Buying Changes Related to Packaging

(Based on Chief Marketers who changed buying—140)

[Total, includes multiple mentions, in percent]

Changes in Buying Related to Packaging:	
Am buying/trying to buy re-cyclable containers	26
Cut down use of canned goods, use more fresh/frozen fruit/vegetables	4
Buy things in containers that are easy to breakup/flatten	4
Try not to buy things in plastics	3
Cut down on use of soft drinks	1
Don't use "over-packaged products"	1
Buy larger sizes	1
Net mentions related to packaging	37

In all, one out of five of those responsible for the household shopping have made some change in purchasing which is related to packaging. We do not believe these changes are all passing fancies but only time will tell.

Based on all of the information presented, we draw the following preliminary conclusions:

1. Open-Dating is considered desirable, by those interviewed. The level of importance attached to it suggests that it may become an integral part of many shippers' buying decisions, especially for products which are considered to have some perishability.

2. Nutritional labeling appears to be somewhat related to the whole question of what is "healthy" and what is not. A substantial number of these shoppers seek information of all kinds on the package and a high proportion specifically look at nutritional information on cereal. Above and beyond nutrition, there appears to be a desire for more, rather than less product information on packages. Again, we have a factor which may influence consumer buying decisions.

3. There is an awareness of, and concern for the environment. While packaging is low on the list of perceived items which contribute to pollution, it was mentioned second most often by those shoppers who had already made changes in buying that they believed might reduce pollution. So that we have a third dimension for possible addition to the buying decision process.

4. In the abstract, "Full Disclosure" in consumer terms appears to be all-inclusive.

Hopefully, these data will be of some help to those who set packaging policy and those who must implement it. At the least, the information should provide a starting point for examining individual product packages in terms of what is now on them, what may be required in the future and whether or not any of this information can provide an advantage in the market place.

DELAY IN ACTION ON CONFERENCE REPORT ON OCEAN DUMPING BILL—THE MARINE PROTECTION AND RESEARCH ACT

Mr. CASE. Mr. President, on November 24, 1971, by a vote of 73 to 0, the Senate passed an ocean dumping bill known as the Marine Protection and Research Act of 1971. This bill contained strengthening amendments I had offered in an effort to bring all ocean dumping to a halt more quickly.

The House passed a similar bill on September 9, 1971, by a vote of 304 to 3, and a conference committee was convened in December to reconcile differences between the two measures.

Unfortunately, agreement on the final language was not reached until last month. But what is still more unfortunate is that this conference agreement still has not been called up for a vote.

While ocean dumping is a national and even an international problem, those of us from New Jersey have a special concern with the practice of disposing of wastes at sea.

New Jersey is the most urbanized and the most densely populated State in the Nation. It is surrounded by such densely populated areas as Metropolitan New York and Greater Philadelphia. This concentration of population generates huge amounts of wastes and places premium values on land areas suitable for disposal of these wastes.

As a result, an estimated 88 percent of all dumping by the United States occurs along the New Jersey coast.

The President's Council on Environmental Quality has warned that ocean dumping will become an increasingly serious problem on a nationwide basis in the future if something is not done to halt it now.

This is especially true if we do not immediately begin work on an international basis to halt the pollution of the oceans. But we cannot begin an effective campaign for international controls until we have an effective program of our own.

I do not know what is preventing the conference report on this legislation from coming to a vote. But whatever the difficulty is, I hope it can be disposed of quickly so that we can act on this legislation in this session. I urge the leadership to do whatever it can in this regard.

OLMSTED SESQUICENTENNIAL EXHIBITION

Mr. KENNEDY. Mr. President, beginning on October 21 the National Gallery of Art will be host at a major exhibition honoring Frederick Law Olmsted, the father of city planning and landscape architecture. I ask unanimous consent that the announcement from the National Gallery describing this exhibit be printed at this point in the RECORD.

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

OLMSTED EXHIBITION ON NATIONAL SCOPE TO OPEN IN NATION'S CAPITAL IN FALL

The National Gallery of Art will hold a major exhibition this fall illustrating some of Frederick Law Olmsted's finest aesthetic achievements in city planning and landscape architecture, it was announced today by J. Carter Brown, Director of the Gallery.

The exhibition will be national in scope and will cover Olmsted's visionary work in the West with natural parks as well as his work in numerous major cities throughout the country. It will be on view at the Gallery from October 21 through January 7, 1973.

Entitled "Frederick Law Olmsted/U.S.A.," the exhibition will appear simultaneously with another at the Whitney Museum of American Art which will focus principally on Olmsted's work in and around New York. Organized for the National Gallery by the American Federation of Arts and the Olmsted Sesquicentennial Committee, it will subsequently be circulated to major museums nationwide by the American Federation of Arts.

Olmsted is most known for his successful landscape architecture, best expressed in city parks from Boston to San Francisco, and his advanced theories on city planning, widely used in urban community development today.

Motivated by a passionate humanism and as deeply concerned with preserving the city as the center of civilization, Olmsted was nevertheless looked upon in his own day as an artist with a fashionable picturesque view of nature, complete with bosky dells, rippling streams, meandering drives, promenades, meadows and lakes.

Less well known but of comparable significance, are Olmsted's pioneering efforts for national parks which began with Yosemite and led to the founding of the National Park Service; also, his enchantment of the United States Capitol's west front and his many private commissions, such as Arnold Arboretum in Boston and the Biltmore House gardens in Asheville, North Carolina.

"The intent of the National Gallery's exhibition," Mr. Brown said, "is to emphasize Olmsted's extraordinary contribution to the Nation's visual heritage. We wish to salute Olmsted during his sesquicentennial year as one of America's most prescient and sensitive artists.

"This show will mark the eighth exhibition in our series honoring American artists, and will be the first devoted to a designer/landscape architect," he added.

In addition to drawings and other original Olmsted materials, the exhibition will dramatically focus attention on his work in parks and cities by means of Circle-Scan photography. More than 50 panoramic images of Olmsted's work will be projected on a screen 34 feet in diameter and ten feet high.

David W. Scott, Consultant to the National Gallery's East Building project, is coordinating the exhibition for the Gallery. The exhibition director is William Alex, programmer and designer of numerous exhibitions on architecture and urban design and an ardent Olmsted student. Mr. Alex's last major exhibition, *Back Bay Boston: The City as a Work of Art*, opened the Boston Museum of Fine Arts centennial celebration.

Mr. KENNEDY. Mr. President, perhaps here in Washington we are most familiar with Olmsted's efforts to enhance the west front of the Capitol, but his achievements extend from one end of the country to another. Olmsted is responsible for Central Park in New York and Yosemite National Park. Largely because of Olmsted's tremendous efforts in the field of public park planning and resource preservation, we are the beneficiaries of a National Park Service.

As we increasingly feel the pressures of urban sprawl and metropolitan living, Olmsted's ideas of urban green spaces and places of relaxation and enjoyment of nature within our urban centers has even more meaning for us. In Boston and Brookline, Mass., from the Arnold Arboretum to Franklin Park, the beautiful "Emerald Necklace" of parks from the Charles River through the Fenway represent Olmsted's finest achievements in city planning and landscape architecture.

I ask unanimous consent that the memorandum of the Olmsted Sesquicentennial Committee on their program for Massachusetts be printed in the RECORD.

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

THE OLMSTED SESQUICENTENNIAL PROGRAM IN MASSACHUSETTS

Olmsted lived and worked in Brookline, Massachusetts. His home and office there is now a National Historic Landmark. He laid out along its Brookline border to the Arnold which winds its way from downtown Boston out along its Brookline border to the Arnold Arboretum and further to Franklin Park. Not only did this system provide the region with a unique variety of activity settings, but it also established a special urban identity. In addition, and actually foremost in Olmsted's intentions, it rid the area of dangerous nuisances and public health hazards through proper design and drainage. Beyond this "Emerald Necklace," as the system is called, Olmsted planned housing subdivisions, street layouts, and numerous other projects. It is no wonder, then, that the Greater Boston community is responding enthusiastically to the Sesquicentennial.

The Conservation Commissions of both Brookline and Boston have jointly submitted proposals for the Ford Foundation for planning. Ford has offered funds, up to $5,000, to local conservation commissions in New England for open space planning. Together Brookline and Boston have developed a proposal for a major park extension, using the Olmsted system as its starting point. The proposed extension will actually take the park "from Charles to Charles," from the Charles River link-up near the Fenway on the north, to Jamaica Pond, then down the Boston/Brookline boundary to the boundary of Newton and down the Boston/Newton boundary to the Charles River on the south. It will incorporate hiking and biking facilities, and represents a timely investment in an already highly urbanized area.

Francis X. Meaney is the Chairman of the Brookline Conservation Commission. As a result of the great community interest in environmental quality and the Olmstead dimension, Meaney is coordinating the development of a Sesquicentennial Committee. This Committee, now in formation, will have a broad community base. (It will soon be announced formally, with a number of prominent leaders as sponsors.)

The local committee in the Greater Boston area will sponsor a local program, including:

1. An exhibition in Boston City Hall, and possibly other locations, being planned now by Hideo Sasaki of Sasaki, Dawson, DeMay, and Charles Harris of the Harvard Graduate School of Design, and others;

2. Olmsted tours and hikes throughout the park and open space system, this summer and fall. These will also highlight major Olmsted landmarks in Brookline, including his subdivision plans for Fisher Hill and plans for Beacon Street, which is now to receive new plantings as part of the celebration.

The Olmsted Sesquicentennial gives the Conservation Commission proposals special significance. In addition, 1972 marks the centennial of the Arnold Arboretum, a key feature of the Olmsted park design. A week of special events will highlight the Arboretum Centennial, May 21 through May 28.

Recognizing that a quality open space system depends on maintenance and rehabilitation as well as acquisition, the Boston Redevelopment Authority has proposed an extensive rehabilitation of the park system established by Olmsted. This would encompass an area from the Charles River at Charles Gate to Franklin Park with a target date for completion of 1975. Further, this would involve a cooperative venture between the City of Boston, the Town of Brookline, the Commonwealth of Massachusetts, and the Metropolitan District Commission.

Franklin Park, the largest park in the Boston system, has been singled out for special attention by Joseph Curtis, Commissioner of Parks and Recreation, in Boston. Curtis is developing a high priority program for the rehabilitation of this enormous park, which has fallen into such poor condition and which is the subject of such great community concern. The Boston Zoological Society, which operates the Metropolitan Zoo in Franklin Park, is also assessing its role in improving the park and its community role as it plans for its own improvements and rehabilitation. Franklin Park, designed by Olmsted in 1886, thus faces major adaptations to modern urban conditions.

The Bicentennial program for 1975-1976 for Greater Boston is called Prologue. Already an extension of the Olmsted inspiration to the planning for that historic observance is underway.

HOW TO REDISTRIBUTE INCOME AND WEALTH

Mr. HARRIS. Mr. President, as public understanding of the concentration of income and wealth in this country grows, the need for ideas and proposals for ways to redistribute income and wealth in a more equitable way grows as well. During the last few years, a number of congressional committees, academics, citizens groups and others have studied various aspects of the problem—the regressivity of our tax system, the overcharges by utilities and other "regulated" industries, the corporate bias of farm and other subsidy programs, the costs of monopoly power in the marketplace, and the costs of pollution, accidents and other externalities—that ought to be internal corporate costs.

Now Beverly C. Moore, Jr., a member of the advisory board of the New Populist Institute and a lawyer with Corporate Accountability Research Group, has drawn together scores of these studies to calculate total cost of the current income redistribution from millions of ordinary Americans to the wealthy and powerful.

Basing his estimates on existing studies by experts in each field, Mr. Moore concludes that the total amount of income taken from the majority of our people every year in unfair taxes, monopoly overcharges, unneeded auto repairs, et cetera, is a staggering $391 billion.

On the question of redistributing wealth—as opposed to just income—Mr. Moore points out that—

If wealth were redistributed not even as equally as income, so that the top 5% received 20% instead of 53%, $1.2 trillion would be freed up for dispersal among the bottom 95%.

Mr. Moore himself admits his figures are "ballpark" estimates. His is only a first effort to add up all the causes of the maldistribution of income and wealth in the country. But his paper does indicate the size and the importance of the problem. And the variety of potential solutions.

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

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

BEYOND MCGOVERN'S "RADICAL" ECONOMICS—THE $300 BILLION HE MISSED

(By Beverly C. Moore, Jr.)

George McGovern once favored a scheme whereby every citizen would receive a "demogrant" tax credit averaging $1000. Under one version of the plan for 1970, the demogrants would have redistributed $54 billion to the lower and middle incomes classes.[1] It would have been simple to explain: the cost borne entirely through a 33⅓ per cent federal income tax rate, rising to 40 and 50 percent, respectively, at the $50,000 and $100,000 brackets, levied on an expanded tax base reflecting the elimination of personal exemptions, standard deductions, and all other tax loopholes. It would have been easy to defend: the $4000 tax liability of the 60 percent of families with incomes of $12,000 or less at worst being exactly offset by $4000 in untaxed demogrants, wiping out their federal income tax liabilities altogether. The 79 percent of families with incomes of less than $16,000 would have more money after taxes than under the present system.[1a] Even a family in the top 5 percent of income brackets, with an income of $25,000, would find its taxes increased by only $1083—hardly an inequitable burden considering that loopholes presently reduce that bracket's effective tax rate from 50 to 13 per cent.[1]

But George McGovern stood by passively as others ridiculed this simple, sellable idea. Humphrey, in a demonstrable falsehood, said it would cost $210 billion. Agnew referred to "the absolute unworkability of the program." It "insults the intelligence of the American

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Footnotes at end of article.

voters" and "would add 82 million people to the welfare rolls" said Nixon of a program designed for income redistribution rather than "welfare".[2] No one knows whether ignorance or timidity or both prompted McGovern's embarrassing silence in the face of these absurd charges and his later substitution for demogrants of an income guarantee program that would redistribute only $8 billion more income annually than present welfare programs.[2a] One thing is perfectly clear—that Nixon, if "republigrants" were in his platform, would have dispatched a legion of his ex-Madison Avenue advisors to tout this "exciting and progressive reform."

Apart from the confusion borne of inarticulation, the real defect in the "radical" McGovern economic programs is that they barely scratch the surface of the fundamental problem, which is the creation and distribution of wealth. The private net wealth of the United States is in the range of $3.7 trillion.[3] In 1962, when the most recent government survey was conducted, one percent of the nation's households held 33 percent of that wealth, five percent held 53 percent, and 20 percent held 77 percent. At the bottom of the scale, 40 percent of the households shared 23 percent of the wealth, with 44 percent of all households having net assets of less than $5000.[4] What is the purpose of millions toiling long hours to create this enormous wealth if the fruits are not to be enjoyed by these millions?[5] Certainly a maldistribution of this magnitude manifests far more inequality than is necessary for economic incentives. Note that if wealth were redistributed not even as equally as income, so that the top five percent received 20 percent instead of 53 percent, $1.2 trillion would be freed up for dispersal among the bottom 95 percent.

Nor is this excessive concentration of wealth the inevitable outcome of a competitive capitalist economy (were we to have one). The prime determinants are tax loopholes, regressive taxes, inheritance, subsidies to special interest groups, racism, private monopoly and oligopoly, monopoly promoted by government regulation and protectionism, and economic waste in government and non-competitive business on a massive scale. If McGovern's program sought to eliminate all of these evils, he would not have to worry about critics who quibble over the arithmetic of his budget projections.

The notion advanced here may be "radical," but the vast majority of the American people would receive radically higher incomes. I refer to a specific program to increase aggregate annual personal income by 43 percent, or $400 billion, most of it landing in the pockets of the bottom 80–90 percent of the income classes, being transferred there both from the excessively wealthy and from a higher gross national product achieved by eliminating economic waste. The lower the income bracket, the greater would be its share of the proceeds, so that a considerable majority of voters would find their incomes increased by more than 50%. Here's how:[6]

Taxes We begin with an increase in personal income of $58 billion through a demogrant redistribution. (An economist would say that this is not an increase in, but a transfer of income. It is defined here as an increase because of its being a transfer from those deemed not entitled to receive it on account of their already sufficient incomes.) That this degree of redistribution can be achieved by closing all the tax loopholes, with nearly 80 percent of families receiving higher after-tax incomes, is indicative of the magnitude of tax welfare received primarily by the wealthy.

Despite McGovern's vigorous advocacy of tax justice, his proposals would close but $12.6 billion in personal income tax loopholes.[6a] Nixon's chief economist, Herbert Stein, and even many "liberals," would have us believe that there are not even that many loopholes. The truth is that if present rates (14–70 percent) were applied to a "comprehensive income tax base"—i.e., no preferences or deductions at all—the Treasury would pull in $77.3 billion more in income taxes.[7]

It is said that the middle classes would not stand for closing *all* the tax loopholes, because they, too, benefit from some loopholes—e.g., the deduction for mortgage interest. But wealthy people with more expensive houses and higher tax brackets benefit even more. Another example is that $21 billion of the $21.5 billion yearly tax welfare from the income splitting provisions for married couples goes to the top 5 percent of income brackets.[7a] Even the popular $750 personal exemption and the $1300–$2000 standard deduction have curious consequences. They reduce the taxes of an individual with a $3000 income by $287; but if his income exceeded $100,000, he would receive $1,925 in tax welfare. These deductions are tantamount to an implicit demogrant program for the wealthy.[7b] Of the additional $77.3 billion in tax revenues generated by the comprehensive base, over 70 percent would be paid by the top 20 percent of the income brackets.[8] Of course the bottom 80 percent would recoup their loophole closing losses (and more) through demogrants.

McGovern would raise corporate taxes by $9.4 billion annually. Instead, the corporate income tax should be abolished and stockholders taxed directly by including corporate earnings per share, whether or not fully paid out in dividends, in stockholders' personal incomes. Such corporate profits accounting loopholes as Nixon's accelerated depreciation would go, and so would corporations' passing on perhaps $7.5 billion of their annual taxes to consumers in higher prices.[9] Bigness-minded corporations would no longer be encouraged to plow earnings back into inefficient expansion for expansion's sake rather than pay dividends.[10] The loss to the Treasury would be only about $2 billion,[11] but taxes on corporate earnings would fall almost exclusively on the wealthy who own most of the stock—primarily the 1.6 percent who own 82.2 percent of it, according to one study.[12]

The best way to wrest that excess $1.2 trillion from the top five percent of wealth-holders is through a progressive wealth tax. In accomplishing only 3.75 percent of that task in its first year, such a tax would raise $45 billion in revenue. Applying this tax to the top 20 percent who hold 77 percent of the wealth and raising $91 billion could, through revenue sharing, replace entirely $46 billion in state and local property taxes, $19 billion of which falls upon the bottom 80 percent of the income classes.[13] The rates could be structured so that, when the progressive wealth tax had taken its full toll on existing wealth concentration, no individual could own more than a certain amount—say $1 million—for very long.[14]

To complete the switch to progressive taxation, a total of $129.6 billion annually in regressive taxes should be repealed: $25 billion in state and local sales taxes;[16] $66.2 billion in payroll taxes, as demogrants replaced the Social Security system;[17] $9.2 billion in federal exicse taxes, such as the 10 percent telephone tax; $2.7 billion in import duties.[18] $7.5 billion in higher prices from passed-on corporate income taxes;[19] and $19 billion in property taxes.

What would be the total impact of these tax proposals on the Treasury?[20] By cutting defense waste by $30 billion, as McGovern has proposed, and eliminating $25 billion in federal subsidies,[21] including $1 billion to the maritime industry and $5 billion to farmers (most of that going to the wealthiest ones),[22] and assuming a $71 billion revenue sharing program as a substitute for state sales and property taxes, the federal deficit would increase by only $7.6 billion.[23]

The adoption of these proposals would enable the middle classes to bear a more substantial share of further progressive taxes in return for more government benefits. Additional tax revenues could supplement the demogrant incomes of the disabled, the elderly and those in the defense and other industries who are or become temporarily unemployed.[24] The remainder could be applied to 1971's $145 billion in public and private expenditures for health and education. Universal government-financed voucher systems covering tuition and prepaid health insurance premiums could for the first time introduce vigorous competition for patient and student voucher-dollars to doctors, hospitals, schools, and colleges. The result would be much lower costs, better performance, and free basic medical and educational services for all.[25]

Monopoly Overcharges. Theory and experience tell us that competition keeps prices down by limiting profits, forcing efficiency, and encouraging innovation.[26] While spokesmen for business and the Nixon Administration are quick to praise these benefits, they fail to point out the general absence of competition in the American economy. Upwards of 60 percent of manufacturing flows from oligopolistic (shared monopoly) industries, where four or fewer companies control at least 50 percent of the market.[27] This year $25 billion will be transferred from relatively impecunious consumers to affluent stockholders and corporate managers through profits and executive compensation that are to high because competition in price and quality has been curtailed.[28]

When there are too many competitors to keep the cartel intact, corporations, farmers, workers, and professionals seek monopoly privileges from the Government. Uncle Sam has been so obliging as to raise suspicions that these special economic interests *are* the Government. The federal subsidies which overcharge taxpayers $25 billion annually have already been mentioned. Through tariffs, import quotas, "Buy American" requirements, and other trade restrictions the Government enables business to overcharge consumers by more than $20 billion annually.[29] The most glaring example is the oil import quota which raises fuel prices by $6 billion a year. The United States imposes import quotas on a larger relative volume of goods than any other nation by far.[30] We should unilaterally repeal all import restrictions.

Many of the import restrictions on agricultural products are designed to protect the elaborate system of price supports and crop reductions which raise food prices by $6 billion annually—on top of the $5 billion in taxpayer farm subsidies required to achieve this effect.[31] George McGovern wants to dramatically increase farm price supports (and consumer food prices).[32] For example, just days after Ralph Nader sued the Agriculture Department for raising the milk price support level in return for $322,000 in dairymen contributions to the Nixon re-election campaign, McGovern (already a candidate himself) took to the Senate floor to urge that milk price supports be raised *even higher*.[33] Equity and the public interest demand that all farm subsidies be ended and that farmers receive no more welfare than the demogrants that others would receive.

Utilities such as telephone, gas, electric, and pipeline companies, with assets of $210 billion, are regulated by the Government as "natural monopolies". Their profits are supposedly limited to a fixed percentage return on the value of their assets. The insurmountable difficulty with this approach is that as long as the regulated monopoly is guaranteed a certain profit, there is no incentive to limit expenses, overcapacity, wasteful additions to assets, or laggard innovation—es-

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Footnotes at end of article.

pecially when regulatory agencies almost never check into such matters.[34] In any event, many utilities consistently earn—and keep—more than their allowable rates of return. For example, in 1961 the FCC fixed AT&T's profit rate at 7.5 percent, but in 1966 Ma Bell earned 9.3 percent. A one percent increase in AT&T's after tax profit rate costs consumers $1 billion annually. Another trick that AT&T and oil pipelines use are high debt-equity ratios. To illustrate, the assets of the huge Colonial Pipeline consisted originally of 10 percent stockholder's investment and 90 percent debt put up by banks and insurance companies. In 1970, while Colonial's profits on total assets were under 10 percent, its pre-tax return on stockholder's investment was 95 percent.[35] Excess utility profits overcharge consumers by perhaps $1.5 billion a year.[36]

The theory of capitalism assumes not only competition but also the "rational economic man"—consumers who know everything about the value (to them) of purchases and their alternatives. The prevailing situation, however, is consumer ignorance—not because consumers are dumb, but because in an increasingly complex economy consumers must rely heavily on purchasing information supplied by the seller. Of course, full and honest disclosure is not always or even often in the seller's interest. The clearest cases are outright consumer fraud. Senator Hart concluded from hearings of his Antitrust and Monopoly Subcommittee that consumers spend $10 billion yearly on auto repairs that are improperly done, unneeded, or not performed at all.[37] A House Subcommittee estimated that elderly citizens are bilked of $1 billion annually through medical quackery.[38] The President's Crime Commission estimated a $500 million to $1 billion annual bill for fraudulent home improvement schemes.[39] The Michigan Department of Agriculture found shortages in 15 percent of 50,000 food packages.[40] The list is endless. The total yearly cost of consumer fraud is perhaps $20 billion.[41]

It is not the crooked TV repairman or the ghetto merchant, but the largest and most respectable corporations who are the chief culprits. Their main weapons are advertising and packaging. The FTC recently asked 32 corporations to document 282 advertising claims. Sixty percent of the responses either raised serious questions as to the claims' truthfulness or were too technical to be understood. Only a small percentage were deemed adequately documented.[42] In a *Harvard Business Review* poll of business executives themselves, 85 percent thought that advertising *often* persuades people to buy things they don't need and, in the opinion of 51 percent, things they don't even want.[43]

Notwithstanding affirmative deceptions, the more pervasive defect in modern advertising and marketing techniques is that they omit rather than inform. This is a fundamental shortcoming since advertising's sole justification in capitalist theory is to provide consumers with the purchasing information they need to maximize the utility of their dollars. Consumers adequately informed by advertising would presumably force sellers to price products in relation to quality. Yet studies correlating Consumers Union product quality ratings with the prices of the rated products have found very little relationship—an average correlation of .35 on a scale of .00 to 1.00, when one would expect a .80–.90 result if consumers were fully informed of quality differences.[44] In one fourth of the cases the cheaper products were of higher quality than the more expensive ones. This prompted one of the authors to comment: "The basic tenet of a free enterprise system—that consumers will direct production into channels that yield them maximum satisfaction . . . is hardly valid." [45]

Because of advertising's failure to inform, consumer ignorance rivals lack of competition as a source of monopoly power and profit.[46] For example, although effectively implemented unit pricing could reduce consumers' supermarket bills by $5 billion a year, nationally advertised brands continue to sell for 20 percent more than store brands, even though the contents of both packages are virtually identical and are usually manufactured by the same company. A similar relationship holds for Esso, Gulf, and Texaco vs. unbranded gasolines, generic vs. nongeneric prescription drugs, Bayer aspirin vs. A&P aspirin, the large variation in premiums for identical life insurance policies, and a host of other products.[47]

Monopoly Waste. Thus far the discussion has focused on certain taxes (and the absence of others), subsidies, profits and other income transfers which cumulatively reduce consumer purchasing power by $173.4 billion annually.[48] Eliminating the root cause of many of these transfers, especially those associated with monopoly, also eliminates economic waste, producing a further gain—indeed, usually a double gain. For example, by cutting out an unnecessary $30 billion from the defense budget, taxpayers' incomes are correspondingly increased. In addition, however, perhaps $25 billion in heretofore wasted economic resources are freed up for uses which, unlike the defense spending, have real value. The "true" GNP is thereby increased by $25 billion, and about 80 percent of that, or $16 billion, flows back into the pockets of consumers.[48a]

Perhaps $12.5 billion worth of economic resources are wasted producing goods and services marketed fraudulently.[49] Probably half of annual advertising expenditures, or $10 billion included in the prices of advertised products, convey no consumer purchasing information.[50] The $3 billion annual cost of trading stamps, sweepstakes, and similar promotions likewise increase prices but impart no value.[51] And a conservative guesstimate is that consumers could achieve $25 billion more satisfaction from their purchasing power if their true preferences were not distorted by advertising and packaging and if these marketing tools supplied the full information needed to compare alternative purchase values and to select the lowest cost item in relation to its quality.[52]

Monopoly pricing also entails great waste. Monopoly profits, by raising prices above competitive levels, reduce the monopolists' output because consumers purchase less at higher prices. Accordingly, consumers shift the dollars that they would have preferred to spend on the monopolized products (if they were priced competitively) to consumption of other but less satisfying products. A net and irretrievable loss in total consumer satisfaction of perhaps $40 billion annually flows from the resources misallocation that accompanies prices distorted by monopoly, inefficiency, trade barriers, subsidies, and the like.[53]

A second type of monopoly waste is internal inefficiency. Where profits are monopolistically high, and also where they are regulated but guaranteed, the competitive necessity and primary incentive to keep costs down is substantially diminished.[54] Labor union work stoppages and featherbedding[55] add to these inflated costs which are passed on to consumers through prices $25 billion higher annually than those reflecting competitive costs.[56]

Though too complex for adequate explanation here, economist F. M. Scherer points to additional monopoly wastes of $12.1 billion annually: operations at less than the minimum optimum scale ($3.3 billion),[57] excess capacity due to market-dividing cartelization ($6.6 billion),[58] and wasteful cross-hauling and locational decisions due to "basing point" transportation schemes used to orchestrate parallel oligopoly pricing ($.2.2 billion).[59]

Next there is the waste resulting from the notorious manner in which the regulatory agencies seek to insulate their client corporations from competition. The FCC's VHF television channel allocation scheme is illustrative. Instead of allocating seven channels to each region, such as the Baltimore-Washington area, three channels are allocated to Baltimore and four to Washington. Consequently, only three national networks instead of seven are economically feasible. Wholly apart from the sociocultural ramifications of the restricted program diversity attendant to a three network system, the purely economic value of the other four potential networks (i.e., what consumers would be willing to pay for them) is $8 billion annually. Meanwhile, in 1969 the networks and the stations they own earned a pre-tax profit of 129 percent on assets, and FCC rulings have shut out effective competition from cable and pay TV.[60]

The ICC gets the award for the most desperately hopeless regulatory agency. It views competition between trucks and trains as "unintended and unwarranted." [61] Minimum rates, designated routes, and rules restricting particular carriers to certain commodities protect the competitors from each other. These devices also result in enormous unused capacity, diversion of freight to the least efficient carriers, and other wastes totaling $6.5 billion annually.[62] For example, a carrier providing service between eastern Pennsylvania and eastern Virginia may be forced to travel an indirect route through *western* Virginia, doubling the mileage.[63] Comparable philosophies of the Civil Aeronautics Board and the Federal Maritime Commission cause the annual waste of $3 billion[64] and $2.5 billion,[65] respectively.

Pollution and Accident Waste. Pollution is bad because it causes damage to property, health, recreation, aesthetics, and ecosystems. Pollution is inexcusable when it persists even when the technology to prevent it is or could be less costly than the pollution damage itself. Unfortunately, this is the case. Air pollution alone costs at least $16.0 billion annually, but at least two thirds of the damage could be eliminated at a yearly cleanup cost of $3.9 billion, with a net savings of $6.8 billion.[66] Applying the same analysis of damages and cleanup costs to air, water, noise, solid waste, land, and all other pollution would produce a combined net annual savings of perhaps $20 billion.[67] The primary reason why this has not happened is that the polluters are not required to pay for the damage they cause. If they were, the burden of damage payments would force them to raise prices, causing sales to decline. This would create a strong profit incentive to cut damages, reduce prices, and recoup lost sales by introducing and/or inventing pollution control technology.[68]

The same approach would be effective in reducing nearly $70 billion in annual costs of transportation, work-related, and household product accidents.[69] If the auto industry were forced to shell out $46 billion each year to accident victims, the price of the average car would have to increase by $4,000,[70] and sales and profits would decline dramatically. In those circumstances one can be sure that safe automobiles resistant to drunk drivers, equipped with airbags or some less costly but equally effective substitute, and devoid of ornamental bumpers and other expensive to repair features would soon be on the market at much lower prices than the industry currently estimates.[71] One might expect a net annual reduction in the combined costs of accidents and their prevention costs of $18 billion,[72] including a $5 billion saving from the elimination of the fault system for litigating accident compensation claims.[73]

The foregoing adds up to $391 billion increase in annual personal income, yet much more could be included. For example, the adverse health consequences of improper and inadequate nutrition, if quantifiable, would

Footnotes at end of article.

run into the tens of billions of dollars annually. These affect the affluent as well as the poor, and include substantial associations with heart disease, dental caries, obesity, infant mortality, learning disability, anemia, diabetes onset, and possibly even cancer and aging. The prime culprit is food advertising's failure to impart nutritional education.[74] Then there is racial discrimination in employment, more prevalent in concentrated than in competitive industries.[75] It has been estimated that if non-whites were upgraded to the same employment levels as whites annual productivity would be increased by $30 billion.[76] Also not included in the $391 billion total is the unquantifiable gain from more rapid development and introduction of technological innovations if competition were restored to the economy.[77]

Perhaps the reader will now have a clearer understanding of Ralph Nader's remark that "it used to be that a man had to come up to you to steal from you." The waste and income transfer described above are equivalent to massive institutionalized theft of the property, health, and even the life expectancies of the vast majority of Americans by a small minority. The distribution of wealth in the U.S. is not that much better than in a Banana Republic. That we are wealthier than other nations is no excuse for not living up to our full potential. Yet President Nixon tells us to be "very grateful" that "the people on welfare in America would be rich i.i most of the nations of the world today."

Those who say that economic concentration and uninformed consumers are inevitable or necessary for progress are wrong. Corporations do not have to be big to be efficient. Breaking up oligopolistic industries would lead to more, not less efficiency.[78] (When recently queried by a reporter, George McGovern did not even recall that he had co-sponsored deconcentration legislation introduced by Senator Fred Harris.[79] And we can dismantle the costly regulatory apparati of the FCC, ICC, CAB, FMC, etc. Where "natural" monopolies or oligopolies remain, we can force them to bid for contracts before a Natural Monopoly Regulation Commission under which they can make all the profits they want as long as they do so by reducing prices through efficiency and innovation.[80]

We can inform consumers through advertiser-financed counteradvertising by consumer and other public interest groups; [81] by uniform grading and rating of all significant products and services and their warranties; [82] by mandatory labeling, such as unit pricing [83] and nutritional [84] and percentage ingredient labeling [85] in the supermarket; and through the development of a competitive consumer product information industry to relay price, quality, and place of purchase data to consumers.[86] Private citizens can police the economy through class action damage suits against antitrust violators, deceptive advertisers, product warranty breachers, polluters, and employment discriminators.[87] And private citizens can invoke the ultimate sanction by suing to revoke a federal corporation charter granting the right to engage in interstate commerce. This charter would require all large corporations to maintain competitive market structures, to disclose numerous varieties of important information heretofore labeled "trade secrets," to afford employees due process and refrain from reprisals against "whistleblowers," and to submit to the inquiries of public directors.[88]

What are the objectives? Certainly not the potential for rekindling inflation—with the elimination of massive waste and protectionism and the infusion of competition, prices would fall, not rise. We can count full employment as another benefit worth tens of billions of dollars anually not included in the $391 billion total.[89] What about jobs? True, large numbers of particular jobs in protected industries would be lost, but even larger numbers of new and more productive jobs would be created in their place as consumer purchasing power is dramatically increased.

But the existence of large numbers of protected, *vested* jobs is the key obstacle to change. Through labor unions, farm subsidies, professional associations, corporations secure in oligopolistic markets, the tenure of professors, the pacification of television, the indoctrination of the public schools—the masses are given a small piece of the action and are thereby coopted into participating in a system in which a much larger piece of the action flows inexorably to the large corporations and the small wealthy minority. A parasitic elite wastes over $200 billion of the people's wealth in order to gain $200 billion annually in monopoly profits, fraud, and escape from progressive taxes and a demogrant system.[90]

"I believe in the American system," exclaims the deceptive advertiser who is our President. Nixon could not cast the proposals advanced herein as "a sharp detour to the left which would lead to a dead end for the hopes of the American people." For these proposals consist largely of a return to principles of competitive capitalism and progressive taxation. No polls would reveal the voters rejecting a proposed 50 percent increase in most of their incomes.[91] The primary reason why the present system is tolerated is that the vast majority are unaware of how much better off they would be if special interest privileges (including their own) were rescinded. Only by telling them could George McGovern have averted a landslide defeat at the polls. Now it is too late.

FOOTNOTES

[1] Okner, "The Role of Demogrants as an Income Maintenance Alternative," (Preuiminary Draft, Brookings, July 1972) ("Plan D" with a comprehensive tax base). Actually, the degree of redistribution would be greater if graduated 33⅓, 40, and 50% rates had been employed instead of a flat proportional levy.

[1a] McGovern's early position favoring demogrants is reported in his "On Taxing and Redistributing Income," *New York Review of Books*, May 4, 1972 at 7, 10–11. The demogrant proposals originated in Tobin, "Raising the Incomes of the Poor," in K. Gorden, ed., *Agenda for the Nation* (Brookings, 1968). *See also* Tobin & Ulmer, "McGovern's Economics: An Exchange of Views," *New Republic*, July 22, 1972, at 30.

Different plans are discussed in Okner, *supra* note 1. Variations include increasing the amount of the $1000 average demogrant with the recipient's age, as reported in Washington Post, June 26, 1972, at A2, and variations in benefits according to family size. Additionally, the level of income demarcating after tax losers and gainers varies depending on the extent to which the tax base is expanded by eliminating loopholes and deductions. *Cf.* Pechman & Okner, *infra* note 7.

The reference in the text to a $16,000 after tax break-even point does not refer to the specific program involving a $54 billion redistribution. *See* text *supra*, at note 1. Extrapolating from the Okner Plan D appears to produce a break-even point close to $15,000. But that plan was for 1970, when 77 percent of families had incomes of less than $15,000, close to the 79 percent 1971 figure in the text. The remaining 2% discrepancy would be more than eliminated by applying the 33⅓%, 40%, and 50% rates suggested in the text to Okner's Plan D.

The demogrant program proposed to McGovern by his advisors would have had a break-even point of $20,000 see *Business Week*, July 15, 1972, at 20, which would presently benefit 89% of families, but that plan applied to 1975 rather than 1971. Because the "poverty" level of income would have increased substantially by 1975, the necessary increase in individual demogrant payments, if they were geared to official poverty definitions, would increase the "cost" of a 1975 program by decreasing the total amount redistributed and increasing the number of persons above the break-even point. A McGovern advisor has informed the author that this particular program, the details of which were not publicly released, would have redistributed $40 billion, with ⅔ of families being after tax income gainers. However, the smaller redistribution and larger number of after-tax losers is partially attributable to the fact that this program would not have incorporated a fully comprehensive income tax base. The most significant factor, however, is the inflation in demogrant benefits to correspond with official poverty definitions. This factor would not apply if the comprehensive, deflationary reforms proposed in this article were adopted.

[1b] Under the present effective rate of 13%, *see* Pechman & Okner, *infra* note 7, at 71, Table I, a family of four with adjusted gross income of $25,000 would pay $3,250 in taxes. Under the demogrant program, that family's $8,333 tax liability (applying a 33⅓% rate) would be offset by $4,000 in demogrants, leaving a net decrease of $1,083 in after tax income.

Those who are more eager to apply their upper middle class "liberalism" to civil liberties and foreign policy than to economic matters have more fundamental objections to the McGovern program. What Mr. Ulmer really wants is a *welfare* program to eliminate "poverty," not an *income redistribution* program to give the middle classes a more equitable share of the wealth. He persists in the belief that the work ethic functions not merely as a moral imperative to ensure economic production but also as the only path to individual self-fulfillment. *He* presumes to decide for millions whether jobs which *he* deems meaningful are preferable to incomes which would allow each individual to choose his own life style—be it the grudging blue and white collar tasks which presently occupy the middle class, more rewarding labor at less or no pay, or no work at all. It is time that the new liberal began pondering whether, in an age of increasing affluence, automation and cybernation, the next desirable stage in the progress of humanity is to devise new means of keeping mankind in slavery to economic toil. *See* R. Theobald, ed., *The Guaranteed Income* (1965).

There are many perplexing questions about the nature and consequences of work as an institution that should be answered before more work, or more work of certain kinds, should be affirmatively encouraged by the Government regardless of the work's economic productivity. A strong argument can be made, for example, that the economy's need for workers with certain socialized attitudes and behavior traits has had a strong distorting effect upon the nature and quality of the educational system and its ability to foster egalitarian social mobility. *See* Bowles, "Getting Nowhere: Programmed Class Stagnation," *Society*, June 1972, at 42.

[2] In Tobin & Ulmer, *supra* note 1a, Melville J. Ulmer, contributing editor of the *New Republic*, referring to McGovern advisor Tobin's demogrant plan for 1966, cries "waste" at the prospect of spending $43 billion to eliminate $14 billion of poverty. Worse yet, "the bulk of this burden . . . would fall on those making between $12,000 and $50,000 a year, the middle class." As already stated, the after-tax losers will be families with incomes exceeding $20,000, not $12,000, although the figure was $16,000 at the time Ulmer registered his complaint. It is astounding that a "liberal" would equate the 21 percent of families with incomes above $16,000 with the "middle" class.

Mr. Ulmer insists that a cheaper way to eliminate poverty would be for the Federal Government (in which he has consummate

faith) to create millions of "public service" jobs. The "underprivileged . . . one-fifth of the population" would find "decent pay, rewarding duties, and . . . an opportunity to enjoy a sense of worth, to learn and participate, to live a useful life." I do not know what vocations he has in mind to fit these lofty qualifications. I do know that, in part because private economic forces have not already created such jobs, their cost to the taxpayer will far outweigh their combined economic and spiritual value, as did the make-work depression tasks of sweeping leaves from one side of the street to the other and back. While recent experience with public employment does not necessarily rule out its entire potential, that experience has not been good. *See, e.g.*, "NAACP Aide Calls U.S. Job Training a Waste of Money," Washington Post, July 7, 1972, at 2; "A Plan to Put Jobless on Municipal Payrolls Isn't Working Out Well," Wall Street Journal, May 9, 1972, at 1. McGovern proposed that $10 billion in taxpayer money be funneled through contracts with private industry to create jobs and that $6 billion more be applied to new public service jobs. "A Balanced Full Employment Economy," remarks of Sen. George McGovern before the New York Society of Security Analysts, New York City, August 29, 1972 (McGovern's major campaign speech on tax and welfare policy).

Of course the economic boom resulting from a $43 billion redistribution of income to those who would spend rather than save it would create more than enough *productive* jobs for relatively unskilled, low income workers. On the one hand, the demogrants would effectively raise the minimum wages for which people would be willing to work and enable job seekers to resist menial offerings such as emptying bed pans in hospitals (unless, like President Nixon's mother, they were so nobly inclined). On the other hand, private business would have an economic incentive to train and equip persons for more meaningful work in order to procure the extra manpower for increased output. And the demogrant program provides stronger work incentives than other income maintenance proposals. A federal job guarantee program which cannot pay for itself wastes scarce economic resources, leaving a smaller economic pie to be divided among us all, while the demogrant program does not use up wealth but instead redistributes it.

[2a] This includes an additional $5 billion for a $4000 per family of four guaranteed income program and $3 billion annually in increased Social Security benefits financed through general revenues, but not the funds McGovern would pour into job subsidies. *See* "A Balanced Full Employment Economy," *supra* note 2.

[3] This includes only private wealth, excluding wealth owned by government, foundations, religious and educational institutions. The $3.7 trillion estimate is the unpublished projection of Dr. James D. Smith of Pennsylvania State University, based upon earlier data contained in Smith, "Distribution of Wealth in the 20th Century," in *Expanded Ownership* (Sabre Foundation 1972).

[4] Federal Reserve System—Bureau of the Census, *Survey of Financial Characteristics of Consumer* (August 1966), discussed in E. Budd, ed., *Inequality and Poverty* xxi-xxiii, 87–90 (1967). *See also* R. Lampman, *The Share of Top Wealth-Holders in National Wealth* (1962); Smith & Calvert, "Estimating the Wealth of Top Wealth-holders from Estate Tax Returns," Proceedings of the American Statistical Association, Philadelphia Annual Meeting, September 1965; F. Lundberg, *The Rich and the Super-Rich* 11–36 (1968); "Who Has the Wealth in America," *Business Week*, Aug. 5, 1972, at 54. There is some reason to believe that the figures cited in the text tend to understate the concentration of wealth, on account of underreporting, *see* Budd, *supra* at xxii n. 4, which includes such "income-in-kind" as expense accounts and other executive benefits. *See* G. Kolko, *Wealth and Power in America* 17–20 (1962). *See generally* S. M. Miller & P. Roby, *The Future of Inequality*, esp. 67–84 (1970).

[5] The operative assumption is that, in general, the marginal utility of wealth declines as individual wealth increases. Thus, assuming also that all individuals should be considered equally, the more equal the distribution of wealth, the greater the total satisfaction of society's members.

I define the essential purpose of economic toil to be the creation of wealth *for the purpose of maximizing the collective satisfaction of equal individuals*. Consequently, the retention of wealth by a few whose marginal satisfaction is relatively minor is treated as a waste of wealth. The mere transfer of wealth from these few to the masses, who would thereby reap relatively large gains in marginal satisfaction, is therefore treated as an increase in total wealth. Many economists, on the other hand, in their narrow concern for "value neutrality", characterize increases in real wealth almost exclusively in terms of eliminating resource misallocation and other forms of "pure economic waste," regardless of the distributive outcome.

The rule for the wealthy is that there is zero marginal utility of wealth in excess of that to which they are entitled under a system of perfect competition, progressive taxation, and that distribution of wealth which maximizes total utility consistent with economic incentives which also maximize total utility. While utility derived from excess wealth would not in reality be zero, it would be less than that of those with less wealth than that to which *they* are entitled in order to maximize total satisfaction. Thus the appropriateness of a fixed rule in pursuit of utilitarian goals.

[6] The reader is promptly reminded that the writer is not an economist, a statistician, or a computer expert. The $400 billion total is only a ballpark estimate which hopefully will generate efforts at refinement by those possessing the requisite technical expertise. However, the bulk of the total is derived from careful economic studies. The magnitude of a few of the components are arrived at through educated guesses only because a combination of pervasive corporate secrecy and government disinterest in such subjects as wealth distribution have made unavailable the data on which careful economic studies could be based. *See* Appendix A for margin of error estimates.

Bearing that in mind, Tables I, IA, II, III and IV summarize the components of this $391 billion program.

Table I.—*Progressive income redistribution*

[In billions]

Demogrants	$58.0
Regressive Federal taxes	85.6
Excises	9.2
Import duties	2.7
Social security and payroll	66.2
Corporate income	7.5
Regressive State Taxes	44.0
Sales taxes	25.0
Property taxes	19.0
Monopoly Profits, Excess Executive Benefits	25.0
Regulatory Transfers	7.5
Farm price supports	6.0
Utility overcharges	1.5
Import Barriers	9.8

Table I.—*Progressive income redistribution*—Continued

[In billions]

Tariffs	$8.5
Quotas, voluntary restraints, buy American, etc	12.0
Duties already included	−2.7
Inclusion in monopoly and farm programs	−8.0
Consumer fraud	20.0
Auto repairs	10.0
Income losses to bottom 80 percent	68.9
Federal welfare payments	−10.0
Social security benefits	−58.9
Total	181.0

TABLE 1A.—*Waste overcharges*

Regulatory waste	$12.0
ICC	6.5
CAB	3.0
FMC	2.5
Internal inefficiency from lack of competition	25.0
Excess capacity due to cartelization or Regulatory Protectionism	6.6
Basing point cross hauling and distorted locational decisions	2.2
Less than efficient scale operations due to protectionism and wasteful practices	3.3
Advertising, packaging, promotions	13.0
Consumer information system costs	−4.0
Subtotal	58.1
Nonregressive Waste Transfers from Labor Factors	−7.0
Total	51.1

TABLE II.—*Increased G.N.P. from elimination of waste*

[In billions]

Welfare (deadweight) loss from resource misallocation	$40.0
Regulatory waste	20.0
ICC	6.5
FCC TV channel scarcity	8.0
CAB	3.0
FMC	2.5
Internal inefficiency from lack of competition	25.0
Excess capacity due to cartelization or regulatory protectionism	6.6
Basing point cross hauling and distorted locational decisions	2.2
Less than efficient scale operations due to protectionism and wasteful practices	3.3
Advertising, packaging, promotions	13.0
Consumer Information System costs	−4.0
Total	9.0
Manipulation of consumer preferences	25.0
Production of goods and services marketed fraudulently	12.5
Accidents, pollution, externalities	40.0
Accident costs	67.0
Household products cost	8.0
Work-related costs	13.0
Motor vehicle costs	46.0
Net gain from cost internalization	18.0
Pollution costs	19.5
Air and water	27.2
Cleanup costs	−10.2
Total	17.0
Noise, solid waste, other (net)	2.5
Other externalities (net)	2.5
Defense waste	25.0
Total	$208.1

80 percent times $208.1 billion equals gain in personal income for a total of $166.5 billion.

TABLE III.—*Gains and losses to U.S. Treasury*

[In billions]

Gains	$148.0
Spending cuts	55.0
Defense	30.0
Subsidies	25.0
Tax reform	93.0
Progressive wealth tax	91.0
Taxing inheritance and gifts as income	3.0
Losses	156.6
Regressive Federal taxes	85.6
Revenue sharing to replace State sales and property taxes	71.0
Taxing corporate earnings as stockholders' personal income	2.0
Net loss	−7.6

TABLE IV.—*Summary of increase in real personal income*

Progressive income redistribution (Table 1)	$181.0
Waste overcharges (Table IA)	51.1
Increased G.N.P. from elimination of waste (Table II)	166.5
Net loss to Treasury (Table III)	−7.6
Total	391.0

As indicated in the text, the incomes of those in the lower brackets would be increased by percentages substantially higher than the aggregate 43 percent increase. This follows from (1) the progressive character of the totals in Tables I, IA and III and the permanently more progressive income distribution patterns that would emerge if the proposals in the text were implemented, and (2) the present distribution of income:

Percentage share of aggregate before tax income going to families, 1969

Lowest Fifth	5.6
Second fifth	12.3
Middle fifth	17.6
Fourth fifth	23.4
Highest fifth	41.0
Top fifth	14.7

U.S. Bureau of the Census, "Current Population Reports, Consumer Income, 1969" 56 (1970), reproduced in Thurow & Lucas, "The American Distribution of Income: A Structural Problem" 7 (Joint Economic Committee 1972).

The totals in Tables I–IV have not been adjusted to reflect the impact of each component on the others, although care has been taken to eliminate double-counting. For example, eliminating monopoly profits would diminish the tax base. These ramifications have not entered into the calculations.

[6a] "A Balanced Full Employment Economy," *supra* note 2.

[7] Hearings before the Subcommittee on Priorities and Economy in Government of the Joint Economic Committee, *The Economics of Federal Subsidy Programs*, 92nd Cong., 1st sess., at 59, 68 (1972) (Statement of J. Pechman & B. Okner, Brookings Institution). The $77,3 billion figure assumes retention of personal exemptions and a flat $1300 standard deduction (low income allowance), items which would further increase the tax base by $178.8 billion ($750×200 million exemptions+$1300×22 million low income allowances) but are eliminated in a demogrant system. The $77.3 billion does not include the revenue losses from marginal rates and the interest costs between gain and realization.

[7a] Pechman & Okner, *supra* note 7, at 108–110 (remarks of P. Stern). One theme that these hearings and current literature stress is the gross inefficiency with which tax preferences accomplish their designated purposes as compared to direct subsidies. See particularly the testimony of S. Surrey, *id.* at 43. For example, Senator Proxmire recalled a Treasury study showing that the $1.5 billion revenue loss from the oil depletion allowance stimulates only $150 million in new oil findings. *Id.* at 85. With this type of performance, any direct subsidies needed to replace those eliminated tax loopholes which purport to encourage socially desirable activities would be small in amount. Moreover, demogrants, by increasing consumer purchasing power, are a sufficient substitute for most of the direct subsidies that would be proposed.

[7b] Okner, *super* note 1. The cherished deduction for medical expenses has similar consequences. In 1970, the average tax benefits from medical deductions to those in the $10,000–$15,000 bracket was $33; but the average benefit for those in the over $100,000 bracket was $499. The comparable figures for mortgage interest deductions are $50.96 and $410.78. "Treasury Tax Deduction Data Misleading, Nader Unit Says," Washington Post, Aug. 29, 1972, at A2.

[8] Pechman & Okner, *supra* note 7, at 72, Table 3.

[9] The literature on corporate tax incidence is reviewed in Mieszkowski, "Tax Incidence Theory: The effects of Taxes on the Distribution of Income," 7 *J. Econ. Lit.* 1103 (1969). The thesis that corporate taxes are largely shifted to consumers, M. Krzyzaniak & R. A. Musgrave, *The Shifting of the Corporation Income Tax* (1963), has been criticized by Gordon, Harberger, Hall and others. Nevertheless, it still seems reasonable to assume that some shifting does occur, especially in the regulated industries. AT&T, for example, is guaranteed a certain *after* tax return on rate base. Although we do not know the magnitude of this shifting, I have assumed 25% of the $30 billion 1972 federal corporate tax revenues. Professor Musgrave, observing that the economics profession is split about half and half between the positions of substantial and zero shifting, still insists that at least half of the tax is regressively shifted, and possibly more than 100% of it as a result of interaction with price leadership in concentrated industries. The 25% shifting I have assumed is therefore a compromise which assumes both positions to be half right.

[10] M. Friedman, *Capitalism and Freedom* 130 (1962).

[11] The calculations, though crude, are as follows: Applying a 40 percent average demogrant tax rate to $85 billion in pre-tax corporate profits produces $34 billion. The 40 percent rate is a guesstimate based on the following factors: (1) Ownership of corporate stock is highly concentrated, the top 1% of wealth holders owning from 62% (Budd, *supra* note 4, also indicating that 5% own 86% and 20% own 97%) to 75% (Lampmann, *supra* note 4). (2) Those with incomes of $50,000 or more constitute 0.6% of the population. (3) The concentration of taxable income would be significantly increased if retained corporate earnings were attributed to individual stockholders' personal incomes.

From this $34 billion is subtracted $6 billion already raised through personal income taxes on dividends. In 1969 dividends of $24.7 billion were paid on after-tax corporate profits of $48.5 billion, though only $15.7 billion from dividends were included in Adjusted Gross Income. (The difference is apparently attributable to the dividend exclusion and to intercorporate dividend payments). On the basis of 1972 after-tax corporate profits of $55.4 billion, dividend AGI would be $18 billion, to which is added a $2 billion increase in taxable income as a result of the comprehensive tax base (Pechman & Okner, *supra* note 7, at 71, Table 2). Applying a present marginal rate of 30% produces $6 billion, which subtracted from $34 billion leaves $28 billion in total corporate profits tax revenues, $2 billion less than the current $30 billion revenue from the corporate income tax.

[12] R. Lampman, *supra* note 4, at 23, 192–193.

[13] Property taxes have at least three regressive aspects: (1) They are usually levied only on real estate (and improvements thereto) and not on durables, intangibles, and other property which together with real property make up individual net worth. *Cf.* Snyder, "Taxing the Unlanded Gentry," 4 *Conn. L. Rev.* 310 (1971); Hagman, "VIT for VAT" (UCLA Institute of Gov't. and Public Affairs MR–172). This exclusion, as in the case of the limitation on earnings subject to Social Security taxes, is regressive. (2) Many businesses and individuals, but especially the former, have received exemptions or reduced assessments. *See* Nader, "The Property Tax Gyp," *New Republic*, Mar. 4, 1972. (3) Some portion of those property taxes levied on the non-land value of business and apartment dwelling properties is passed on to consumers and renters in higher prices and rents. Although the property tax is or at least could be generally progressive, see Gaffney, "The Property Tax is a Progressive Tax" (Paper presented at 64th Annual Conference, Nat'l. Tax Ass'n., Kansas City, Sept. 28, 1971), a progressive wealth tax is more progressive. An advantage both of a progressive wealth tax and of taxing corporate profits directly to shareholders (as partnerships are taxed) is that such taxes have less of a distorting effect on the efficient allocation of capital and on business decisions. The federalization aspect of the progressive wealth tax also eliminates jurisdictional differences in property tax rates which distort locational decisions of both business and homeowners.

The allocation of $19 billion of $46 billion in property taxes to the bottom 80% of the income classes is computed from Schultze, *et al., Setting National Priorities: the 1973 budget* 445, Table 14–6 (1972). Assuming that the tax is entirely borne by the holders of capital (including homeowners) results in $14 billion being absorbed by the bottom 80% of income brackets. The contrary assumption, that the tax is passed on through higher rents and prices, produces a $24 billion figure. Averaging the two, assuming each thesis is half right, gives a $19 billion compromise figure.

The possible constitutional prohibition against a federal progressive wealth tax as a direct tax not apportioned among the states by population is discussed in Hagman, *supra*. One alternative would be actually to apportion the progressive wealth tax revenues as constitutionally indicated, but to employ differential revenue sharing to eliminate the distorting effect of the apportionment.

Note that Table I of note 6 includes only the $19 billion in property taxes currently paid by the bottom 80% of income classes, not the entire $46 billion that would be repealed. One reason is that the $27 billion property taxes paid by the top income quintile would be paid instead through a progressive wealth tax bringing in $91 billion in its first year. Yet note that income gains from the repeal of regressive taxes and monopoly profits, for example, are reflected in full in Table I. These sums obviously include amounts paid by persons in the upper quintile. They, too, pay sales taxes and buy from concentrated industries. However, the bulk of these regressive income transfers involve persons in the bottom four income quintiles. The property tax is not on the whole a regressive tax. The entire $46 billion was not included in Table I for this reason, the rule being that Table I includes transfers moving primarily from the upper to lower income or wealth brackets. Where this is not the case, as with the property tax, only that portion of the transfer rep-

resenting gain to the bottom 80 percent ($19 billion) is included. Another way of reaching this result is that as long as the wealthy pay the full progressive taxes that they should, and receive no other windfall gains, their wealth is deemed to generate utility. They then have the same right to be free from regressive levies as the lower and middle income groups. See the rule in note 5 *supra*.

[14] After the first year, when $91 billion is collected, progressive wealth tax revenues would gradually decline as wealth concentration was reduced to equitable levels. But by the time the revenue stabilization point was reached, economic growth would have expanded both the income and wealth tax bases to an extent sufficient to make up for the deficit.

The operative assumption is that the right to retain personal wealth declines as a substantial incentive to economic productivity as an individual's wealth increases, particularly when it exceeds, say, the $1 million mark. It is at least arguable that the wealth of those in the high brackets, to the extent that it has been earned, serves as a disincentive to their further economic productivity, and that taxing some of it away would prod top wealth-holders to continue in those economic pursuits which enabled them to become wealthy.

In any event, significantly increased disincentives would apply, if at all, to a very small percentage of the population.

Instead of reforming the persent gift and estate tax structures, these accessions should be taxed as income to the recipients, with a cumulative lifetime exemption of $25,000. Unpublished calculations by Jerald R. Jantscher of the Brookings Institution suggest that applying current income tax rates would raise $9 billion, compared with the present $3.7 billion from gifts and estates. To be conservative, $2.3 billion is arbitrarily deducted from this $5.3 billion gain to reflect the lower demogrant income tax rates, income averaging, greater dispersal of gifts and inheritances, and Jantscher's 20% margin of error. This produces the $3 billion gain shown in Table III of note 6.

[15] Footnote not supplied.

[16] This figure excludes motor vehicle fuel taxes on the theory that these are user taxes.

[17] Under the Okner Plan D demogrant program an elderly couple would receive $2600 annually, slightly less than the average $2664 Social Security benefit (prior to the recently legislated increase). A single elderly person would receive a $200 demogrant under Plan D, however, compared with $1596 in average Social Security payments. Under a plan whereby demogrants would increase with the recipient's age, *see* Washington Post, *supra* note 1a, a retired couple would receive $3,120 per year. Age variations could be applied to Plan D so that a majority of present Social Security beneficiaries would more than recoup their replaced benefits.

The $66.2 billion includes Fiscal Year 1972 receipts from OASDI, Health Insurance, Unemployment, and Railroad and Federal Employees Retirement Trust Funds. The remaining surplus in these trust funds would also be disbursed to beneficiaries. Since the $58 billion increase in real income from demogrants has already been included in Table I of note 6, an offset of $58.9 billion is also included to reflect loss of Social Security benefits by the bottom 80 percent of the income brackets. The Social Security Administration has no current figures for the distribution of the $62 billion in total benefits among income classes and has never had such data for benefit distributions among the non-elderly. An assumption that 5% of total benefits go to recipients in the top 20% of income brackets produces a residual of $58.9 billion ($62 billion-$3.1 billion).

The $58.9 billion entered in Table I of note 6 does not include the remaining $3.1 billion which makes up the total income loss from repeal of Social Security benefits of $62 billion, because a transfer loss among the upper income quintile equalizes the distribution of income. Transfers from the top quintile to the remainder of the population are one of the major objectives, *see* note 5 *supra*, and are counted as increases in aggregate income notwithstanding that they are transfers. It would be incongruous to include such losses to the top quintile as losses in aggregate income.

[18] The regressivity of tariffs is demonstrated in Fieleke, "The Cost of Tariffs to Consumers," *New England Econ. Rev.*, Sept.–Oct. 1971, at 13.

[19] This does not include any passed-on portion of nearly $4 billion in state and local corporate income taxes.

[20] The demogrant estimates include the gain to the Treasury from eliminating present federal welfare programs. But state welfare payments (and taxes to finance them) are not considered.

[21] Subcommittee on Priorities and Economy in Government of the Joint Economic Committee, *The Economics of Federal Subsidy Programs* (Staff Report), 92nd Cong., 1st Sess. at 4 (1972). The $25 billion total covers major cash, credit, and benefit-in-kind subsidies. Since the beneficiaries generally appear to be in the upper income brackets, and since the total completely omits state subsidies and is by no means all-inclusive of federal subsidy costs, adjustment in real income for the lower and middle income brackets attending the elimination of these subsidies is not included in Table I of note 6. The source defines subsidies so as to exclude welfare payments and other "real income transfers" by requiring performance by the recipient as a condition precedent.

[22] In 1969, 62.8% of government farm benefits went to the top 19.1% of farms (and a smaller percentage of farm owners) with sales of $20,000 and over. Schultze, "The Distribution of Farm Subsidies" 30 (Brookings, 1971).

[23] *See* note 6 *supra*, Table III.

[24] *See* R. Theobald, *Committed Spending* (1971).

[25] The reader's suspicion that the text suggests placing public schools and hospitals on a profit-making basis is correct. Whether one should take the next step of placing the ownership of these institutions in private hands is immaterial. The outcome of "market socialism" and private competitive capitalism (not monopoly capitalism) would in most respects be identical as long as publicly owned schools and hospitals had to compete to survive and the Government imposed no protectionist restraints.

Contrary to the prevailing apprehension, a voucher system can encourage racial and economic class school integration through economic incentives. To be accredited, any school's enrollment could be required to contain at least 50 percent of the proportion of each racial and economic group within a reasonable geographic radius. If blacks comprised 10% of the surrounding community population, their enrollment would have to be at least 5% or the school would lose accreditation. If an insufficient number of blacks enrolled, the school would have to discriminate in price to attract the requisite number. To encourage further integration, the reimbursement value of the students' vouchers could increase as the degree of racial and class balance rose from 50% to 100%.

The value of vouchers could also vary according to the school's educational performance, as measured by "unbiased standard tests. In general voucher values would be set high enough to ensure an adequate education, but to encourage price shopping and cost reduction parents could retain the difference if they placed their children in accredited schools charging less than the voucher value.

There is now a substantial literature, including the Carnegie Commission Report, demonstrating that the public schools are woefully inefficient in educating children. Similarly, it is clear that our health delivery system is in shambles, especially since the economic incentives for the practice of preventive medicine are largely non-existent and the medical profession has stymied prepaid group health programs. Vast savings can be expected from voucher systems and competition. Prepaid legal and day care services are other areas to which voucher systems should be applied.

[26] For an overview of the benefits of competition *see* M. Green, B. Moore & B. Wasserstein, *The Closed Enterprise System*, ch. I (1972). *See also* J. Blair, *Economic Concentration* (1972); W. Mueller, *A Primer on Monopoly and Competition* (1970).

[27] W. Shepherd, *Market Power & Economic Welfare* 104–108, 263–267 (1970).

[28] Scherer estimates monopoly profits to be 3% of GNP, or $31 billion. F. Scherer, *Industrial Market Structure and Economic Performance* 409 (1970). Shepherd, *supra* note 27, at 208–213, estimates monopoly profits to be 3% of National Income. *Cf.id* at 186–194; N. Collins & L. Preston, *Concentration and Price-Cost Margins in Manufacturing Industries* (1968), and references discussed therein. Excessive executive compensation in concentrated industries is described in Williamson, "Managerial Discretion and Business Behavior," 52 *Am. Econ. Rev.* 1040–1047 (1963); Shepherd, *supra* note 27, at 212 n. 13. The $25 billion estimate is reasonably conservative since it includes both monopoly profits and executive compensation. Internal FTC data was recently leaked showing a $15 billion annual monopoly overcharge from 100 manufacturing industries alone, although the figure includes internal inefficiency as well as monopoly profits. Scanlon, "FTC and Phase II: the McGovern Papers," 5 *Antitrust Law & Econ. Rev.* (1972).

[29] Bergsten, "The Cost of Import Restrictions to Consumers" (American Importers Association 1972) (Bergsten is a guest scholar at the Brookings Institution) estimates the cost of tariffs and quotas at $10–$15 billion annually. His tariff component is only $2 billion, although he characterizes the implicit $10 billion estimate of Fieleke, *supra* note 18, as "a plausible maximum." An arbitrary downward adjustment to $8.5 billion for tariffs appears in Table I of note 6 in order to make Fieleke's total even more plausible.

That leaves Bergsten's estimate for quota costs at $8–$13 billion. American Importers Association, "Statement *re* United States Non-Tariff Barriers to Trade," U.S. Tariff Commission Investigation No. 332–66 under provision of Sec. 332 of Tariff Act of 1930, March 1972, at 7, tabulates the costs of some of the major formal and "voluntary" quotas:

	Billion
Petroleum	$5.90
Textile and apparel	1.00
Sugar	0.50
Fresh & Frozen Meat	0.35
Dairy Products	0.50
	8.25

These are only a few of the items subject to quotas. The voluntary quotas on steel imports recently negotiated by the Nixon Administration cost consumers an additional $1 billion annually, "The Case Against Oil and Steel Quotas", 37 *Consumers Reports* 528, 529 (1972).

No current estimates exist for the costs of interstate trade barriers and state and federal Buy American programs. *Cf.* Watkins, "Effects of the Buy American Act on Federal Procurement," 31 Fed. Bar J. 191 (1972); Comptroller General Rep. B–162222, Dec. 9, 1971, at 12, 22, 28; Richardson, "The Subsidy Aspects of a Buy American Policy in Government Purchasing," in *The Economics of Federal Subsidy Programs* (A Compendium of Papers), Joint Economic Committee, 92nd Cong., 2d. Sess., pt. 2 (International

Subsidies), at 220 (1972). But the $12 billion figure in Table I of note 6 reflecting the costs of quotas plus these latter trade barriers seems reasonable.

The $20.5 billion cost of trade barriers partially reflects their effect in protecting monopoly power of American business and the domestic agricultural price support program. Since these latter costs have already been counted in Tables I, IA and II of note 6, an offset of $8 billion has been applied to the trade barrier total of $20.5 billion. The $8 billion is a guesstimate, for no economist has undertaken any analysis that sheds light on what the proper offset should be. It is clear, however, that not employing such a guesstimate would result in even greater inaccuracy.

[30] American Importers Association, *supra* note 29, at 3.

[31] Schultze, *supra* note 22, at 1. The $6 billion includes $1.5 billion in higher prices that farmers must pay for feed, seed, and livestock. It is assumed that the additional expense is passed on to consumers. Excluded are $1 billion in higher prices for farm exports. The $6 billion figure is an understatement of the full costs of farm programs because it excludes (1) marketing orders which raise the price of milk, fruits, vegetables and other products, *Cf* Kessel, "Economic Effects of Federal Regulation of Milk Prices," 10 *J. Law & Econ.* 51 (1967); (2) welfare losses from resource misallocation, although these are included in the $40 billion total in Table II of note 6; and (3) the increase that would be reflected in 1972 compared with 1969 data.

[32] *See* his remarks in 118 *Cong. Rec.* (Apr. 21, 1972) urging 100 percent of parity.

[33] *Cong. Rec.*, Feb. 7, 1972 at S. 1264. The Nader suit was filed Jan. 23, 1972, and the contributions were publicized in *The Washington Post*, Sept. 27, 1971, at A1.

[34] The classic statement is Averch & Johnson, "Behavior of the Firm under Regulatory Constraint," 52 *Am. Econ. Rev.* 1052 (1962). *See also* W. Capron, ed., *Technological Change in Regulated Industries* (1971); Alchian & Kessel, "Competition, Monopoly, and the Pursuit of Money," in *Aspects of Labor Economics* (Nat'l. Bureau of Economic Research, 1962).

[35] Hearings before the Subcommittee on Priorities and Economy in Government of the Joint Economic Committee, *Oil Prices and Phase II;* 92nd Cong., 1st sess., at 164, 166–167 (1972) (Testimony of B. Moore).

[36] The $1.5 billion figure is a guesstimate inasmuch as calculating "excess" utility profits hinges upon the perplexing task of defining what level of profit is proper. Reported annual after tax utility profits approximate $10 billion. The fact that regulated utilities are generally insulated from competitive entry regardless of whether they are truly natural monopolies argues for a low "proper" rate of profit. Since even excess profits would usually be low compared with competitive profits of other firms, the $1.5 billion is not included in the $25 billion figure for monoply profits in Table I of note 6. Of general interest *re* utility profits are J. Goulden, *Monopoly* (1968) (AT&T); L. Metcalf & V. Reinemer, *Overcharge* (1965) (electric utilities).

[37] *See* Hearings before the Subcomm. on Antitrust and Monopoly of the Senate Judiciary Comm., *Automotive Repair Industry*, 91st Cong., 1st Sess., pts. 1&2 (1969).

[38] Comment, "Translating Sympathy for Deceived Consumers into Effective Programs for Protection," 114. *U. Pa. L. Rev.* 395 (1966) (discussing 1965 report of House Subcommittee on Fraud and Misrepresentation Affecting the Elderly). *See also* Hearings on S. 2246, S. 3092, and S. 3201 before the Consumer Subcomm. of the Senate Commerce Comm., 91st Cong., 1st sess., pt. 1 at 14 (1969) (Estimate of V. Knauer that Americans are defrauded of $1 billion annually by misrepresented quack devices, drugs, foods, and cosmetics).

[39] *President's Commission on Law Enforcement and Administration of Justice. Task Force Report: Crime and Its Impact—An Assessment* 104 (1967).

[40] "One of Our Billion Cubes (Pizzas, Bologna, Giblets, Tea Bags) is Missing," 35 *Consumer Reports* 249–250 (1970).

[41] Some additional examples are contained in a March 7, 1970 speech by Senator Philip A. Hart to the New York Consumer Assembly, reproduced in 452 *BNA Antitrust & Trade Reg. Rep.* (March 10, 1970). The $20 billion consumer fraud transfer appearing in Table I of note 6 consists of $11.75 in specific fraud costs listed in the text and $9.25 billion in the following guesstimated frauds: (1) those rather blatant specific practices such as package shortweighting, ghetto merchandising, TV and other non-auto repairs, shoddy wares pedaled by high pressure door-to-door salesmen, airline connecting flight overcharges and numerous similar breach of contract and warranty frauds, items specified in Senator Hart's speech *supra* and in W. Magnuson & J. Carper, *The Dark Side of the Marketplace* (1968), etc.; (2) affirmatively deceptive advertising and packaging; and (3) advertising which omits material facts and results in consumer purchases based on product value that would be differently perceived but for the lack of full disclosure. The $20 billion total seems conservative, especially if stated as representing that consumers received 97.4% value (expectation) from $725 billion in purchases. *Staff Report to the Federal Trade Commission on the Ad Substantiation Program*, Senate Commerce Comm., 92nd Cong., 2nd Sess., (1972).

[42] Footnote not supplied.

[43] Greyser Reece, "Businessmen Look Hard at Advertising," *Harv. Bus. Rev.*, May-June 1971, at 18, 158.

[44] Oxenfeldt, "Consumer Knowledge: Its Measurement and Extent," 32 *Rev. Econ. & Stat.* 300 (1950); Morris & Bronson, "The Chaos of Competition Indicated by Consumer Reports," 33 *J. Marketing* 26 (1969); Friedman, "Quality ond Price Considerations in *Consumer Affairs* 13 (197–). And, as usual, overcharges due to lack of information fall most heavily upon the poor. *Cf.* D. Caplowitz, *The Poor Pay More* (1963). Precise generalization cannot be based on these studies alone, although they consist of some of the best data available. One could question whether consumers really perceive quality in the same manner as Consumer's Union does. However, Oxenfeldt, *supra*, at 323 n.9, to experiments in which college students invariably preferred Consumer's Union properties and weights over their own. Other difficulties are that the products tested by Consumer's Union are not a representative sample and that, even if they were, brand name sales data are unavailable for accurate weighting of the losses in consumer satisfaction due to ignorance of quality factors. Bearing in mind these deficiencies, Oxenfeldt's results, *supra* at 325, indicated that "the average consumer of these products could have increased his satisfaction by fifty percent if he had bought the best product rated by Consumer's Union."

[45] *Id.* at 332.

[46] The classic statement is Scitovsky, "Ignorance as a Source of Oligopoly Power," 40 *Am. Econ. Rev.* 49 (1950). *See also* Federal Trade Commission, "Self-Regulation—Product Standardization, Certification and Seals of Approval," 5 *Antitrust Law & Econ. Rev.* 79 (1972); Mueller, "Sources of Monopoly Power: A Phenomenon called 'Product Differentiation'," 2 *Antitrust Law & Econ. Rev.* 59, 66–68 (1969), reviews some evidence demonstrating that recent increases in concentration have taken place primarily in consumer goods industries characterized by high advertising outlays and artifical product differentiation. *See also* J. Bain, *Industrial Organization*, ch. 7 (1965); Blair, *supra* note 26, at 331–334; Scherer, *supra* note 28, ch. 14.

[47] Nat'l Commission on Food Marketing, *Special Studies in Food Marketing* 65 (Technical Study No. 10, 1966). More comprehensive and sophisticated surveys by Mark Frederickson by the Center for Study of Responsive Law show private brand differentials averaging 25%. For an economic analysis of factors underlying price spreads between branded and unbranded gasolines, *see* F. Allvine & J. Patternson, *Competition Limited: The Marketing of Gasoline* (1972). For an analysis of the price differences between generic and non-generic prescription drugs, *see* James R. Green, "The Welfare Effects of an Antisubstitution Law in Pharmacy on the State of Oklahoma" (Ph.d. Dissertation, Oklahoma State University, 1972). For information concerning price differentials in insurance and health fields, *see* "Pa. Commissioner Claims Consumers Saved $500 million," *Washington Post*, July 30, 1972, at G4. *See generally* Maynes, "The Payoff for Intelligent Consumer Decision-Making," 61 *J. Home Econ.* 97 (1969).

[48] Summing the totals of Tables I and III of note 6.

[48a] Table II of note 6 sums the items of "pure economic waste." All of these, however, do not appear in Table IA as regressive waste transfers through higher prices paid by consumers. For simplicity and because of contract obligation considerations, the entire expectation loss from consumer fraud ($20 billion) appears in Table I, rather than being separated into waste and profit transfer components. The net loss from not internalizing the costs of externalities ($40 billion) is excluded on the assumption that the loss would be wiped out if internalization actually occurred. Welfare loss ($40 billion), the analogous concept of utility losses due to manipulation of consumer preferences ($25 billion), and the value of four additional television networks ($8 billion) are excluded because these wastes reflect foregone value rather than actual transfers through higher prices.

As distinguished from the profit and overcompensation transfers in Table I, the waste transfers in Table IA are transfers from consumers to factors of production when such factors are present in a non-optimal (inefficient) mix. For example, suppose that Jones, a consumer, buys one widget for a $10 price which includes $1 of monopoly profit (Table I) and $1 of internal inefficiency (Table IA) brought about by the monopoly widget manufacturer's penchant for thick carpets, extra parking lots, lax work pace, union featherbedding, etc. If the widget industry were deconcentrated through antitrust prosecution or otherwise subjected to vigorous competition which eliminated monopoly profits and internal inefficiency, the price would fall to $8. Jones would have his widget plus $2 (Tables I and IA).

In addition, however, the resources that were wasted in the $1 of internal inefficiency, material for carpets, concrete for parking lots, etc., would be freed up for productive use elsewhere in the economy, thus increasing the "real" GNP. (The GNP figure that Jones reads in the newspaper improperly includes that $1 that he paid for internal inefficiency because the GNP calculators recorded the full price, including waste, as "value.") It is assumed that, on the average, each dollar of waste (Table II) avoided increases real GNP by $1, although in any particular instance the increase might be more or less than $1 because of complex factors that are beyond the scope of this discussion. When the GNP is increased by $1, the aggregate personal income component of GNP rises by approximately 80 cents. Thus, in addition to the $2 he has already saved, Jones (or some other indeterminate consumer) will gain another 80 cents in higher personal income, for a total gain of $2.80.

There is one exception to Jones' bonanza. Suppose that the $1 he paid for internal

inefficiency were attributable to the widget monopolist's hiring Smith to do work which was unnecessary. When competition forced the widget monopolist to cut costs, Jones' gain would be at the expense of Smith's wages. Since this would not generally be a progessive transfer, and might often be a regressive one, it cannot be included in the totals for Table IA. In fact, when the GNP is increased by $1 as Smith's labor is diverted to productive use, it will be Smith, not Jones, who receives the 80 cent increase in personal income (through new wages replacing his old ones). Thus, only $25 billion in new resources is assumed from a $30 billion cut in defense spending.

To reflect non-regressive transfers from wasteful use of labor inputs, a $7.0 billion offset appears in Table IA. A difficult econometric analysis of the items in Table IA might produce no better results than this guesstimate. The nature of these wastes is such that transfers from labor are likely to be greatest in x-inefficiency, small in advertising (e.g., copywriters), less than optimum scale (employees of small liquor and drug stores protected by professional restrictions or resale price maintenance), and cross hauling (transport workers' excess labors), and relatively insignificant in the other items. A 12% offset ($7.0 billion) seems plausible. Note that the waste due to non-optimal labor inputs does not include overpayments to optimum labor inputs, as when unions force up wages through collective bargaining. This is not "waste" (except for resource misallocation) but an income transfer which would be included in the $25 billion monopoly profit figure (Table I) were it a regressive one.

To the extent that there is unemployment and idle capacity, a multiplier should be applied as the wasted resources (Table II) that are freed up for productive uses reverberate throughout the economy. *E.g.*, P. A. Samuelson, *Economics*, ch. 13 (7th ed., 1967). With "true" unemployment of at least 7.5% instead of the 5.5% reflected in the Government's definition, *see* Tella, *infra* note 89, and excess capacity of more than 20% during the past decade, the multiplier would not be exceedingly small. That no multiplier has been applied renders the total in Table II more conservative—and possibly avoids an increase in the $391 billion total that, though reasonably accurate, would strain its credulity in the eyes of laymen.

[49] This is a guesstimate that $12.5 billion of resources are devoted to effecting the $20 billion annual transfer, reflected in Table I of note 6, from fraudulent transactions.

[50] This is the estimate of Scherer, *supra* note 28, at 326, although later, *id.* at 406, he ventures that only 25% of advertising expenditures "served little function but to mislead the consumer or cancel out rival messages." Tentative indications from the author's to be published content analysis of approximately 1,000 television network food advertisements suggest that Scherer's estimate may be conservative. *Cf.* Peter F. Cuozzo, "An Inquiry into the Image of Food and Food Habits as Presented by Television Food Commercials," (Unpublished Master's Thesis, Annenberg School of Communications, University of Pennsylvania, 1971). The estimate that approximately $20 billion annually is spent on advertising, International Advertising Association International Research Association ($19.5 billion in 1970), *reported in Advertising Age*, Apr. 24, 1972, at 2, does not include indirect and other expenditures associated with direct advertising outlays and excludes entirely the costs associated with non-informational and non-functional packaging. *Cf.* The extensive hearings on deceptive packaging conducted during the 1960's by the Senate Antitrust and Monopoly Subcommittee, the Senate Commerce Committee, and the House Committees on Government Operations and on Interstate and Foreign Commerce.

[51] Scherer, *supra* note 28, at 337 n. 44, cites an Associated Press release citing a premium industry newsletter, "$3 Billion Spent Yearly for Premiums," *Ann Arbor News*, Apr. 27, 1967.

[52] Conceptually, this effect includes information-related purchasing distortions among (a) brands of a single product type and (b) alternative product choices. These are distinct from and in addition to the transfer aspects of fraud and unrealized expectations discussed in note 41 *supra*. There, the transfer loss is a function of contract law—the seller is deemed bound by the reasonable consumer expectations his conduct creates. There, a material omission in advertising is one sufficiently severe to be actionable. The line between that case and the loss of utility through "manipulation of consumer preferences" among brands of a single product is a blurred one. The subject matter here is to what extent could consumers stretch the value of their dollars in a world of fully adequate, impartial, accessible information relative to all alternative purchasing choices, less the cost of that information. In such a world consumers would no doubt purchase not only different brands but different products. It is unlikely, for example, that sales of feminine hygiene deodorants would have boomed. *See* "Feminine Hygiene Deodorants Are Criticized by Doctors Due to Alleged Skin Irritation," *Wall Street Journal*, Nov. 1, 1971, at 30. It is unlikely that planned obsolescence, *see* Note, "Annual Style Change in the Automobile Industry as an Unfair Method of Competition," 80 *Yale L. J.* 567 (1971), or, as Ralph Nader describes it, "an economy increasingly built on defects in prior goods and services" (e.g., "the bumper, a sub-industry of the bumper repair industry" inflating auto repair costs by $1 billion annually, according to insurance industry estimates) would prosper if consumers were armed with such purchasing information.

The concept is one of utility maximization. The loss from manipulation of consumer preferences is in addition to the consumer overcharges reflected in the monopoly profits and wasteful advertising transfers in Tables I and IA of note 6, although all may have the same origin in distorted consumer information. *See* note 44 *supra*. Among the concept's implications are at least two types of significant waste of a different nature than that generally recognized. First is the case in which the profits, advertising, and costs of two brands are equal, but informed consumers would determine that one is superior in quality. "X-inefficiency in quality" is to be distinguished from traditional x-inefficiency, *see* text *infra*, at notes 54–56, which refers to waste external to the inherent characteristics of the product. In the case at hand, certain products exhibit less value (to consumers) in relation to price than other products. In the usual case the former are more expensive than the latter because of, e.g., extravagant design or material (offset by aesthetic value), inefficient construction, planned obsolescence, or built-in frills or non-cost effective functions.

A second type of waste bears resemblance to a multiplier concept. *See* note 48a *supra*. It corresponds with the secondary effects and subindustries sustained by the process of waste. The secondary effects of resources devoted to "x-inefficiency in quality" are only one component of this "network of sub-industries" waste. Consider, for example, the contract and warranty expectation frauds referred to in note 41 *supra*. Would as many consumers purchase automobiles if they knew at point of purchase what the repair costs would be ($25–$30) billion annually, almost as much as the total annual receipts from new car sales)? Even superficial reflection forces the conclusion that there are numerous industries devoted to servicing waste and to repairing unexpected defects in prior goods and services. Take the case of air pollution. Would not some portion of the jobs, income, and resources devoted to the production and sale of "Murine" or laundry equipment be freed for other uses if cost internalization, *see* text *infra*, at notes 66–68, reduced air pollution to a level which produced less eye irritation and soiled clothing?

The non-inclusion of "network" and "x-inefficiency in quality" wastes renders the totals of Tables IA and II more conservative. A guesstimate of $25 billion appearing in Table II of note 6 for "manipulation of consumer preferences" through inadequate or distorted information seems conservative, since it represents a potential increase in consumer satisfaction of only 4%. *See* note 44 *supra*.

[53] Early estimates found the welfare loss from monopoly quite small—less than 0.1% of GNP. Harberger, "Monopoly and Resource Allocation," 44 *Am. Econ. Rev.* 77 (1954); Schwartzman, "The Burden of Monopoly," 68 *J. Pol. Econ.* 627 (1960). Scherer, *supra* note 28, at 400–404, discusses some flaws in previous methodologies and estimates a monopoly welfare loss of 1.05% of GNP. However, Scherer overlooks other factors: *see* Kamerschen, "An Estimation of the 'Welfare Losses' from Monopoly in the American Economy," 4 *W. Econ. J.* 221 (1966) (inclusion of certain costs as part of monopoly profits, including advertising outlays and monopoly rents capitalized in the form of royalties, good will, etc.); Tullock, "The Welfare Costs of Tariffs, Monopolies, and Theft," 5 *W. Econ. J.* 224 (1967) (tendency of the potential for monopoly profits to direct resources toward obtaining them); Bell, "The Effect of Monopoly Profits and Wages on Prices and Consumer's Surplus in American Manufacturing," 6 *W. Econ. J.* 233 (1968) (inclusion of costs of monopoly union gains as part of monopoly profits); *cf.* Worcester, "Innovation in the Calculation of Welfare Loss to Monopoly," 7 *W. Econ J.* 234 (1969) Kamerschen concludes that monopoly welfare losses are 6% of national income, although his use of the Lerner index of monopoly power to calculate elasticities has been criticized by Worcester, among others.

All of the estimates substantially understate the magnitude of the welfare losses by failure to include the cost of internal inefficiency, *see* note 54 *infra*, as part of monopoly profit. Comanor & Liebenstein, "Allocative Efficiency, X-Efficiency and the Measurement of Welfare Losses," 49 *Economica* 304 (1969). Another deficiency in most estimates is the use of aggregated industry and profit data. Shepherd, *supra* note 27, at 196–198, though not taking into account the additional factors listed above, uses adjusted concentration ratios which produce a welfare loss of 3.1% of national income for the manufacturing sector and 2.5% for the entire economy.

It is emphasized that the $40 billion figure for welfare loss in Table II of note 6 is not limited to monopoly but encompasses all other pricing distortions—(1) tariffs, *see* Mishan, "A Note on the Costs of Tariffs, Monopolies, and Thefts," 7 *W. Econ. J.* 230 (1969), and other import barriers, (2) the often gross pricing distortions in the regulated industries, including rate averaging and cross-subsidization, *cf., e.g.*, Posner, "Taxation by Regulation," 2 *Bell J. Econ. & Mgt. Sci.* 22 (1971); Report of the Telephone and Telegraph Committee of the Federal Communications Commission in the Domestic Telegraph Investigation, Dkt. 14650 (1965) (seven-way cost study of AT&T services); (3) subsidies, *cf. The Economics of Federal Subsidy Programs, supra* note 21, at 69–71, 214; and (4) other price distortions, including underpricing, predation, loss leaders.

[54] The classic is Liebenstein, "Allocative Efficiency vs. 'X-Efficiency,' 56 *Am. Econ. Rev.* 392 (1966).

[55] Ironically, corporate management has not financed comprehensive scholarly studies of the costs of work stoppages and feather-

bedding. It is sufficient to note here that labor unions probably exert substantial costs on consumers and, in the view of many economists, on unorganized workers as well. Union featherbedding is especially costly in the printing, railroad, and construction industries. The tendency of unionization, especially in concentrated industries as union members share monopoly profits, *cf.* Scherer, *supra* note 28, at 298–303, to raise wages has not been included as an income transfer in Table I of note 6 for the obvious reason that the transfer is not at the expense of the upper brackets.

If all the reforms proposed herein were adopted, including corporate deconcentration and demogrants, there would remain little justification for the antitrust exemption of labor unions, except perhaps on a plant or possibly a single company level to neutralize labor immobility. The Davis-Bacon Act and even relatively high minimum wages would be of questionable validity. Compulsory arbitration as a substitute for the costly strike (not limited to "national emergency" situations) would deserve serious consideration.

The professions are a notable yet often overlooked case of substantial labor waste. *See The Closed Enterprise System, supra* note 26, at 265–273. The *modus operandi* of the guild-cartel is generally the same whether the case involves lawyers, doctors, architects, pharmacists, optometrists, undertakers, or any of a large and incredible number of other "professions." First comes licensure and state sanctioned control over entry into the trade by the profession's members. Then usually there are prohibitions on advertising or soliciting for clients, or even price posting, *see, e.g.*, "Rx Police State," 37 *Consumer Reports* 136 (1972), often accompanied by minimum fee schedules which, together with the resulting consumer ignorance, fix prices. Access to professional services by low and middle income clients is severely limited by consumer ignorance, distrust of professional authority, and most importantly, the high prices reflected in a service delivery system which, as in the case of lawyers, is little more efficient than it was 200 years ago. Codes of ethics inhibit such innovations as prepaid group legal and health services and, in general, the application of mass production and specialization of labor to the delivery of professional services.

The bulk of services provided to the middle classes by lawyers can properly be termed "legal featherbedding": auto accident claims, which could be handled instead through no-fault insurance; real estate title searches, which could be supplanted by computerized land registration systems; divorce proceedings, which could be substantially curtailed, at least in uncontested situations, through no-fault divorce reform; and will drafting, which in most cases could be performed by lay specialists.

[56] Scherer's estimate is 2% of GNP, or $21 billion. *Id.* at 404–405, 408, but he does not include labor featherbedding and strikes. *See* Liebenstein, *supra* note 54; Williamson, *supra* note 28, at 1051–1053; Shepherd, *supra* note 27, at 195–196. Organizational slack and cost padding are probably most flagrant in the regulated industries. See Alchian & Kesselfi *supra* note 34. *See also* "America's Growing Antibusiness Mood," *infra* note 91, reporting Gallup Poll finding that 57% of public and 70% of businessmen, professionals, and white collar workers say they could produce more each day if they tried.

[57] Scherer, *supra* note 28, at 406–407, 408. *See also* F. Fletcher, *Market Restraints in the Retail Drug Industry* (1967).

[58] Scherer, *supra* note 28, at 407, 408.

[59] *Id.* at 407, 408.

[60] McGowan, Noll & Peck, "Subsidization Through Regulation: The Case of Commercial Television Broadcasting" 17, 35 (Brookings mimeo, Dec. 1971). *See also* Moore, "The Marketplace of Ideas: Competition, Communications, and the FCC," in M. Green, ed., *The Monopoly Makers* (to be published, Grossman 1973). The economic costs of deliberate FCC policies and copyright exclusivity which restrict cable TV may be enormous. While probably optimistic, the Electronics Industries Association has forecast a potential "wired nation" saving of $50 billion annually—in air travel ($6 billion) and highways ($6 billion), as cable communication supplants transportation needs, police ($3 billion) and fire ($1 billion) protection, postal service ($6 billion), and increased opportunities and leisure time for recreation ($28 billion). Industrial Electronics Division/The Electronics Association Response to the CATV Inquiry, "The Future of Broadband Communications" 32, Proposed Rule Making and Notice of Inquiry, FCC Dkt. 18397, (submitted Oct. 29, 1969).

[61] Fox-Smythe Transportation Coextension Oklahoma, 106 F/C/C/1.

[62] T. G. Moore, "The Feasibility of Deregulating Surface Freight Transportation," paper presented at the Brookings Institution Conference on Antitrust and the Regulated Industries, Oct. 28–29, 1971. Moore's cost estimate is $4.02–$8.7 billion annually.

[63] R. Fellmeth, *The Interstate Commerce Omission* 130 (1970).

[64] Levine, "Is Air Regulation Necessary? California Air Transportation and National Regulatory Policy," 74 *Yale L. J.* 1416 (1965). Levine's cost estimate is $2–$4 billion annually.

[65] Maritime Transportation Research Board, *Legal Impediments to International Intermodal Transportation* 421 (1971).

[66] *Second Annual Report of the Council on Environmental Quality* 104–121 (1971).

[67] Damage and clean-up cost data are at best rudimentary. According to *id.*, annual water pollution cleanup costs through 1976 will be $6.3 billion, with reductions in water pollution damages of 90 percent. Unfortunately, EPA studies are only now getting underway to estimate what the damages from water pollution are. The only previous estimate was $12.8 billion annually, but that was based haphazardly, to say the least, on an economist's guess as to how much individual Americans would be willing to pay for unpolluted water. There are numerous individual cases of damages, however. For example, over one-fifth of the nation's shellfish beds have been closed on account of pollution. Because of increased water salinity, farmers may experience decreased crop yields and housewives may have to use more detergents. A 1966 study concluded that pollution of the Delaware estuary damaged recreational values by $350 million. The Council on Environmental Quality extrapolated that "water pollution may cause recreational losses extending into many billions of dollars nationwide." *Id* at 108. The ultimate spectre is, of course, the death of the oceans. The Mediterranean Sea already appears to be dying.

Assuming, then, that the $12.8 figure for annual water pollution damage is in the ballpark, and adding the $16.1 billion damage and $3.9 billion annual cleanup costs for air pollution, there is a net gain of $18.7 billion, adjusted downward to a more conservative $17.0 billion. *See* "Hidden Savings from a Cleaner America," *National Wildlife*, Feb.-Mar., 1972, at 14. It is assumed that these cleanup cost levels will reduce damages to zero. Moreover, data from the Second Annual CEQ Report covering the period 1970–1976 is used, although the recently released Third Annual Report claims annual cleanup costs for 1971–1980 that would be $9.1 billion higher ($10.6 billion annually for air pollution and $8.7 billion annually for water pollution).

These departures from Government estimates are warranted for a variety of reasons. First, the damage estimates are inevitably biased downward on account of the exclusion of such intangibles as aesthetic damage, the intrinsic value of lives lost due to pollution's health consequences, and the unpredictable consequences of ecosystem disruptions. Second, the damage estimates are not adjusted upward to correspond with inevitably greater losses and net cleanup savings in the future as economic growth continues. The cleanup cost estimates, however, do increase dramatically in future years. Third, once pollution control is fully integrated into the nation's technology—i.e., in the long run—further expenditures would be relatively marginal. But the net saving—in the year 2000, for example—would be very large indeed compared with the levels of pollution that would then exist but for previous years' technological changeovers. In other words, a discounted present value concept should be introduced.

Fourth, and most important, the CEQ cost figures are overstated because they represent costs, directly or indirectly supplied by the polluters themselves, associated with deployment of present technology. If polluters were forced to pay full damages *now* one suspects that the technology for pollution control would improve radically and rapidly in cost efficiency. In short, the present level of cleanup costs is in no small measure due to the manner in which polluters are regulated.

EPA has certainly not led the way in new technology. The land disposal method of attaining almost zero discharge of water pollutants is a case in point. In land disposal, a city's wastewater is piped to outlying agricultural areas where it is sprayed on the soil, which in the process of being enriched with nutrients filters the water to drinking quality before it rejoins groundwater stores. Extrapolating from the results of a Corps of Engineers' land disposal project in Chicago, a nationwide system would cost $60 billion over 20 years, or $3 billion annually, compared with the $8.7 billion figure in the Third Annual CEQ Report. *See Cong. Rec.*, Mar. 27, 1972, at 10238–10240, 10252–10253, 10264–10268.

Table II of note 6 lists a $2.5 billion net annual savings from levying damage assessments for other types of pollutants—solid waste, noise, strip mining, soil erosion, radiation, scenic impairment, pesticides, etc. While we know the general dimensions of these problems, we know very little of their costs in economic terms. One study estimates the extra taxpayer-borne collection and disposal costs of beer and soft drink containers due to oligopolistic non-price packaging competition to range between $150 million and $640 million annually. Kenneth C. Fraundorf, "Social Costs Imposed by Containers for Beer and Soft Drinks," ch. 6 (Unpublished Phd. Dissertation, University of Akron, 1972). But one-way beverage containers are only 3.5% of all solid waste, which averages 5.5 lbs. per person per day at an annual collection and disposal cost of $4.5 billion, not counting the dwarfing costs of materials not recycled and the eyesores from litter uncollected. The issue here is what net saving in collection, disposal, aesthetic, and materials costs would be achieved if the price to the consumer included the cost of collection and disposal, rather than those costs being borne largely by taxpayers.

Similarly, we do not know with substantial certainty the full health ramifications of noise pollution. But we do know that noise has a significant impact of 80 million Americans and that 40 million risk adverse health consequences. The Environmental Protection Agency tells us that 1.25% of the population already have noise-related hearing defects. Studies indicate substantial associations between increased noise levels and headaches, tension, emotional outbursts, mental illness, and fetal damage in animals. The World Health Organization has estimated the annual cost of noise in the United States to be $4 billion in compensation payments, accidents, inefficiency and absenteeism. See Hill, "Clamor Against Noise Rises Around Globe," New York Times,

Sept. 3, 1972, at 1, 24. Again, aside from numerous instances of unimplemented cost-effective noise reducing technology, we do not know the extent of savings that would accrue from imposing economic disincentives on noise-making machinery and procedures. The same analysis could be applied to the three million acres that have been strip-mined and the 8 million acres over underground mines subject to cave-ins. It seems not unreasonable to guesstimate the net savings from economic incentives for these other pollutants at $2.5 billion annually.

[68] Absent bargaining and transaction costs, the impact of pollution, accidents, and other "externalities" (social costs not included in the firm's balance sheet) would be adjusted through market forces—either the victims would pay the polluter not to pollute or vice-versa, depending upon which party the laws afforded the property right. Coase, "The Problem of Social Cost," 3 *J. Law & Econ.* 1 (1960). Because bargaining and transaction costs do exist, the optimum economic solution is to place the cost (the absence of the legal property right) on the party who is in the best position to avoid the risk. See G. Calabresi, *The Costs of Accidents* (1970); Note. "The Cost-Internalization Case for Class Actions," 21 *Stan. L. Rev.* 383 (1969). *Cf.* Roberts, "River Basin Authorities: A National Solution to Water Pollution," 83 *Harv. L. Rev.* 1527 (1970). But *cf.* Michelman, Book Review, 80 *Yale L.J.* 647 (1971). *See generally* Mishan, "The Postwar Literature on Externalities: An Interpretive Essay," 9 *J. Econ. Lit.* 1 (1971).

[69] The annual cost of motor vehicle accidents has been estimated at $46 billion. Nat'l Highway Traffic Safety Adm., "Societal Costs of Motor Vehicle Accidents," (April 1972). This estimate, though not inclusive of all types of costs, is approximately triple the estimates of the National Safety Council and the Insurance Information Institute which do not attempt to measure minor accidents, pain and suffering, and a host of other accident losses. The same flaw of underreporting is reflected in available cost estimates of household product accidents ($5.5 billion annually), *Final Report of the National Commission of Product Safety*, ch. 6 (1970), and work-related accidents ($8.0 billion annually, not including motor vehicle accidents), National Safety Council, *Accident Facts* 24 (1971). Among other gross deficiencies, these data for work-related accident costs entirely omit occupational diseases, which may entail 100,000 deaths and 390,000 disabilities each year. National Institute of Occupational Safety and Health, *President's Report on Occupational Safety and Health* 111 (May 1972). *Cf. also* J. Page, M. O.'Brien & Sellars, *Occupational Epidemic*, ch. 1 & 2 (Preliminary Draft, Center for Study of Responsive Law, 1972). To correct the understated "official" data, the annual costs of household product and work-related accidents and diseases are adjusted upward conservatively to $8.0 billion and $13.0 billion, respectively, in Table II of note 6.

[70] A $4,000 price increase per *new* car would be necessary for the auto industry to absorb accident costs of *all* vehicles.

[71] See Moore, "Product Safety; Who should Bear the Cost," *Trial*, Jan.-Feb., 1972 at 26.

[72] This is necessarily a guesstimate, although a plausible one in light of what is presently known about economically feasible accident prevention measures. For example, the National Commission on Product Safety, *supra* note 69, at 67, suggested that significant reductions in household accidents could be achieved through virtually costless design changes. Yet we still know less than we should about the overall prevention costs of household product accidents. Except for a Brookings Institution Study based on DOT data showing air bags to be substantially cost effective, we likewise know little about the prevention costs of auto accidents. *But cf.* Office of Science & Technology, "Cumulative Regulatory Effects on the Cost of Automotive Transportation (RECAT)" 50, 58 (Feb. 28, 1972), concluding that net benefits per car would be $334 for passive restraint systems and $99 for improved bumpers at 5 m.p.h. crashes.

See also "Statement of Ralph Nader on the White House RECAT Report," (Public Interest Research Group, Mar. 20, 1972) criticizing the findings, particularly with respect to air bags, as industry-biased. *See also* Grieder, "The Economics of Death," Washington Post, April 9, 1972, at B1. The National Highway Traffic Safety Administration refuses to release internal cost-benefit studies on other safety devices. Similarly, enforcement of the infant Occupational Health and Safety Act has thus far produced little useful, publicly available prevention cost data. It is clear, though, that workmen's compensation has been a very poor cost internalizer. *See Report of the National Commission on State Workmen's Compensation Laws* (1972). Nevertheless, after deducting the estimated $5 billion in auto insurance costs, *infra* note 73, the guesstimated $13 billion net saving from accident cost internalization is only 21 percent of the remaining $62 billion in annual accident costs. Even if the net savings were small, shifting the accident costs to the manufacturers does not increase the real costs of automobiles. Rather, it spreads otherwise hidden future accident costs equitably among all consumers.

[73] Again, no precise estimates of the net savings are available. The reductions are in legal fees, judicial resources (11.4% of federal court time, 17% of state court time) and insurance overhead. Consumers paid $14.1 billion for auto insurance premiums in 1970. Only 42% of the $5.7 billion 1969 premium cost for bodily injury coverage was paid out to accident victims. No-fault insurance savings, if extended to the enterprise liability concept advocated in the text, would also reduce costs of non-auto accident litigation and insurance. Not mentioned in the text but reflected in Table II is a guesstimated $2.5 billion annual saving from internalizing the cost of other externalities. These are quite numerous, and include adverse drug side effects, food impurities, zoning, location of government facilities, airplane crashes, and the health consequences of alcohol and tobacco consumption.

To the contention that higher prices resulting from cost internalization would be regressive, it is pointed out that the damage impact of these externalities is usually at least equally regressive. Moreover, the higher prices resulting from cost internalization are regressive only in the sense that all prices are inherently regressive—i.e., the price of bread does not vary with the purchaser's income.

[74] For some health consequences of improper nutrition, *see e.g.*, R. Williams, *Nutrition Against Disease* (1971); J. Mayer, *Overweight* ch. 8 (1968); C. Weir, *An Evaluation of Research in the United States on Human Nutrition: Benefits from Nutrition Research* (U.S. Dept. of Agriculture, Human Nutrition Research Division, Aug. 1971) (although the estimates of potential benefits therein are often overstated). A partial estimate placing the cost of inadequate nutrition at $30 billion annually has been made by Dr. George Briggs, Editor of *The Journal of Nutrition Education*. For the effect of television food advertising, *see, e.g.*, Cuozzo, *supra* note 50.

[75] Shepherd, *supra* note 27, at 213–220.

[76] Equal Employment Opportunity Comm'n, *Second Annual Report*, H.R. Doc. No. 326, 90th Cong., 2d Sess. 1 (1968). This figure was not included in Table II of note 6 because several factors are unattainable: (1) the extent to which inferior employment positions of non-whites are in part attributable to inferior education, housing, and racism in general, as opposed to the discriminatory policies of employers; (2) the cost of overcoming those deprivations in order to upgrade non-whites to the same employment levels as whites; and (3) the net gain in productivity, as non-whites might to some extent substitute their productivity for that of whites instead of adding to it.

[77] *See, e.g., The Closed Enterprise System, supra* note 26, at 22–25; Shepherd, *supra* note 27, at 204–208; Scherer, *supra* note 28, at 363–378; Blair, *supra* note 26, at 199–227. Compulsory patent and copyright licensing would be necessary to disperse the potentials of new technologies. Economic incentives need not be impaired. See *The Closed Enterprise System, supra* at 316–317; Moore, *supra* note 60.

[78] *See* text *supra* at note 56. The pervasive myth that corporations must be as large as they are to meet minimum economies of scale has been soundly refuted: J. Bain, *Barriers to New Competition* 111 (1956); Saving, "Estimation of Optimum Size of Plant by the Survivor Technique," 75 *Q.J.Econ.* 569 (1961); Comanor & Wilson, "Advertising, Market Structure, and Performance," 49 *Rev. Econ. & Stat.* 423 (1967); Mann, "Seller Concentration, Barriers to Entry, and Rates of Return in Thirty Industries," 48 *Rev. Econ. & Stat.* 296 (1966); Sherman & Tollison, "Public Policy Toward Oligopoly: Dissolution and Scale Economies", 4 *Antitrust Law & Econ. Rev.* 77 (1971); Esposito, Noel & Esposito, "Dissolution and Scale Economies: Additional Estimates and Analysis, 5 *Antitrust Law & Econ. Rev.* 103 (1971); Kottke, "Dissolution and Scale Economies: A Comment," 5 *Antitrust Law & Econ. Rev.* 55 (1972); *The Closed Enterprise System, supra* note 26, at 309–313.

In a poll taken in 1969 by the Opinion Research Corporation, 85% of the public thought that "large companies are essential for the nation's growth and expansion," although 88% thought so in 1965 when that view reached peak acceptance. Opinion Research Corp., "Public Relations: Industry Takes a Fall on its Public Image," 28 *Public Opinion Index* (Feb. 28, 1970). It may be that the public is not referring to companies as "large" as those which presently dominate American industry. The same poll found that 65% agreed that "in many of our largest industries, one or two companies have too much control of the industry;" 61% agreed that "there's too much power concentrated in the hands of a few large companies for the good of the nation," and 45% (up from 36% in 1967, probably substantially higher now, and a majority of those having opinions on the subject) agreed that "for the good of the country, many of our large companies ought to be broken into smaller companies."

[79] Although earlier, in a Feb. 8, 1972 letter to Mark Green and Ralph Nader, Senator McGovern said he "emphatically support[s] Senator Harris' bill, S. 2614, and will work for the deconcentration of large shared monopolists."

[80] Briefly, such a Commission would negotiate a contract every ten years with the monopolists (or oligopolists) setting rates according to a "sliding scale" mechanism. The contract would fix a grade of service, compliance with which would be systematically tested and failures to attain would be penalized financially, so that profits could not be increased at the expense of service. No regulatory entry barriers would be allowed, and there would be competitive bidding, including participation by government-owned corporations, at contract renewal time. Rates could not increase during the contract period except by, say, 90 percent of a material's cost increase, an adjustment comparable to the cost of living index. Through the sliding scale device, profits could increase

only if rates were held constant or reduced. The concept of rate of return on rate base would be eliminated. *See* Rosenbaum, "The Structure is the Policy," (Mitre Corporation M72–74, June 1972). Concerning administration, Posner, "Natural Monopoly and its Regulation," 21 *Stan. L. Rev.* 548, 620 n. 148 (1969), projects a total cost of perhaps $5 billion as a result of present regulatory efforts. The deregulation suggested in the text would probably redirect rather than save these resources. The contract negotiation responsibilities of a Natural Monopoly Regulation Commission would be substantial. In addition, such an agency would be called upon to auction rights to the electro-magnetc spectrum, air travel routes, government owned mineral resources, etc. Antitrust enforcement, including deconcentration, *see* note 78 *supra*, would be expanded where anticompetitive regulation is eliminated.

[81] *See* Scanlon, "The FTC, the FCC, and the 'Counter-Ad' Controversy: An Invitation to Let's You and Him Fight?", 5 *Antitrust Law & Econ. Rev.* 43 (1971). The primary purpose of counter-advertising would be to deter omissions of material information—i.e., that Bayer aspirin is in most relevant respects practically identical to A&P aspirin, except that the former's cost is a multiple of the latter's. *See* note 44 *supra*. In the course thereof, the advertising *per se* of products about which there is little to say would be deterred by the probability of a back-to-back countercommercial. Counterads would, of course, be directed at affirmative claims as well as omissions.

Approximately 20% of all advertising space would be set aside, 15% for free counterads and 5% for free counterculture messages directed at the social effects of advertising. In addition, a fund to finance the minimum production costs of counterads fixed at some percentage of the average production costs of commercial ads, would be created either through an excise tax on advertisements or the sale of a specified block of commercial space. All media would be subject to counter-advertising requirements in order not to encourage media switching by advertisers. A schedule of rebates would ensure that those companies whose ads were selected for counteradvertising ultimately bore most of the cost of the system.

The only weakness of the device is that there is no market test of which counter-advertisements should have priority over competing applicants. Screening and selection by a government agency such as the Federal Trade Commission would probably make matters worse. Thus, at present all that can be suggested is that counteradvertisers be required to be certified according to a few simple and neutral criteria such as being a "going concern" research or other organization for a certain period of time prior to certification and having no ties with advertisers. All certified counteradvertisers would be allotted equal amounts of space. They would then choose the commercials at which their own counterads would be directed. Where the FTC held a counterad to be deceptive, the advertiser would be afforded a rebuttal out of the counteradvertiser's future free time. Three deceptive counterads would require de-certification. *See* B. Moore, "The Case for Counteradvertising (unpublished, 1972).

[82] The bulk of consumer purchases are of products that are already graded—but the ultimate consumers never see the grade. An estimated 20,000 sets of detailed product standards have been developed by more than 400 private organizations, ranging from trade associations to Underwriters Laboratories and the American Society of Testing and Materials. These are intended not for ultimate consumers, but for large institutional buyers such as department stores and other producer corporations who, unlike the average consumer, have the resources and the expertise to penalize those who would not supply such product information by purchasing from competitors who do. *See* Federal Trade Commission, *supra* note 46. Most of the existing standards involve construction criteria rather than the performance criteria that would be directly pertinent to consumer price/quality evaluations. However, Sears, Roebuck & Co. told FTC investigators that their present standards-setting operation could be converted to one which produced product grades meaningful to consumers with only a small increase in total cost.

The potential effectiveness in eliminating oligopoly power due to consumer ignorance is indicated by experience with food grading, although other causal factors were probably involved. Concentration and excess profits declined substantially after the introduction of beef and veal grading, although ungraded pork was relatively unaffected. *Cf.* Nat'l Comm. on Food Marketing, Tech. Study No. I, *Organization and Competition in the Livestock and Meat Industry* 7–10, II (1966). Similar effects can be seen from the grading of milk and butter. *See* Nat'l Comm. on Food Marketing, Tech. Study No. 3, *Organization and Competition in the Dairy Industry* 143, 293–300 (1966).

In addition to meat, dressed poultry, milk and butter, USDA grades the following: some fish and shellfish; eggs; ice cream and other frozen desserts; cheese; fresh, dried and frozen fruits and vegetables; nuts; honey; peanut butter; syrups; and rice. Unfortunately, the grades are seldom passed on effectively to consumers. The Food, Drug and Cosmetic Act of 1938 originally contained a provision requiring quality grade labeling of foods, *see* S. 1944, 73 Cong., 1st Sess., §II (1933), but it was deleted because of intense industry pressure. *See* Coles, *Standards and Labels for Consumer Goods* 348 (1949).

Not only should the quality of products be graded but services should also be rated. These include doctors' and lawyers' and other professional services as well as auto and TV repairs.

Likewise, warranties, which now generally consist of unread and unreadable legal fine print stacked against the consumer, should be graded and conspicuously disclosed. *Cf.* Federal Trade Commission, *Staff Report on Automobile Warranties* (1968). An example, in the area of warranties against defect or malfunction, is in Hearings of the Consumer Subcommittee of the Senate Commerce Committee on S. 986, 92nd Cong. 1st Sess. (1971); Hearings of the Consumer Subcommittee of the Senate Commerce Committee on S 3074, 91st Cong., 2nd. Sess. (1970); Hearings of the Subcommittee on Commerce and Finance of the House Committee on Interstate and Foreign Commerce on HR 6313, 6314, 261, 4809, 5037, 10673, 92nd Cong., 1st Sess. (1971). Warranties for appliances and similar items should state an estimated average life expectancy and aggregate repair cost. The consumer would be entitled to a pro-rata rebate if his product survived, say, less than 75% of the predicted life and/or if his repair costs were more than, say, 125% of the average.

[83] *See, e.g.*, Friedman, "Dual Price Labels: Usage Patterns and Potential Benefits for Inner-City and Suburban Supermarkets (A Summary Report)," (Center for the Study of Contemporary Issues, Eastern Michigan University, 1970).

[84] *See, e.g.*, the FDA proposal for a voluntary program, discussing evidence that food consumption patterns would change in the direction of significantly better nutrition, in 37 *Fed. Reg.* 6493 (March 30, 1972). Before it introduced an experiment in nutritional labeling, the Washington, D.C.-based Giant Food Stores' bakeries were baking 400 loaves of whole wheat bread a day. Afterwards, they were baking 1700 loaves a day.

[85] *Cf. generally*, S. Margolius, *The Great American Food Hoax* (1971). Grading, Unit Pricing, Percentage Ingredient Labeling, Open Dating, and Producer of Origin Labeling (to identify sources of private label products) have been incorporated in comprehensive legislative proposals. *See, e.g.*, The Food Labeling Information Act of 1972, *Cong. Rec.*, May 4, 1972, at 15854 (Remarks of Rep. Bingham).

[86] Implementation of grading and labeling programs has seldom provided consumers with information in a clear and conspicuous manner. It is no surprise, therefore, that studies show relative non-use of these aids by consumers. *See, e.g.*, Ronald Savitt, "Unit Pricing: Does it Serve Consumers?" (Boston University College of Business Administration, March 20, 1972). A USDA Study of its grading systems found that "the most frequent awareness score was zero." Economic Research Service, "Consumer Knowledge and Use of Government Grades for Selected Food Items, (USDA Marketing Research Report No. 876, 19). Undoubtedly, dramatic improvements in consumer use of unit pricing, grading, and labeling systems would result from improved implementation, including larger and more conspicuous wording and color coding. Still these devices cannot be the total answer, especially since improvements in communicating their messages to consumers are not generally in the sellers' interest. *Cf.* Moran, "Formulating Public Policy on Consumer Issues" (Marketing Science Institute Working Paper, Sept. 1971). Consumers are being called upon to make an increasing number of choices among increasingly complex products in increasingly limited time with relatively constant purchasing skills. These trends bear out the need for a competitive consumer product industry which, for a small charge, would supply a consumer with quick and very specific information about the availability of products and services tailored to his precise desires. Such an industry would also service retailers in point of purchase information systems. The primary reason for the present non-existence of this industry is that most of the basic information it needs for its performance is locked in secret corporate files or is not even known to the corporations because they have no profit incentives to conduct the requisite studies. Many of the proposals contained herein would supply those incentives—e.g., internalizing the costs of accidents, pollution, and other externalities. Counter-advertising would force disclosure of relevant information in ads. Mandatory prepublication ad substantiation requirements would expose the basis for that information. Potential class action damage liability for deceptive advertisements based on inadequate prior documentation of claims would ensure full disclosure. Other information, such as employment, financial, and antitrust related data, would be required to be systematically disclosed by the terms of federal corporate chartering legislation now being developed by the Corporate Accountability Research Group.

An offset of $4 billion for the annual cost of a consumer information system is contained in Tables IA and II of note 6. Of this amount, counteradvertising would probably consume less than $2 billion, since perhaps 50% of counteradvertising space could be taken from programming time or public service messages (television and radio) or conveyed through increased lineage (print media). Grading and labeling should not, when implemented, require substantially more resources than presently devoted, though in a different manner, to those activities, except that a substantial federal bureaucracy would be required to determine relevant product characteristics and the weights they should be afforded in arriving at an overall grade. Perhaps the dimensions of a consumer product information industry would be such as to render the $4 billion figure low. It may be somewhat reassuring that the 1970 budget of Consumers Union was a paltry $12 million. Nevertheless, it can probably be assumed that any consumer information costs in excess of $4 billion would

increase total consumer utility in excess of the $25 billion in Table II.

[87] *See* Senate Commerce Committee, *Staff Review of Class Action Legislation*, 92d Cong., 2d Sess. (April 1972).

[88] *See* Address of Ralph Nader to the Corporate Accountability Research Group Conference on the Federal Chartering of Corporations, "The Case for Federal Chartering," Mayflower Hotel, Washington, D.C., Oct. 30, 1971.

[89] One way to measure the cost of inflation is in terms of the magnitude of unemployment necessary to control it through slowing down the economy. When the "hidden" unemployed and underemployed are counted, unemployment has recently been at a level of 7.5% of the workforce. Tella, "Unofficial Unemployment Fills Out Jobless Picture," *Washington Post*, Aug. 13, 1972, at G1. A. Okun, "The Gap Between Actual and Potential Output," in *The Battle Against Unemployment* (1965) points out that each 1% drop in unemployment would have increased GNP by $20 billion in the early 1960s. To the extent that inflation results not from excess demand but from sellers (including labor unions) with market power, *see, e.g.*, Mueller, *supra* note 26, ch. 7; Blair, *supra* note 26, at 544–549, the GNP losses entailed in the inflation-unemployment trade-off can be eliminated by eliminating market power.

The text does not imply that such one-shot price-lowering actions as the elimination of the oil import quota would lead to permanent deflation. The potential for renewed demand pull inflation would of course remain even in a fully competitive economy. Fiscal and monetary controls would still have utility. There will be those, however, who will argue that suc a massive redistribution of wealth as is suggested would inevitably reduce the level of aggregate savings and investment as lower and middle income groups continued to spend their increased incomes at a high rate. This is tantamount to the position that extreme concentration of wealth is necessary for economic growth and price stability—the dismal science at its most dismal. It would be quite surprising if fiscal and monetary measures, including innovations as drastic as "forced saving" devices if necessary, were not equal to the task.

[90] As the Tables in note 6 show, primarily the wealthy annually reap $25 billion in monopoly overcharges, $20 billion from fraud, $58 billion from absence of a demogrant system, $9.8 billion from import restrictions, $64 billion in escape from progressive wealth ($91 billion less $27 billion property taxes paid by the top 20% of income brackets) taxes, $7.5 billion in utility and farm price overcharges, and $25 billion in federal subsidies. Total: $209.3 billion. The total is $191 billion even if one deducts $5 billion from monopoly overcharges, $5 billion from fraud, $1.5 billion from farm and utility overcharges, $1.8 billion from import barriers, and $5 billion from subsidies to reflect sharing of these benefits by the non-wealthy. In the process, they waste the $208.1 billion totaled in Table II.

[91] The polls indicate that the voters would be roused by such explanations. *See* note 78 *supra*; "America's Growing Antibusiness Mood," *Business Week*, ——, ——, 1972, at ——. *See also* Opinion Research Corp., "Consumer Protection: Which Products and Services Are the Chief Targets of Consumer Complaints," 28 *Public Opinion Index* (Mid-June, 1970).

(Working Draft No. 2, August 20, 1972)

ERRATA

1. P. 1, fn. 1—The Okner paper, cited also in notes 7b and 17 *infra*, is a preliminary analysis and the figures may change after final revisions.

2. P. 1, l. 10–11—change "the $4,000 tax liability . . . exactly" to "the tax liability of $4,000 or less for the 60 percent of families with incomes of less than $12,000 being at least exactly . . ."

3. P. 10, l. 2—after "redistribution.", add fn. 6x, which reads as follows:

This is a ball park estimate for the application of 33%, 40%, and 50% rates to Okner Plan D, *supra* note 1. This formulation, however, is not crucial. There are other means that demogrants to redistribute income—a negative income tax, for example. The essential point is that the substantial expansion of the tax base through loophole closing, *see* note 7 *infra*, and the fact that the bulk of the new revenues raised would come from the top 20% of income brackets, *see* text at note 8 *infra*, make possible a redistribution of at least $58 billion to the bottom 80%, which can be accomplished by a number of alternative devices.

4. P. 10, l. 15–16—change "no preferences . . . at all" to "with most preferences and deductions eliminated,".

5. P. 10, fn. 7—after "interest costs" on l.11, add: "of taxes deferred." After "realization in l. 12, add: "The Pechman-Okner comprehensive tax base does not even eliminate all itemized deductions. Such deductions as those for medical expenses, charitable contributions, mortgage interest, and state income taxes are retained, although in a form that substantially diminishes their revenue loss effects." In line 8, change "$178.8" to "$178.6."

6. P. 10, l. 22–24—Due to a misprint in Congressional hearings, strike the sentence "Another example . . . income brackets." In lieu thereof, insert: "The cherished deduction for medical expenses has similar consequences. In 1970, the average tax benefits from medical deductions to those in the $10,000–$15,000 brackets were $33; but the average benefits for those in the over $100,000 bracket were $499."

7. P. 10, fn. 7a—On l. 1–2 strike "Pechman & Okner . . . hearings" and in lieu thereof insert "Treasury Tax Deduction Data Misleading, Nader Unit Says," Washington Post, Aug. 29, 1972, at A2. One theme the hearings, *see* Pechman & Okner, supra note 7,"

8. P. 11, fn. 76—Beginning at l. 2 strike "The cherished deduction . . . Aug. 29, 1972, at A2" and in lieu thereof insert "In 1970, the average tax benefits from mortgage interest deductions to those in the $10,000 to $15,000 brackets were $50.97; but the average benefits for those in the over $100,000 bracket were $410.78. *See* "Treasury Tax Deduction Data Misleading," *supra* note 7a.

9. P. 12, fn. 11—at l. 17 after "exclusion," insert ", dividends paid to tax exempt organizations,".

COMMENDABLE RECORD OF SENATOR SPONG IN EDUCATION

Mr. PELL. Mr. President, the junior Senator from Virginia (Mr. SPONG) has a history of involvement in efforts to enrich education at all levels. As a member of the Virginia State Senate, he was chairman of a commission which conducted a detailed study of the Virginia public school system and made major recommendations for improvement and expansion of school offerings. During his 6 years in the U.S. Senate, BILL SPONG has continued to work for advances in education. He has been a particularly strong supporter of the impact aid program, of efforts to obtain advanced or early funding of education programs so that school officials can plan, and of programs to increase the types and quality of school offerings. He has also constantly sought to represent and assist local school officials in their dealings with the Federal Government. As chairman of the Subcommittee on Education, I know Senator SPONG to be an able and stanch supporter of increased Federal assistance to education. Virginia has an able advocate, one whose positive support I have come to rely upon. I believe BILL SPONG's record in education is a commendable one. I ask unanimous consent to have printed in the RECORD a chronology of his activities on behalf of excellence in education.

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

CHRONOLOGY OF ACTIONS BY U.S. SENATOR WILLIAM B. SPONG, JR., ON ELEMENTARY AND SECONDARY EDUCATION MATTERS

August 2, 1967—Voted for Labor-Health, Education and Welfare Appropriations Bill providing $1.7 billion for the Elementary and Secondary Education Act and $472 million for impacted areas aid in fiscal 1968.

October 2, 1967—Speech to convocation at Radford College in which Senator Spong noted, "Because of the fast-paced change in our nation and world, education—education in the sense of analyzing and evaluation alternatives and choosing wisely—must be a continuous pursuit, from the . . . classrooms to the halls of Congress.

October 27, 1967—Voted for conference report on education appropriations bill.

November 3, 1967—Speech to Virginia Education Association in which Senator Spong stressed the importance of education in equipping Americans to understand complicated problems in foreign affairs.

December 11, 1967—Voted to extend through fiscal 1971 the authorization for elementary and secondary education programs. In a Senate floor speech in support of the bill, Senator Spong said, "I have long felt that education is the single most important factor in enabling a person to share in the affluence of our nation and to make rational choices for his life."

February 20, 1968—Co-sponsored amendment to provide an additional $91 million for impact aid in fiscal 1968.

March 11, 1968—Passage of amendment introduced February 20. (See previous entry.)

March 25, 1968—Testified before Education Subcommittee of Senate Labor and Public Welfare Committee in support of more equitable distribution of National Defense Education Fellowships. Such fellowships he characterized as "seed" factors, producing college and university instructors who help educate public elementary and secondary school teachers.

April 10, 1968—Senate floor speech criticizing House rejection of impact aid amendment. (See February 20, 1968.) Senate then voted not to go along with House action. Amendment later enacted.

July 15, 1968—Senate adopted Spong amendment requiring that population be included as factor in determining allotment of NDEA fellowships. (See March 25, 1968.)

July 17, 1968—Voted for expanded school lunch program and for bill to extend and expand the Vocational Education Act of 1963.

July 25, 1968—Senate floor speech criticizing the Bureau of the Budget for not releasing the additional impact funds. (See April 10, 1968.)

July 26, 1968—Letter to President requesting release of impact funds. (See previous entry.)

September 6, 1968—Co-sponsored amendment to reappropriate $91 million in fiscal 1968 impact aid and exempt the appropriation from spending limitations imposed by the Revenue and Expenditure Control Act. Bill being amended also contained $505 million in fiscal 1969 impact funds. The $91 million was later released.

February 10, 1969—Release of results from poll of Virginia school superintendents, principals and school board chairmen on the effectiveness and flaws of federal education programs.

February 28, 1969—Senate floor speech in support of advance funding, i.e. funding of

programs a year in advance of the year in which the money is to spent, and in support of impact aid. Speech included information derived from poll. (See previous entry.)

June 18, 1969—Voted for amendment to exempt Office of Education from general spending limitations imposed by Revenue and Expenditure Control Act.

June 19, 1969—Testified before Education Subcommittee in support of certain elementary and secondary education programs, including impact aid.

September 30, 1969—Testified before Senate Agriculture Committee in support of an expanded school lunch program, as proposed by a bill he was co-sponsoring.

February 4, 1970—Adoption by Senate of Spong amendment to create an 18-member commission to study and recommend ways of implementing and operating advance funding for education.

February 19, 1970—Voted for extension of Elementary and Secondary Education Act.

February 19, 1970—Voted for resolution creating a Senate Select Committee on Equal Educational Opportunity. Committee was given broad authority which led to consideration of school finances, educational television and compensatory education as well as problems of segregation and desegregation. Senator later appointed to Committee.

February 24, 1970—Participated in floor debate on bill expanding national school lunch program and voted for passage of bill.

March 2, 1970—Spoke to Danville Education Association regarding educational needs.

April 28, 1970—Testified before Education Subcommittee in opposition to proposed changes in impact aid program which were designed to reduce authorizations for "B" category children.

June 25, 1970—Voted for amendment providing $150 million in emergency school aid for desegregating school systems.

July 13, 1970—Questioned Mr. Jerris Leonard, Assistant Attorney General for Civil Rights, who appeared before the Senate Select Committee on Equal Educational Opportunity, concerning desegregation efforts in the North versus those in the South. The Justice Department, at this time, was involved in more cases in each of 10 Southern states than in all other states throughout the nation.

July 20, 1970—Senate floor speech outlining conflicting court decisions over school desegregation and the hypocritical distinction between de facto and de jure segregation, which discriminates against the South.

August 3, 1970—Senate floor speech discussing ambiguities of Congressional action in the field of school desegregation and introduction of S. 4167, to protect the neighborhood school, reduce disparities among schools and permit majority-to-minority transfers.

August 6, 1970—Examined Elliot Richardson, Secretary of Health, Education and Welfare, who appeared before the Senate Select Committee on Equal Educational Opportunity, on the distinction between de facto and de jure segregation and the need for a single, national desegregation policy, which treats the South as other areas are treated.

August 13, 1970—Questioned Attorney General John Mitchell, who appeared before the Select Committee on Equal Educational Opportunity, about the "expertise" of persons sent by the Justice Department and Department of Health, Education and Welfare to assist local school personnel in desegregation procedures.

August 18, 1970—Letter to Senator Claiborne Pell (D. R.I.), Chairman of the Senate Education Subcommittee, pointing out conflicts in existing education policy and requesting hearings on S. 4167. (See August 3, 1970).

August 18, 1970—Voted to override Presidential veto of appropriations bill for elementary and secondary education.

August 27, 1970—Senator Spong; Congressman Richardson Preyer; Vincent Thomas, Chairman of the Norfolk School Board; A. C. Epps, Jr., Vice-Chairman of the Richmond City School Board and Dr. Brank Profitt, Superintendent of Burlington, N.C. City Schools, testifys before the Senate Education Subcommittee on S. 4167.

September 16, 1970—Requested permission from the U.S. Supreme Court to file an amicus curiae brief in the Charlotte-Mecklenburg school case. The Virginia Senator noted that the decision in that case would affect urban school districts in Virginia. Permission received. Brief later filed.

September 24, 1970—Participated in hearing before Senate Select Committee on Equal Educational Opportunity at which Dr. Alexander Bickel of Yale Law School, who helped prepare S. 4167, testified.

April 26, 1971—Voted to authorize $1.5 billion to assist desegregating school districts.

May 16, 1971—Speech in Chesapeake on need to help handicapped children.

July 15, 1971—Voted for amendment to increase school lunch facilities funds by $16 million.

July 30, 1971—Voted for appropriations bill for educvation programs.

September 1–3, 1971—Conducted hearings on problems and prospects of rural education.

October 1, 1971—Supported Senate Joint Resolution 157, expanding guidelines to provide additional school children with free or reduced-price meals.

October 8, 1971—Letter to Office of Emergency Preparedness (OEP) requesting clarification on effect of wage and price freeze on teachers' salaries.

October 15, 1971—Followup telegram to OEP requesting additional information. (See previous entry.)

October 27, 1971—Senate speech on inequities of pay freeze on teachers' salaries.

SOVIET EXIT FEES FOR JEWS

Mr. MONTOYA. Mr. President, my concern for the dignity and rights of all men compels me today to denounce the Government of the Soviet Union for the latest act of cruel injustice that it has perpetuated upon its Jewish citizens.

The free world has long known of the Kremlin's relentless efforts to eradicate the cultural consciousness of Russian Jewry. Most of their places of worship have been closed. Many of their cemeteries have been desecrated. The manufacture or importation of their religious articles is forbidden. Study of Hebrew is punished by imprisonment. Accusations of subversion, economic trials, and harassment by the secret police are commonplace.

Yet this was still not enough for the Kremlin authorities. Just a few weeks ago, the Soviet Government added another monstrous deed to its long list of crimes against its Jewish community. It demanded that those educated Jews who wish to escape from their cultural prison pay "exit fees." The latest information indicates that these fees range from $4,320 for trade school graduates to $37,440 for scholars with doctoral degrees. It is virtually impossible for the prospective emigrants to raise such huge sums in the Soviet Union, especially since they are usually fired from their jobs as soon as they apply for exit visas.

The intent of the Soviet Government is shamefully clear. With utter disregard of the most basic rights of men, the Kremlin is holding its Jewish technicians, scientists, and educators for ransom. The Communist leaders greedily hope that the free world, which has been so moved by the plight of Soviet Jewry, will agree to traffic in human beings and pay the enormous sums demanded. "Buy a scientist for $37,440. Teachers sold for even less," is the abhorrent cry of the Soviet authorities.

To the Jewish people who have known so much suffering, Russia's "new" exit fees are agonizingly familiar. Medieval tyrants regularly demanded ransoms of helpless Jewish communities. The Nazis were notorious for their trade in Jewish hostages. This is the infamous heritage which the Soviets have adopted as their own.

The Soviet Government's callous disregard for human dignity and freedom is an insult to all free men, and to those who yearn to be free. It is a clear slap in the face to this distinguished body, which has repeatedly called upon the Soviet rulers to halt their persecution of their Jewish citizens. It is in this light that any Soviet protestations of detente with the West must be assessed.

The Soviet Government must have hoped that the free world would quietly pay the ransom that it demands. Yet I cannot remain silent. Not while human beings are bartered for rubles. Not while the ransoms of men are coldly figured into a nation's balance of payments. I will never remain silent when any government attempts to destroy the dignity and rights of its people.

I most strongly urge the Soviet Government to rescind the hateful ransoms it has set on the educated Jews who wish to leave Russia.

NATIONAL CEMETERY SYSTEM ACT

Mr. PELL. Mr. President, the men and women who have served in the Armed Forces of the United States have earned through their service the gratitude and thanks of all Americans. In no small measure, we owe to the veterans of military service the very survival of our country and the preservation of the freedoms we cherish as Americans.

In appreciation for their service, the people of the United States have tried through their Government to make certain that the veterans who have survived the conflicts and wars of this century are not disadvantaged in civilian life as a result of their military service.

Through the GI bill, through our veterans' hospitals, through special employment and training programs, we have attempted to ease the burdens a veteran carries as a result of his service to his country. I believe it is the least the people can do through their Government for the veterans of service in the Armed Forces.

One effort we have undertaken on behalf of our veterans is to assure them a final resting place—a place of honor where they may, if they choose, rest with their fellow Americans who served in the armed services.

Unfortunately, this privilege, deeply cherished by many veterans, often is not readily available to the veterans of my own State of Rhode Island. There is no national cemetery within Rhode Island. Many veterans have spoken to me of

their concern that the distance to a national cemetery is discriminatory and often prohibits the burial of Rhode Island veterans in a national cemetery.

To meet this problem, several veterans organizations in Rhode Island have recommended establishment of a national cemetery system, as provided in the legislation being considered today. Formal resolutions to this effect have been adopted by the Department of Rhode Island Veterans of Foreign Wars and the Department of Rhode Island Amvets. In addition, the 43d Signal Co. Veterans Association in Rhode Island has for several years conducted an active campaign on behalf of establishment of a national cemetery within our State.

I take this opportunity to commend these organizations and their members for their perseverance and their patience in pursuing their goal.

The legislation I speak of directs that a study be conducted of the needs for additional burial space and additional national cemeteries with a report to be submitted to the Congress.

I believe this is an important step toward more equitable treatment of the veterans of my own State. I would hope and expect that the study will give priority consideration to the proposal that at least one national cemetery be established within each State. I think the veterans of Rhode Island deserve that consideration and it is my intention to see that the needs of our Rhode Island veterans are given full study and consideration and, ultimately, favorable action.

Mr. President, I commend the chairman and members of the Veterans Committee for their attention to this problem and I am pleased to support the legislation they have recommended to the Senate.

UTAH LEN ALLEN DAY

Mr. MOSS. Mr. President, I wish to draw attention to the designation of October 5, 1972, as Len Allen Day in my home State of Utah.

Today Mr. Allen is celebrating his 25th year in broadcasting at radio station KLO in Ogden, Utah, and the entire State has chosen to honor him for the many contributions he has made during that time to people of his community.

Len Allen has served as the kingpin for a number of years in the activities of the Odgen Chamber of Commerce, Jaycees, Hill Air Force Base, Internal Revenue Service, Defense Depot Odgen and whenever and wherever called upon by other community organizations.

Mr. Allen has received three major Air Force Association and Utah Air Force Association Awards for his outstanding support, and received citations as 2701st Explosive Ordnance Squadron Honorary Detachment Commander and Honorary Executive Officer of the 145th Military Air Lift.

In recognition of his service to his community, Mr. Allen received the Distinguished Service Award of Ogden in 1955. He has served as vice president, State president, and on the national board of the Jaycees.

And it is because of hundreds of donated hours of Mr. Allen's talents that his community has been able to claim so many public-benefiting events.

Mr. President, I am sure that Senators join in sending to Mr. Allen the congratulations of the Senate on this his 25th year in broadcasting and public service.

AUTHORSHIP OF THE PLEDGE OF ALLEGIANCE

Mr. PELL. Mr. President, I have long had a very warm regard for Miss Louise Harris, who has done a great deal of thorough and scholarly research concerning our flag, and various matters concerning our flag and the Pledge of Allegiance.

In this regard, I believe that Senators might find of interest the enclosed memorandum which, at my request, she sent to me. I ask unanimous consent that it be printed in the RECORD.

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

AUTHORSHIP OF THE PLEDGE OF ALLEGIANCE

(By Louise Harris)

I would like to call to the attention of the Congress of the United States of America page 76 of the Library of Congress report on the authorship of the Pledge of Allegiance. While the authorship was given to Francis Bellamy, there is still some doubt since a request is made for more evidence to fill in the gaps. My book, "The Flag Over the Schoolhouse," contains this information not known before for the simple reason the original source has never been explored but always discarded. This material is in The Youth's Companions from 1888 through 1926. Here is set forth the Flag Program which led to the writing of the Pledge of Allegiance for the School Celebration for the 400th Anniversary of Columbus coming to America. Tracing this program through The Companions there is no doubt that James Bailey Upham wrote the Pledge and is the true author.

In addition to this evidence in The Companion pages, a card in Bellamy's handwriting has been found stating he "wrote it in August 1892." This date is found in the records of every committee formed to determine the correct authorship. It has been completely overlooked and neglected. When a search is made of the time element for printing, it will be found to be an impossibility to write a statement in August and have it in print and in the homes for September 8 on today's huge roll stock presses.

There is another proof in the 1893 Souvenir Booklet, written and published by The Youth's Companion. The new presses, much inferior to today's, in the new Companion Building located on Columbus Avenue, Boston, Massachusetts, were not in use until *December 1892*. This fact means The Companion material for the September 8, 1892 issue had to be taken downtown to the old "flat beds", which were much slower, housed in the Pearl Street building.

Chapters two and three in "The Flag Over the Schoolhouse" give the development of the Flag Program step by step. Chapter four traces all the other patriotic programs Mr. Upham planned and carried out, while chapter five follows the controversy with definite, concrete proof that James Bailey Upham is the true author of the Pledge of Allegiance. This serious wrong should be corrected before 1976, the year of the 200th birthday of this Great Nation.

I wish to extend my thanks to Senator Claiborne Pell for making it possible for me to present this evidence to the entire Congress of the United States of America. I also wish to thank Mr. St Germain for his deep interest in my work and ideas.

MISLEADING THE PUBLIC AT PUBLIC EXPENSE—THE NIXON RECORD ON AGING

Mr. WILLIAMS. Mr. President, the Nixon administration apparently has decided to feed the public a diet of misinformation about its record on aging.

On September 19, Senator FRANK CHURCH led a Senate discussion of the administration's intentions to cloud the facts surrounding the enactment of a 20-percent social security increase on July 1.

His feeling was that social security checks scheduled for delivery today will be accompanied by an anouncement which, by saying that President Nixon had signed the bill calling for the 20-percent increase, suggested that he was responsible for it.

Nothing, of course, could be further from the truth. President Nixon opposed that increase and would have settled for 5 percent. Even at the signing ceremony, he expressed his opposition to a 20-percent increase, despite the clear need of the elderly for higher benefits. It is a matter of record that the President also opposed other successful congressional initiatives for social security increases in 1969 and 1971.

It seems to me that the mailing of the announcement to 28 million social security beneficiaries is the height of hypocrisy, a misuse of the Government's responsibility to give accurate information to the public, and another blow to the credibility of the Nixon administration.

Today I find it necessary to inform the Senate that Government money is being used for the preparation of political documents and that the U.S. mails are being used for the delivery of millions of misleading publications about the Nixon performance on aging.

While we are not certain exactly how many of these publications have been sent through the mail, we believe the number is large, and we know these publications are going to people who did not ask for them. Clearly, they are political documents rather than public information pamphlets but they have been prepared, printed, and distributed at public expense.

On September 15, Senator CHURCH requested the Government Accounting Office to investigate the mailings. Today, eight other Senators have joined me in a letter to the GAO indicating their support of his position. These are Senators EDMUND S. MUSKIE, ALAN CRANSTON, EDWARD M. KENNEDY, HUBERT H. HUMPHREY, ABRAHAM RIBICOFF, WARREN G. MAGNUSON, BIRCH BAYH, and FRANK E. MOSS.

Our concern is based upon two major considerations:

Millions of these items have been published, all of them since June 30. We cannot help wondering why the President waited until the seventh month of the final year of his term in office to see a need for issuing them.

The publications are misleading in the worst degree: They attempt to provide substance where none exists; they quite often give credit to the administration for legislative accomplishments which the administration opposed.

On the matter of quantity, I have been able to obtain preliminary information which I will subject to GAO scrutiny. It

appears clear, however, that the following items were printed on the following dates:

A Report to Older Americans (Department of Housing and Urban Development) Dated (30 June 72) HUD Publication, 1½ million copies printed.

The Veterans' Administration and Older Americans Dated (17 July 1972) 1½ million copies printed.

U.S. Department of Labor Reports to Older Americans Dated (17 July 1972) 1½ million copies printed.

Food and Housing for the Elderly (Agriculture Dept.) Dated (17 July 1972) 1,250,000 copies printed.

Opportunities for Older Americans in Action Dated (8/23/72) 1,550,000 copies printed.

Dignity Instead of Destitution—OEO's Programs for Elderly Poor 1½ million copies printed.

We are still trying to determine the number of publications mailed and the approximate cost of the Government. About 1½ million of each of these six publications were printed. Assuming that only one-third of them were mailed, that would be 3 million publications at 8 cents a letter or $24,000.

On the matter of quality—in terms of accuracy and service to the public—the pamphlets are almost completely useless.

I will analyze one of them—the U.S. Department of Labor Reports to Older Americans—to make my point about the low standards of accuracy.

Mr. President, I ask unanimous consent to have inserted in the RECORD a statement which describes, in some detail, the wide gap between administration claims—as expressed in the Department of Labor pamphlet—and actual performance.

Without objection, the following statement was ordered to be printed in the RECORD, as follows:

THE U.S. DEPARTMENT OF LABOR REPORTS TO OLDER AMERICANS: A REBUTTAL

Nixon Administration's Claim: President Nixon has stated that "This Administration is deeply committed to involving older citizens as actively as possible in the life of our Nation—by enhancing their opportunities both for voluntary service and for regular employment."

In Fact: By whatever barometer one would choose to use, older workers have been scandalously ignored in manpower programs conducted by Richard Nixon's Administration. Persons 45 and older now account for 22 percent of the total unemployment in the United States; 39 percent of all joblessness for 15 weeks or longer; 40 percent of all unemployment for 27 weeks or longer; and 36 percent of the civilian labor force. Yet, they constitute less than 4 percent of all first-time enrollees in work and training programs.

Nixon Administration's Claim: The number of job and training opportunities under Operation Mainstream has doubled from 5,000 to 10,000 and funding increased from $13 million to $26 million because of President Nixon's directive at the White House Conference on Aging.

In Fact: Expansion of Mainstream was achieved only after a long and bitter struggle with an Administration which has treated older workers like "step-children." For nearly three years, the Nixon Administration stubbornly opposed legislation—the Older American Community Service Employment Act—to establish the Mainstream pilot projects on a permanent, ongoing national basis.

But, even Richard Nixon was forced to admit at the White House Conference on Aging:

"Some of the best service programs for older Americans are those which give older Americans a chance to serve.

"Federal programs to provide such opportunities have proven remarkably successful at the demonstration level. But now we must move beyond this demonstration phase and establish these programs on a broader, national basis."

Yet, his Administration still resists the creation of a national senior service corps. In a letter sent to me in April, 1972, Secretary of Labor James Hodgson said:

"Despite the apparent success of several of the categorical programs such as the Community Senior Service Program, it is clear that, as a whole, because of the multiplicity of separate and distinct programs each vying for a share, the categorical approach of recent years has not fulfilled the expectations of manpower programs for older people or for anyone else. We believe it is time to stop proliferating categorical programs."

Nixon Administration's Claim: President Nixon has termed discrimination based on age "cruel and self-defeating; it destroys the spirit of those who want to work and it denies the nation the contribution they could make if they were working."

In Fact: Despite the rhetoric, President Nixon has consistently failed to take to heart Congressional demands that the Age Discrimination in Employment Act should be enforced, instead of thwarted. It took his Administration until late in 1969 to file its first age discrimination suit. Without Congressional pressures, the Administration surely would have allowed the Act to lapse into dead letter law.

And then when the Democratic Congress insisted that he take action, his response was timid. Only 116 suits have been filed, less than 30 a year. Yet, more than 2,500 violations were found under the Act for fiscal 1971 alone, for a 14 percent jump. In practically every category the number of infractions shot upwards. And these figures probably only represent a tiny fraction of the violations, since many illegal acts simply go unreported.

Moreover, persons 40 and above have become the scapegoat class for the Nixon Administration. Thousands have been coerced into earlier retirement under pressure tactics. Ironically, the Federal Government, which ought to be a model employer, has become a leading offender in the discriminatory treatment of older workers.

Nixon Administration's Claim: "Only half the Nation's work force is presently covered by private pension plans. Consequently, the President has submitted to Congress a five-point program to expand and reform our private pension system.

Tax deductions to encourage independent savings toward retirement;

More generous tax deductions for pension contributions by self-employed persons;

A requirement that all pensions become vested;

A requirement that pension funds be administered according to strict fiduciary standards with full information regarding rights and benefits to be made available to employees and beneficiaries;

A special study of pension plan terminations to provide needed information on which to base future recommendations regarding ways to provide protection without reducing benefits because of increased costs."

In Fact: The vast majority of all persons participating in private pension plans will never collect on their promised benefits. Over half of all private pensioners receive less than $1,000 a year.

But, Richard Nixon has proposed a watered down pension reform package, which offers precious little hope for today's workers.

Despite the need for fundamental change, Richard Nixon has countered with tax "incentives" which are likely to be a bonanza for the rich, at the expense of moderate and low-income workers. His "more generous tax deductions for pension contributions by self-employed persons" will provide an additional $5,000 tax write-off for individuals who make $50,000. But the wage earner with an income of $7,500 is likely to be left out in the cold because he will not have a sufficient margin between income and outgo to permit "independent savings toward retirement."

The Nixon "Rule of 50" for partial vesting of pensions will still provide little or no protection for millions of workers. And it may even intensify the reluctance of employers to hire older workers because the new rule will add to their pension costs.

Another Nixon study—this time, on pension plan terminations—is unlikely to shed any new light because pension failures have been studied for years. What is needed now is a genuine effort to provide pension plan reinsurance to protect against terminations—such as occurred at Studebaker nearly a decade ago—instead of more studies.

Let's Set the Facts Straight: Masked in all this deception is a massive cover-up for the Nixon Administration's empty "game plan" for older workers. But, the selective use of figures, legerdemain tactics, wild "guesstimates", and misleading statements cannot conceal the truth: Richard Nixon's economic and manpower policies have failed older workers and their families.

Nearly 1.1 million persons 45 and older are unemployed, almost ½ million more than when Richard Nixon took office. If the "hidden unemployed" were also counted, the "real" unemployment for mature workers would probably be approaching 2.3 million.

Yet, President Nixon has opposed virtually every constructive Democratic initiative to establish a clear-cut national policy to maximize job opportunities for older Americans. He vetoed a comprehensive manpower bill (the Employment and Manpower Act) in 1970, at a time when the unemployment rate was 6 percent. His Administration also opposed a Middle-Aged and Older Workers Employment Act, even though this measure can provide training and job opportunities for nearly 140,000 persons 45 and older.

Obstructionism and deception are not the answers for the unique and growing employment problems for mature workers. These severe problems demand a serious response, instead of hollow promises and twisted facts. And the record is all too clear that middle-aged and older workers will need a change if they are to receive fair treatment.

Similar misstatements appear in other publications. Some may be classified as outright deceptions. Others might be categorized as puffery, whatever the description, the U.S. Government has no business sending them out as factual reports to the public.

And to whom are these items being sent? The Committee on Aging has already received reports from individuals who have received more than one pamphlet. One man, a non-veteran has received both the Department of Labor and the Veterans Administration publication, and he didn't ask for either. I can't help wondering how the Administration decided upon its distribution for each item. Here again, I hope that the GAO can provide useful information.

Other decisions about distribution are equally mysterious. For example, Blue Carstenson at the Farmers Union has received bulk mailings of hundreds of the pamphlets. Neither he nor the Farmers Union had requested them, and I suspect that they do not know what constructive use can be made of them.

I think I must ask once more: why after 3½ years does an Administration resort to such tactics?

The answer is simple and disquieting: the Nixon Administration has accomplished so little on aging that it has nothing else to offer.

H.R. 1—SOCIAL SECURITY AND WELFARE REFORM

Mr. HATFIELD. Mr. President, before us during these closing weeks of the 92d Congress is H.R. 1, a bill to reform two significant institutions of our society: Social security and welfare. This bill, well over 950 pages in length, has been under consideration for almost 4 years and has been the focus of much public debate. I have reached several conclusions about our social security and welfare systems which I would like to share with you today.

There is no question that social security and welfare have needed signficant alteration. The question has been how to go about it. Today, social security is neither equitable nor just. It is not equitable in that not everyone can equally participate. Nor is it just for some are excluded and many are paid too little on which to retire. Furthermore, the trust fund concept is a sham that has little relationship to insurance principles.

Today, the payroll tax is the second largest source of Federal revenues next to the income tax. By next year, its costs will exceed that of the income tax for many. For instance, under the Senate Finance Committee's provisions of H.R. 1, social security taxes will be raised for the family of four with one wage earner whose income is $13,900 or less. This reflects increasing benefits under social security as well as across-the-board benefit increases recently voted. With the increase voted last June and the one approved by the Senate Finance Committee, the maximum social security payroll tax will raise 38 percent in 1973—from $468 at present to $648—raising the effective payroll tax rate from 5.5 to 6 percent by January 1973.

On the face of it, this would present no problems, but at closer examination the present social security system is revealed to be a regressive tax system, representing a transfer of income from lower- and middle-income workers to the elderly unemployed. In fact, for such a level of contributions workers could get three times the benefits from a private plan. Under the Senate version of H.R. 1 the payroll tax rate decreases as income increases. For instance, the worker earning $3,000 per year faces an increase of 9.1 percent; the $10,000 worker a rise of 3.4 percent; and the $50,000 wage earner an increase of 0.4 percent. This is a far cry from the original measure 36 years ago which taxed each employee and employer 1 percent on the first $3,000 of wage earnings.

Having established that the social cost of providing for the elderly is borne inequitably by the lower- and middle-income working people, what should be done?

The Senate Finance Committee has reported out a bill that includes proposals to:

Raise the minimum benefits to $200 per month for low-income workers who have worked for at least 30 years;

Increase widows' cash benefits from the present 82.5 percent to 100 percent;

Make disabled workers under 65 eligible for medicare;

Increase from $1,680 to $2,400 the amount an elderly person can earn.

I have introduced a number of amendments to H.R. 1 to improve the benefits of our social security system including:

Removing the $255 limit per month on the lump-sum death payment so that these payments would vary with the past earnings of the worker;

Allowing children's insurance benefits on the basis of wages and self-employment income of certain relatives with whom a child is living and from whom he receives support;

Eliminating recent work tests as a condition of insured status for disability insurance benefits, a test that does not have to be met to qualify for other social security benefits;

Qualifying a worker aged 55 or over as disabled for purposes of social security, if he meets the test of disability now applicable to older blind workers;

Allowing disabled widows and widowers to receive unreduced widows' and widowers' insurance benefits without regard to age;

Allowing disabled wives and husbands to receive unreduced wives' and husbands' insurance benefits without regard to age;

Providing coverage for out-of-hospital prescription drugs with a copayment of $2.

But much more than this needs to be done. On November 17, 1971, I introduced a bill which I believe must be implemented before significant reform and broader benefits can be effected. Briefly, the legislation would put social security on a voluntary basis: Employees would have the choice of contributing to social security or to a comparable private pension or insurance plan. Second, it would provide for the funding of the first $100 of monthly benefits to be paid out of general revenues. Third, it provides for the funding of medicare out of the general revenues. And finally, it would put social security on a pay-as-you-go basis. This would drastically alter the financing structure of social security and medicare, while making it equitable and just for those presently contributing.

Mr. President, the second major portion of H.R. 1 deals with welfare reform. And while I believe that it would be much better to consider this matter separately from social security—a very complex issue in itself—I would like to describe the direction in which I believe we should move in the area of welfare.

To date there are really no criteria to judge the success or failure of the present system. There is a great deal of evidence indicating much needs to be done, and the present debate is focused on what kind of action should be taken. Governor Reagan, of California, presented testimony before the Senate Finance Committee earlier this year detailing specific legislative and regulatory action to be taken at the State and Federal levels to clean up the present system. While I am not in total agreement with all the Governor's proposals, I believe they can be of significant value in straightening out the present welfare mess. Governor Reagan advocated the following legislative measures, many of which I believe should be adopted:

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

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

REAGAN PROPOSALS

1. State Option for Administration: To allow each state to choose whether it wishes to provide for administration of public assistance programs by the state, designated local governmental units, or by the Federal-government. Strong fiscal incentives—or disincentives—in connection with various options to be included.

2. Relief to Low-Income Families: Exempt low-income families from the Federal and state income tax (including withholding) and provide them a rebate of their social security taxes, including the employer's contribution thereto.

3. Overall Limit on AFDC Family Income: In determining eligibility, apply a gross income limitation of 150% of the state's standard of need. This will require an amendment to Social Security Act Section 402(a)(8) in order to place a realistic ceiling on the amount of income a recipient may receive and still remain eligible for welfare.

4. One-Third Income in AFDC: Section 402(a)(8) should be amended to expressly require this earned income deduction to be made from "net income rather than "gross" income.

5. Community Work Programs: To require employable AFDC recipients not working full time or participating in a work or training program, to work in essential community improvement projects as a condition of receiving welfare. Title IV of the Social Security Act should be amended to expressly require federal financial participation in aid payments to recipients participating in such programs.

6. Employables Program: To place employable AFDC recipients into self-sustaining employment. Emphasis to be placed on furtherance of Section 402(a)(14) and (15) of the Social Security Act. It is difficult to promulgate such programs without securing waivers to the single-state agency requirements.

7. Fiscal Incentives for Efficient Management: Federal matching formulae providing incentives toward attainment of certain goals, previously limited to assistance or service aspects, should be extended to provide for attaining a goal of simplified and more efficient management.

8. Increased Federal Reimbursement for Child Support Activities: No federal participation is presently available for "preventative welfare". (A) The Federal government should give the states and counties a bonus to spur collection efforts. A federal support enforcement incentive should be created to allow the state or local jurisdiction to retain money saved by its collection. (B) The Federal government should ease up participation restrictions on child support activities and accord the same priority as the items listed in Section 402(a)(3)(A).

9. District Attorney Costs in Enforcing Family Support: To allow full costs of law enforcement agencies in enforcing family support. There is a need for a clear expression of congressional intent that there will be federal reimbursement for all expenditures by the district attorney and other law enforcement agencies in obtaining absent parent child support. Such amendments should be made to the Social Security Act.

10. Recipient's Failure to Cooperate with Law Enforcement Agencies: The Federal government should adopt the "debt to the government" concept in all cases where welfare is paid because of a person's failure to support where he is liable for support. To avoid constitutional problems, the amount of the debt should be limited by the ability to pay of the debtor at the time the debt arises.

11. Federal Participation in Costs of District Attorney Welfare Fraud Investigation and Collection. (A) The Federal government

should allow reimbursement of state costs of fraud prosecutions in the same priority as the items listed in Section 402(a)(3)(A) of the Social Security Act. (B) A Fraud Prevention Incentive Fund should be established that would return to the counties any federal money collected in fraud prosecutions. The fund should not be based on convictions, but should reflect actual funds collected. (C) The Federal Statutory approach should not be based on convictions but on actual funds lost due to fraud.

12. Aliens on Welfare: The support of citizens of other countries shall be a fiscal obligation of the Federal government. States should not be required to support citizens of another country, when the state and county governments have no effective voice in determining admission standards.

13. Fair Hearings: Amend the appropriations sections of the Social Security Act, to provide for an evidentiary hearing by a local welfare agency as a required preliminary to a hearing conducted by the state agency. Include the specific criteria which determines under which circumstances it is proper to continue aid payments pending a decision in an appealed case. It would be necessary to amend the fair hearing requirements in each of the Public Assistance Titles to permit states to meet these requirments through a two-step hearing process the first of which could be less than a full blown fair hearing but would meet the test of an evidentiary hearing in accordance with the Goldberg decision.

14. The 18- to 21-Year Old Adult: Limit the AFDC program to legally defined children. The limited resources available for this program should be limited to those persons who have been defined legally as children in order to maximize protection.

15. Modify Statewideness Requirements of Social Services: Amend the Social Security Act to clearly permit a state to provide social services in such counties, areas, or districts, as the states or counties deem necessary.

16. Vendor Payments for Non-Recurring Items of Special Need in AFDC: Amend the Social Security Act to provide appropriate exceptions to the "money payment" principle. It would be more efficient and better for the recipient if the money payment principle were waived in these situations and the agency permitted to pay a vendor directly for the full cost, with such cost reported on claims as an assistance payment eligible for federal matching.

17. Simplified Eligibility: The requirements in the various titles governing "proper and efficient administration" should be revised so as to make the use of "simplified methods" in determining eligibility optional rather than mandatory with the states.

18. Denial of AFDC Where There is a Continuing Child-Parent Relationship with Nonrelated Adult: Permit a state to deny aid to a child where the child is living in a parent-child relationship with a nonrelative adult, e.g., child whose father/mother has deserted and where child is living with his father/mother and his/her unmarried partner (MARS). Proposed changes in Section 406 of the Social Security Act would provide that when a nonrelated adult assumes the role of parent the child shall not be considered deprived nor a "dependent child" within the federal definition.

19. Wage Attachment for Federal Employees: To allow attachment of wages of federal employees including the military. To increase the collection of absent parent child support funds and thereby reduce the public assistance support.

20. Dependents of Military Personnel on Welfare: Eliminate the inefficient and inappropriate inclusion of families of military personnel among those eligible for public assistance payments. (Not to be paid by the states, but by the federal government.)

21. Marital and Community Property Resources: Allow a state to consider the income of a non-adoptive step-parent in determining eligibility for and the amount of grants of AFDC to the non-adopted stepchildren. Proposed changes would provide: (A) that in family groups living together, income of the spouse is considered available for his spouse. Since Federal regulations require that income of a natural parent be considered available to children, it would follow that the income of a spouse would be considered available to all the family's children for eligibility and grant determination. (B) that where natural parents have vested interest in the (right to manage and control of) income of their spouses, that portion vested in (under the management and control of) the natural parent could be considered available to that parent's children for eligibility and grant determination.

22. Confidentiality: Legislation is needed to provide that such records are available to all public authorities for any legitimate public purpose, and to eliminate impediments to cross-checking with state and Federal tax authorities. To accomplish this, several sections of the Social Security Act would have to be amended.

23. Work-Related Expenses: Provide a flat standard allowance of $50 to cover reasonable costs of employment, plus reasonable and necessary standard amounts for child care where applicable. In the Welfare Reform Act of 1971 California included a provision to cover reasonable and necessary amounts for child care.

24. Sanctions Imposed for Refusal to Work or Train: Social Security Act should be amended to expand the sanctions so that acceptance and participation in job search, work and training is thereby encouraged. Legislation should provide that a range of sanctions could be imposed by the states including removal from public assistance for a period of up to one year.

Mr. HATFIELD. Mr. President, I believe that many of Governor Reagan's proposals should be seriously considered, and many implemented, as the first stage of welfare reform. I would further propose, however, that the Federal Government give the States the choice of Federal financing of the entire welfare system, or shared costs as under the present system. This option should be available after the State has indicated compliance with the new laws and regulations listed above. At the same time, Federal and State governments should undertake model development of neighborhood welfare corporations. Local community corporations could experiment in the takeover of financing as well as administration of the various welfare functions.

As you know, Mr. President, there are presently two distinct classifications of welfare recipients: Those perpetually in need—for example, the children of those with no, or very low, incomes, the blind, disabled, and elderly—and those temporarily in need who would be employable if given the training or job opportunity. It is obvious that some form of support will always be needed for the first category, whether it is called welfare or something else. The second group, those who are employable—only a small portion of those presently eligible for welfare—will also need assistance through training, job placement counseling, and the like. The neighborhood welfare corporation can be a vehicle for handling either or both, and the models developed should explore such possibilities.

For several reasons, I feel the eventual focus of our national welfare efforts should be at the neighborhood and local community level. Those who most need community support—those who cannot help themselves—are most in need of a sense of caring and belonging. Certainly every community cannot have the facilities to handle all of the disabled, for example. But to the extent that day care, health facilities or home where the elderly can be properly attended to are placed at the local level, the more "at home" and healthy these individuals will become.

In many such cases, being close to home and near loved ones in familiar surroundings can make a critical difference. Furthermore, and H.R. 1 moves in this direction, the administration of such a program can be much more effective at the local level than through the State or Federal Government. Also, the opportunity should be provided for individuals and communities to take care of themselves and their own to the greatest extent possible—even to the point of being able to finance the programs themselves. This might seem farfetched to some, but there is growing evidence that neighborhoods and communities have the potential financial base to fund their own programs if they are properly constructed.

This can be done a step at a time. If the model development of neighborhood welfare corporations proceeds well, the Federal and State Governments can give increasing responsibility to the neighborhoods. Hopefully, they could eventually be independent of Federal and State administration and funding. Financing could come from various sources, perhaps on the basis of tax credits, as suggested in legislation I introduced last year. Whether this concept can become a reality depends on the success of the models developed; the interest evidenced by those involved, particularly at the local level; and the experience and assistance made available by State and Federal Government.

In summary, I would like to see three basic welfare reforms instituted: First, dealing with problems in the present system through the implementation of many of Governor Reagan's recommendations; second, providing the States with a choice of funding of welfare costs, after they have adopted those recommendations; and third, the development of model neighborhood welfare corporations which may eventually assume the administrative, programmatic and financial functions of both State and Federal Government.

PREDATOR CONTROL

Mr. BAYH. Mr. President, on August 7, I had the opportunity to testify before the Subcommittee on the Environment of the Committee on Commerce, on the question of predator control.

Most interested groups now agree that general poisoning programs create unnecessarily widespread destruction of nontargeted animals; however, an effective alternative has not been approved yet. Of course, there are a number of possible alternative methods of predator control: my bill, S. 2083, would establish local programs of selective trapping similar to those which have been so successful in Missouri; other alternatives

include chemical repellents which were documented in a Wall Street Journal article of September 18. Mr. President, I have spoken out on this issue many times. There is a crucial need for effective legislation and I hope active debate will continue until that legislation is passed.

I ask unanimous consent that my testimony and the Wall Street Journal article be printed in the RECORD.

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

PREDATOR CONTROL

Mr. Chairman, I appreciate the opportunity to appear today before this Subcommittee. Our struggle toward balanced predator control has been long and difficult but I trust that under the leadership of the Senator from Utah, we will realize positive legislative results this year. I have been interested in this problem for some time. As one who has viewed first-hand the wonder and glory of the natural wildlife in the untamed American West, I shared the sense of national outrage which erupted last year in response to the reports of airborne hunting of eagles.

But I soon became far more disturbed by a greater threat to our wildlife—the national predator control program, an eight million dollar a year Federal effort managed by the U.S. Interior Department's Bureau of Sports, Fisheries and Wildlife. The linchpin of this program has been the widespread and indiscriminate use of extremely potent poisons on publicly owned land throughout our Western states. As a result, I introduced legislation on June 17 of last year to prohibit the use of poisons on public lands, to prohibit the interstate shipment of thallium and Compound 1080, and to establish effective alternative programs for predator control, rather than predator eradication. Many members of Congress have repeatedly drawn public attention to this outrage; one very satisfying result was the President's Executive Order of February 8, 1972 to restrict the use of chemical toxicants on Federal lands.

Mr. Chairman, unfortunately Executive Orders are often short-lived. Therefore, it is imperative that an unequivocable ban on use of poisons on our public lands be enacted into law. I say this because the enforcer of this Order—the Interior Department—has perfected the very poisoning program which we are now trying to discontinue. For the last decade, the Division of Wildlife Services of the Department of the Interior probably has been the greatest indirect killer of the very endangered species which it is supposed to be protecting.

Let's look for a moment at the history of this country's thoughtless and tragic destruction of its animals. As of 6 months ago, the Division of Wildlife Services had 700 agents who had placed 2,300,000 pounds—more than a thousand tons—of poisoned meat on public land in the past five years. The main poisons are compound 1080, of which more than 100,000 pounds has been used annually for two decades, and thallium sulfate. The legal poisoners have used three million strychnine tablets and tons of poisoned grain. Not only has the Interior Department engaged in its own massive poisoning program, but states have subsidized similar programs by local governments and private organizations, often duplicating and aggravating the destructive impact of federal programs. Given the previous popularity of the program, the pressures on that Department to relax the restrictions on poisoning will no doubt continue to be great.

In fact, it is my understanding that Compound 1080 is still being used as a rodenticide —for rabbits, gophers, and other non-predators whose populations have mushroomed as retribution for the elimination of their natural predators. Mr. Chairman, Friends of the Earth reports that a decision on the question of a complete ban on compound 1080 will be postponed until late autumn to permit the processing by EPA of two agency petitions to permit continued use of 1080. I believe the continued use of this poison for any purpose is contrary to the public interest and flies in the face of the recent national outcry against poisoning. First of all, a single ounce of the compound 1080 could kill 200 adult humans.

Secondly, the poison is not biodegradable. It has a cumulative effect which means that great amounts of poison, harmful to humans, can accumulate in our food and water supplies. Because many of the poisons are placed near streams, there is special reason to be concerned about the long-range impact on the water supply.

Mr. Chairman, I have received a wide variety of reports about the effectiveness of the recent Executive Order: some say past stocks of poison are still being used, others believe that local authorities with the assistance of the 700 former poisoning agents have quickly shifted to intensive trapping, and others believe animals are sufficiently protected. I look forward to studying testimony on the effectiveness of the ban. At any rate, the consensus that intensive, non-targeted trapping is being used leads to my strong concern that within a few years, this substitute program could come under criticism as strong as that for poisoning. Therefore, I would urge that two priorities of any legislation this year be the unambiguous declaration in law that poisoning of animals shall not occur on public lands and the formulation of, and full funding for, a constructive method of predator management.

In the crucial search for a reasonable predator control technique, I believe that my bill, S. 2083 provides an ecologically sound alternative in the form of selective trapping, performed by local farmers and agents. I believe a variation of this method, combined with the use of non-lethal methods such as fences, could be used quite effectively on the wide-open, Western lands. We cannot afford to support or encourage programs of random trapping or killing; such programs inevitably escalate into the wanton destruction of wildlife and invite continued public outrage.

This alternative to poisoning—known as the extension predator control program—is based on the belief that only a small number of the animals now being killed are truly a threat to livestock. For instance, extension agents have found that the majority of coyotes live some distance from ranches and feed on wild rodents. Careful trapping near chicken coops or livestock watering areas can effectively deal with those coyotes that actually pose a threat.

Under the extension predator control program, as implemented in my bill, federal mammal control agents would instruct farmers and ranchers in techniques of trapping the individual mammals causing depradations of domestic livestock. There are careful studies which indicate that selective trapping by the farmers themselves would reduce damage from predators by 80 percent, while cutting sharply into the number of man days and costs per catch. I was particularly pleased that endorsement of these techniques formed one of the 15 recommendations of the January 1972 report on the Nixon Administration's Advisory Committee on Predator Control.

Extension predator control began in Missouri in September, 1945 and has been very effective. Since 1957, one federal control agent has been able to handle all requests for trapping demonstrations or training service by holding an annual meeting for about 2,000 farmers and then meeting individually with 400–700 farmers on their own land. Written statements from the farmers who received training indicate that they have reduced their damage losses an average of 80 percent—in other words, each farmer has realized savings of about $100 per year. In addition, the cost per animal taken decreased from $116 when federal agents were doing the trapping to $6.99 when the farmer trapped. The combined livestock and program savings present a strong argument for shifting to this system.

Mr. Chairman, a simple application of logic demonstrates that hidden costs accumulate rapidly with extensive destruction of the predator population.

In an attempt to destroy all potential ranch predators, ranchers are only upsetting a natural balance of wildlife and are creating ripples of new economic losses for themselves. As I mentioned, elimination of wild predators will likely lead to mushrooming of small rodents who then strip the grazing lands intended for livestock. In fact, in 1970, Division of Wildlife Services designated a cumulative 223,019 acres for separate rodent-poisoning programs. Of course the inevitable result of expanding the circle of extermination to include rodents is that too great a decrease in rodent population will force previously innocent predators toward captive livestock. In either case, upsetting the natural balance of predators and prey will only lead to economic loss and to increased pressure for more of the poison which caused the problem.

I suggest we should listen to naturalists like Dr. Frank C. Craighead, Jr., who has stated, "Coyotes are a desirable and indispensable part of a collective predator population which serves to regulate prey populations on wild lands. They perform a useful function as scavengers and they do more good as rodent destroyers than harm as livestock killers." Even the U.S. Public Land Law Review Commission has recommended that predator control programs be eliminated or reduced on public lands, noting in its 1970 report: "While these programs may have been of some benefit to livestock operators in reducing cattle and sheep depredations by coyotes, puma, cougar, and bear, they have upset important natural mechanisms for the population control of other species."

[From the Wall Street Journal, Sept. 18, 1972]

SEARCH FOR WAYS TO DISCOURAGE THE WILY COYOTE WITHOUT POISONS OCCUPIES AN ARMY OF SCIENTISTS

(By Mike Tharp)

LARAMIE, WYO.—How do you make a sheep taste like a toad?

Who would want to?

Robert McColloch, that's who. Mr. McColloch is a University of Wyoming biochemist, one of a group of scientists thrown into a battle to prevent the West's major predator, the wily coyote, from hamstringing production of the nation's sheep.

This task got top priority in recent months after President Nixon signed an executive order forbidding the use of predator poisons on public lands, which takes in much of the West. Livestock men long regarded these toxicants as their best weapons against livestock losses supposedly inflicted by coyotes. Environmentalists claim the poisons are nonselective and decimate rare and innocent animals.

Somewhere between the feuding factions are the research scientists engaged in major, federally financed projects concocting toad-flavored sheep and other techniques to reduce coyote attacks on the 18.5 million sheep grazing throughout the country. Figures on losses from coyote predation vary according to who reports them, but the U.S. Department of Agriculture reported that in 1971 in Texas alone some 269,000 sheep, about

7% of the flocks of the nation's biggest mutton-producing state, were killed by predators, mostly coyotes.

TRAP-WARY VETERANS

Common control devices effective on other predators, such as bobcats, don't work well on the crafty coyote. A coyote is instinctively trap-vary, and one that has had his toes pinched by the near-miss of a steel trap is virtually uncatchable, professional trappers say. So with poisons sharply curtailed and traps ineffective, the search for alternatives is focused on scientific schemes aimed at dissuading the coyote from partaking of his beloved lamp chops.

That won't be easy. Coyotes are as notorious for their sly adaptability as for their penchant for mutton. Says one veteran trapper: "If you put a coyote on a tennis court with nothing else in there, he could hide behind the ball."

An initial step in the research is to determine exactly how many sheep are actually killed by coyotes and the circumstances involved. At the federal government's wildlife research center in Denver, Donald Balser directs a project to equip sheep with dominosized, wax-encased circuitry on collars that emits signals only when a sheep hasn't moved for several hours, a fair indication that it's dead. By dashing to the scene from listening posts in aircraft and land stations, Mr. Balser says he hopes to come up with "the true cause of death and the total losses."

Mr. McColloch and his associates also are conducting research with telemetry. One scenario calls for temperature-sensitive devices to be placed beneath a sheep's skin to register its body temperature. Once its temperature falls below a certain level, as in death, a signal goes off, probably at a monitoring station in a researcher's home. In theory, the researcher leaps immediately into a pickup truck, drives 3 miles into the snowy mountains to the university's flock and discovers whether a coyote killed the sheep or whether the sheep died of other causes and the coyote merely ate it as carrion.

Which brings us to toads. Almost nothing eats toads, particularly coyotes, because a certain chemical in the amphibian's skin gives it a revolting taste. Mr. McColloch, graduate student Douglas Crowe and other researchers are trying to extract this and similar aversive agents, then apply them to sheep to make them disgusting to your average coyote.

They will test such mundane compounds as cinnamon oil and Tabasco sauce along with more exotic distillates like skunk spray and cougar urine. In the field tests, they will rig "training" sheep with the various unpleasant substances in microencapsulated form on the animal's wool. When bitten by a coyote attacking the sheep, the capsules are supposed to burst, releasing the chemical and giving the coyote a repulsive, sickening taste in his mouth. After that, scientists theorize, the keen-witted coyote will quickly decide to avoid all sheep and teach its young to do the same. Ideally, the scientists hope to create a new generation of coyotes that would shudder at the sight of a sheep, which is far from the situation now.

Meantime, a crew at Colorado State University is searching for a chemical that would make the coyote turn up its nose at the mere whiff of a sheep on the same range. The scent would repel the coyote either by being excruciatingly foul-smelling or by triggering the animal's fear mechanism.

MERCAPTANS AND MOTH CRYSTALS

Skunk mercaptans (the malodorous musk of that mammal), other animal scents and moth-crystal derivatives will be wafted toward coyotes from areas where rabbits and sheep are. The coyotes' reaction time will be gauged on an automatic recorder.

Already discarded, at least for now, is one federal experiment involving the lacing of baits wtih birth-control agents to limit reproduction of the coyote. Results weren't commensurate with the efforts, says Mr. Balser of the federal wildlife research center.

Two scientists at South Dakota State University are trying to discourage coyotes with ultrasonic transmitters implanted in the lead sheep of a flock. These "bleepwethers" emit high-pitched sound that, it's hoped, will prove too painful for sensitive coyote ears.

Already there is a slight obstacle. "We can't drive the sheep, herders, dogs and horses nuts, too," frets wildlife scientist Arthur Dracy.

Other techniques being considered range from fencing (though sheep men cringe at the prospective cost of fencing thousands of acres of rugged grazing lands) to trying to change the timid, docile nature of sheep. "Coyotes are very aware of the odds," says Mr. McCulloch. "There's no reason to think LSD would cause aggressiveness in sheep, but if we don't find anything else we may have to try it."

BITTER BUT HELPFUL

Many sheep raisers, bitter over the band on poisons, view the various research efforts with something of a jaundiced eye, although they have vowed to help and are even donating sheep to the tests. William Simms, president of the Texas Sheep and Goat Raisers Association, asks: "Who's going to be out there to put this repellant on the lamb when it's born? The mother?"

But Jack Berryman, director of the wildlife services division of the Interior Department, defends predation-control research as "desperately needed" and refuses to take sides in the ranchers-vs-environmentalists fight. "We can have coyotes in abundance, and we can protect the sheep industry," he says. "We don't have to make that choice."

Douglas Crowe, the Wyoming graduate student, who is a seasoned trapper, guide and naturalist, believes the research is needed because one method alone won't work against the coyote. "We need an arsenal of different management tools, including olfactory, gustatory and reproductive," he says.

Even then, he says, man may just have to learn to live with the coyote. "When the last man on earth chokes on his own garbage and falls over dead," says Mr. Crowe, "there's going to be a coyote there chewing on his tibia."

CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, according to current Census Bureau approximations, the total population of the United States as of October 1 was 209,803,487. This represents an increase of 194,241 since September 1. This is roughly the equivalent of the population of Syracuse, N.Y. It also represents an addition of 1,713,932 since October 1 last year, an increase which is roughly the equivalent of twice the population of Baltimore, Md.

ANNOUNCEMENT BY SENATOR HUMPHREY OF REVENUE SHARING GRANTS TO STATE AND LOCAL GOVERNMENTS IN MINNESOTA

Mr. HUMPHREY. Mr. President, the Joint Committee on Internal Revenue Taxation has recently made available the dollar allocations that local and State governments will receive under the revenue sharing legislation approved by the House-Senate conference committee.

Under the conference bill, Minnesota will receive $103.9 million in revenue sharing funds. This money will be split among State and local governments with $34.6 million going to the State and $69.3 allocated to local governments.

Mr. President, I ask unanimous consent that the data outlining Minnesota's allocation—among the State and local units of government—be printed in the RECORD.

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

Revenue sharing funds for Minnesota

[In dollars]

Total State grant to all locals	69,628,819
Amount returned to Minnesota State government is	0
Aitkin County area	360,979
Aitkin County govt	246,411
Total to all cities over 2,500	0
Total to all cities under 2,500	22,994
Total to all townships	31,574
Anoka County area	1,445,562
Anoka County govt	827,963
Total to all cities over 2,500	583,989
Total to all cities under 2,500	17,605
Total to all townships	16,006
Anoka City	12,089
Blaine City (part)	75,125
Circle Pines Village	24,767
Columbia Heights City	120,466
Coon Rapids Village	119,658
Fridley City	116,918
Linolakes Village	13,441
Springlake Park (part)	41,525
Becker County area	632,603
Becker County govt	432,430
Total to all cities over 2,500	63,260
Total to all cities under 2,500	27,249
Total to all townships	109,664
Detroit Lakes City	63,260
Beltrami County Area	556,005
Beltrami County Govt	380,728
Total to all cities over 2,500	131,090
Total to all cities under 2,500	14,900
Total to all townships	29,287
Bemidji City	131,090
Benton County Area	403,156
Benton County Govt	223,403
Total to all cities over 2,500	122,401
Total to all cities under 2,500	23,960
Total to all townships	33,391
Sauk Rapids Village	56,468
St. Cloud city (part)	65,933
Big Stone County Area	209,600
Big Stone County Govt	126,176
Total to all cities over 2,500	34,349
Total to all cities under 2,500	27,106
Total to all townships	21,969
Ortonville City	34,349
Blue Earth County Area	981,956
Blue Earth County Govt	455,211
Total to all cities over 2,500	380,468
Total to all cities under 2,500	85,748
Total to all townships	60,528
Mankato City	380,468
Brown County area	739,880
Brown County government	422,402
Total to all cities over 2,500	234,590
Total to all cities under 2,500	14,857
Total to all townships	68,031
New Ulm City	131,630
Sleepy Eye City	61,170
Springfield City	41,790
Carlton County area	737,878
Carlton County government	456,208
Total to all cities over 2,500	154,966
Total to all cities under 2,500	81,767
Total to all townships	44,937
Cloqjet City	154,966

Carver County area	338,916
Carver County government	227,754
Total to all cities over 2,500	38,315
Total to all cities under 2,500	20,217
Total to all townships	52,631
Chanhassen Village	4,103
Chaska City	26,291
Cass County area	457,235
Cass County government	373,481
Total to all cities over 2,500	0
Total to all cities under 2,500	40,260
Total to all townships	43,495
Chippewa County area	398,798
Chippewa County government	257,228
Total to al lcities over 2,500	54,764
Total to all cities under 2,500	26,721
Total to all townships	50,085
Montevideo City	55,405
Granite Falls City (part)	9,358
Chisago County area	281,187
Chisago County government	188,179
Total to all cities over 2,500	0
Total to all cities under 2,500	51,602
Total to all townships	41,406
Clay County area	657,475
Clay County government	383,573
Total to all cities over 2,500	182,377
Total to all cities under 2,500	47,015
Total to all townships	39,511
Moorhead City	182,377
Clearwater County area	211,501
Clearwater County government	167,500
Total to all cities over 2,500	0
Total to all cities under 2,500	18,118
Total to all townships	25,883
Cook County area	52,667
Cook County government	47,738
Total to all cities over 2,500	0
Total to all cities under 2,500	4,929
Total to all townships	0
Cottonwood County area	326,603
Cottonwood County government	206,805
Total to all cities over 2,500	37,514
Total to all cities under 2,500	37,875
Total to all townships	44,408
Windom city	37,514
Crow Wing County area	829,390
Crow Wing County government	568,585
Total to all cities over 2,500	121,681
Total to all cities under 2,500	88,015
Total to all townships	51,109
Brainerd city	121,681
Dakota County area	1,187,997
Dakota County government	625,624
Total to all cities over 2,500	513,040
Total to all cities under 2,500	11,732
Total to all townships	37,601
Lakeville Village	14,500
Hastings City (part)	76,571
Lakeville Village	14,500
Mendota Heights Village	22,445
South St. Paul City	194,988
West St. Paul City	68,441
Inver Grove Heights	44,227
Burnsville Village	12,595
Dodge County Area	316,443
Dodge County Govt	161,443
Total to all cities over 2,500	0
Total to all cities under 2,500	86,406
Total to all townships	68,594
Douglas County Area	561,339
Douglas County Govt	394,053
Total to all cities over 2,500	69,119
Total to all cities under 2,500	36,210
Total to all townships	61,958
Alexandria City	69,119
Faribault County Area	551,544
Faribault County Govt	323,832
Total to all cities over 2,500	80,756
Total to all cities under 2,500	57,715
Total to all townships	79,242
Blue Earth City	49,327
Wells Village	31,429
Fillmore County area	578,466
Fillmore County government	330,459
Total to all cities over 2,500	28,200
Total to all cities under 2,500	108,237
Total to all townships	111,571
Spring Valley Village	28,200
Freeborn County area	783,981
Freeborn County government	512,439
Total to all cities over 2,500	132,500
Total to all cities under 2,500	57,720
Total to all townships	81,322
Albert Lea City	132,500
Goodhue County area	821,554
Goodhue County government	396,075
Total to all cities over 2,500	176,365
Total to all cities under 2,500	146,788
Total to all townships	102,327
Red Wing City	176,365
Grant County area	196,957
Grant County government	131,408
Total to all cities over 2,500	0
Total to all cities under 2,500	44,735
Total to all townships	20,814
Hennepin County area	12,449,574
Hennepin County government	5,751,059
Total to all cities over 2,500	6,584,025
Total to all cities under 2,500	104,710
Total to all townships	9,780
Bloomington City	298,424
Brooklyn Center Village	127,651
Brooklyn Park Village	95,494
Crystal City	112,587
Deephaven Village	14,027
Edina Village	160,356
Excelsior Village	9,331
Golden Valley Village	88,271
Hopkins City	59,128
Maple Grove Village	22,347
Minneapolis City	4,814,471
Minnetonka Village	130,248
Mound Village	27,587
Osseo Village	13,994
New Hope Village	20,000
Orono Village	24,709
Plymouth Village	64,050
Richfield City	171,951
Robbinsdale City	61,801
St. Anthony Village (part)	25,070
St. Louis Park City	177,966
Shorewood Village	15,374
Wayzata City	13,470
Minnetrista Village	10,478
Eden Prairie Village	25,259
Houston County area	376,801
Houston County govt	215,179
Total to all cities over 2,500	67,332
Total to all cities under 2,500	43,268
Total to all townships	51,022
Caledonia Village	17,193
La Crescent Village	50,140
Hubbard County area	279,335
Hubbard County govt	221,350
Total to all cities over 2,500	23,408
Total to all cities under 2,500	7,853
Total to all townships	26,723
Park Rapids Village	23,408
Isanti County area	227,447
Isanti County govt	158,062
Total to all cities over 2,500	28,316
Total to all cities under 2,500	11,622
Total to all townships	29,446
Cambridge Village	28,316
Itasca County area	937,804
Itasca County govt	605,537
Total to all cities over 2,500	115,563
Total to all cities under 2,500	141,189
Total to all townships	75,515
Grand Rapids Village	115,563
Jackson County area	378,817
Jackson County govt	242,504
Total to all cities over 2,500	43,561
Total to all cities under 2,500	38,592
Jackson City	43,561
Kanabec County area	196,590
Kanabec County govt	143,855
Total to all cities over 2,500	25,377
Total to all cities under 2,500	6,192
Total to all townships	21,166
Mora Village	25,377
Kandivohi County area	780,590
Kandivohi County govt	500,862
Total to all cities over 2,500	162,722
Total to all cities under 2,500	57,419
Total to all townships	59,587
Willmar City	162,722
Kittson County area	180,883
Kittson County govt	112,321
Total to all cities over 2,500	0
Total to all cities under 2,500	49,607
Total to all townships	18,955
Koochiching County area	379,592
Koochiching County govt	298,159
Total to all cities over 2,500	49,091
Total to all cities under 2,500	32,341
Total to all townships	0
International Falls City	49,091
Lac qui Parle County area	294,670
Lac qui Parle County government	200,632
Total to all cities over 2,500	0
Total to all cities under 2,500	59,041
Total to all townships	34,997
Lake County area	271,828
Lake County government	181,542
Total to all cities over 2,500	73,970
Total to all cities under 2,500	3,372
Total to all townships	12,944
Two Harbors City	32,294
Silver Bay Village	41,676
Lake of the County area	105,236
Lake of the County government	97,747
Total to all cities over 2,500	0
Total to all cities under 2,500	7,489
Total to all townships	0
Le Sueur County area	459,522
Le Sueur County government	284,668
Total to all cities over 2,500	45,902
Total to all cities under 2,500	93,558
Total to all townships	35,394
Le Sueur City	45,902
Lincoln County area	214,932
Lincoln County govt	147,255
Total to all cities over 2,500	0
Total to all cities under 2,500	30,120
Total to all townships	37,557
Lyon County area	617,069
Lyon County govt	400,438
Total to all cities over 2,500	178,742
Total to all cities under 2,500	37,888
Total to all townships	0
Marshall City	112,333
Tracy City	66,409
McLeod County area	423,769
McLeod County govt	243,280
Total to all cities over 2,500	102,664
Total to all cities under 2,500	40,938
Total to all townships	36,886
Glencoe City	53,751
Hutchinson City	50,914

Revenue sharing funds for Minnesota—Con.

[In dollars]

Mahnomen Couny area	148,813
Mahnomen County govt	115,350
Total to all cities over 2,500	0
Total to all cities under 2,500	13,779
Total to all townships	19,684
Marshall County area	344,715
Marshall County government	243,722
Total to all cities over 2,500	0
Total to all cities under 2,500	59,258
Total to all townships	41,735
Mariin County area	446,337
Mariin County government	228,241
Total to all cities over 2,500	105,934
Total to all cities under 2,500	50,735
Total to all townships	61,428
Fairmont City	105,934
Meeker County area	489,553
Meeker County government	327,589
Total to all cities over 2,500	58,485
Total to all cities under 2,500	45,692
Total to all townships	57,788
Litchfield City	58,485
Mille Lacs County area	387,763
Mille Lacs County government	255,388
Total to all cities over 2,500	36,178
Total to all cities under 2,500	56,232
Total to all townships	39,904
Princeton Village	36,178
Morrison County area	711,311
Morrison County govt	434,091
Total to all cities over 2,500	106,276
Total to all cities under 2,500	61,799
Total to all townships	109,145
Little Falls City	106,276
Mower County area	953,970
Mower County govt	444,385
Total to all cities over 2,500	355,973
Total to all cities under 2,500	75,116
Total to all townships	78,496
Austin City	355,973
Murray County area	316,423
Murray County govt	211,645
Total to all cities over 2,500	0
Total to all cities under 2,500	48,386
Total to all townships	56,392
Nicollet County area	415,146
Nicollet County govt	253,208
Total to all cities over 2,500	112,488
Total to all cities under 2,500	10,154
Total to all townships	39,296
North Mankato City	67,819
St. Peter City	44,669
Nobles County area	560,987
Nobles County govt	295,365
Total to all cities over 2,500	135,678
Total to all cities under 2,500	62,847
Total to all townships	67,097
Worthington City	135,678
Norman County area	264,158
Norman County govt	199,706
Total to all cities over 2,500	0
Total to all cities under 2,500	26,352
Total to all townships	38,100
Olmsted County area	1,296,901
Olmsted County govt	525,574
Total to all cities over 2,500	676,515
Total to all cities under 2,500	28,451
Total to all townships	66,361
Rochester City	664,696
Stewartville Village	11,819
Ottertail County area	1,216,717
Ottertail County govt	740,801
Total to all cities over 2,500	177,319
Total to all cities under 2,500	135,038
Total to all townships	163,559
Fergus Falls City	177,319
Pennington County area	188,427
Pennington County government	131,416
Total to all cities over 2,500	41,795
Total to all cities under 2,500	2,333
Total to all townships	12,884
Thief River Falls City	41,795
Pine County area	424,975
Pine County government	316,156
Total to all cities over 2,500	0
Total to all cities under 2,500	48,364
Total to all townships	60,455
Pipestone County area	337,615
Pipestone County government	275,490
Total to all cities over 2,500	69,181
Total to all cities under 2,500	40,187
Total to all townships	22,757
Pipestone City	69,181
Polk County area	908,902
Polk County government	534,040
Total to all cities over 2,500	206,762
Total to all cities under 2,500	74,384
Total to all townships	93,715
Crookston City	133,391
East Grand Forks City	73,371
Pope County area	182,904
Pope County govt	115,072
Total to all cities over 2,500	21,586
Total to all cities under 2,500	19,598
Total to all townships	26,648
Glenwood City	21,586
Ramsey County area	8,280,922
Ramsey County govt	3,193,350
Total to all cities over 2,500	5,032,324
Total to all cities under 2,500	45,979
Total to all townships	9,269
Blaine City (part)	18
Arden Hills Village	20,490
Falcon Heights Village	21,484
Little Canada Village	12,673
New Brighton Village	71,018
North St. Paul Village	52,545
Roseville Village	125,668
St. Paul City	4,450,117
St. Anthony Village (part)	8,566
White Bear Lake City (part)	84,791
Springlake Park (part)	608
Maplewood Village	95,467
Mounds View Village	36,363
Shoreview Village	40,171
Vadnais Hgts Village	12,345
Red Lake County area	142,215
Red Lake County govt	110,443
Total to all cities over 2,500	0
Total to all cities under 2,500	18,912
Total to all townships	12,860
Redwood County area	528,528
Redwood County govt	350,975
Total to all cities over 2,500	45,029
Total to all cities under 2,500	58,253
Total to all townships	74,274
Redwood Falls City	45,029
Renville County area	557,958
Renville County govt	373,117
Total to all cities over 2,500	30,093
Total to all cities under 2,500	97,610
Total to all townships	57,138
Olivia Village	30,093
Rice County area	696,259
Rice County govt	313,879
Total to all cities over 2,500	299,579
Total to all cities under 2,500	22,019
Total to all townships	60,782
Faribault City	228,673
Northfield City	70,905
Rock County area	253,256
Rock County govt	149,298
Total to all cities over 2,500	47,657
Total to all cities under 2,500	16,142
Total to all townships	40,158
Luverne City	47,557
Roseau County area	305,360
Roseau County government	224,752
Total to all cities over 2,500	22,188
Total to all cities under 2,500	20,301
Total to all townships	38,120
Roseau Village	22,188
St. Louis County area	5,825,126
St. Louis County government	3,260,120
Total to all cities over 2,500	2,441,450
Total to all cities under 2,500	123,556
Total to all townships	0
Aurora Village	51,232
Babbitt Village	19,916
Chisholm City	156,072
Duluth City	1,212,570
Ely City	129,440
Eveleih City	122,082
Hibbing Village	332,374
Hoyt Lakes Village	70,624
Proctor Village	18,526
Virginia	328,614
Scott County area	545,235
Scott County government	279,792
Total to all cities over 2,500	156,671
Total to all cities under 2,500	68,802
Total to all townships	39,970
New Prague City	52,500
Savage Village	25,069
Shakopee City	79,101
Sherburne County area	276,538
Sherburne County govt	168,375
Total to all cities over 2,500	42,430
Total to all cities under 2,500	42,365
Total to all townships	23,368
St. Cloud City (part)	42,430
Sibley County area	418,224
Sibley County govt	294,942
Total to all cities over 2,500	0
Total to all cities under 2,500	66,479
Total to all townships	56,804
Sterns County area	2,063,208
Stearns County govt	882,109
Total to all cities over 2,500	693,562
Total to all cities under 2,500	324,984
Total to all townships	162,553
St. Cloud City (part)	654,054
Sauk Centre City	16,524
Waite Park Village	22,984
Steele County area	483,173
Steel County govt	274,886
Total to all cities over 2,500	143,763
Total to all cities under 2,500	28,704
Total to all townships	35,820
Owatonna City	143,763
Stevens County area	296,096
Stevens County government	174,981
Total to all cities over 2,500	64,788
Total to all cities under 2,500	19,958
Total to all townships	36,369
Morris City	64,780
Swift County area	347,803
Swift County government	245,508
Total to all cities over 2,500	30,203
Total to all cities under 2,500	29,579
Total to all townships	425,512
Benson City	30,203
Todd County area	528,453
Todd County government	241,443
Total to all cities over 2,500	60,497
Total to all cities under 2,500	124,728
Total to all townships	101,785
Staples City	60,497
Traverse County area	165,072
Traverse County government	111,227
Total to all cities over 2,500	0
Total to all cities under 2,500	35,081
Total to all townships	18,764
Wabasha County area	403,896
Wabasha County government	246,920
Total to all cities over 2,500	38,062
Total to all cities under 2,500	69,325

Total to all townships	49,589
Lake City	38,062
Wadena County area	311,605
Wadena County government	225,396
Total to all cities over 2,500	44,616
Total to all cities under 2,500	21,366
Total to all townships	20,228
Wadena Village	44,616
Waseca County area	372,726
Waseca County government	222,447
Total to all cities over 2,500	83,606
Total to all cities under 2,500	36,391
Total to all townships	30,282
City of Waseca	83,606
Washington County area	912,552
Washington County government	579,460
Total to all cities over 2,500	219,838
Total to all cities under 2,500	53,902
Total to all townships	59,352
Bayport Village	28,464
Forest Lake Village	17,298
Hastings City (part)	108
Lake Elmo Village	8,000
Mahtomedi Village	19,678
Newport Village	19,292
St. Paul Park Village	44,106
Stillwater City	82,608
White Bear Lake City (part)	84
Watonwan County area	350,997
Watonwan County govt	229,035
Total to all cities over 2,500	41,831
Total to all cities under 2,500	40,533
Total to all townships	39,598
St. James City	41,831
Wilkin County area	247,820
Wilkin County govt	167,562
Total to all cities over 2,500	41,379
Total to all cities under 2,500	14,985
Total to all townships	23,894
Breckenridge City	41,379
Winona County area	1,150,629
Winona County govt	445,922
Total to all cities over 2,500	515,495
Total to all cities under 2,500	135,884
Total to all townships	53,327
Winona City	515,496
Wright County area	688,935
Wright County govt	436,230
Total to all cities over 2,500	34,202
Total to all cities under 2,500	133,193
Total to all townships	85,310
Buffalo Village	34,202
Yellow Medic County area	380,559
Yellow Medic County govt	250,396
Total to all cities over 2,500	33,103
Total to all cities under 2,500	59,487
Total to all townships	37,573
Granite Falls City (part)	33,103

RETIREMENT OF THE HONORABLE WILLIAM M. COLMER

Mr. ALLEN. Mr. President, retirement is often a time of mixed feelings—both for those who are retiring and for those who have come to know and appreciate the one who is leaving. Such is indeed the case with the Honorable WILLIAM M. COLMER, of Mississippi, who is retiring at the end of this session of Congress.

Congressman COLMER came to the House of Representatives in 1932, and the people of the Fifth District of Mississippi—and the Nation, I might add—have been well and faithfully served by him during all these long and eventual years.

He has seen national administrations come and go. He has seen the rank and file and leadership of the Congress change as the Nation passed through the trials of World War II, the Korean war, and the long conflict in Indochina. He has seen and heard the loud and persistent needs of a great land, and he has not hesitated to respond both on the floor of the House and in committee to meet those needs.

BILL COLMER has been a stabilizing influence on the House Rules Committee, where he serves as chairman of that most prestigious and important group. And, we need only think of the vast changes that have taken place in the world—indeed, in our own States—to truly appreciate how important a strong and resolute spokesman for orderly change and stability can be to the the effective functioning of that great deliberate body that is the Congress—the Nation's legislature.

Congressman COLMER has brought to his committee assignments broad knowledge and vast and valuable experience. This, powered by the intensity of his convictions, has made the Rules Committee a byword for hard work and integrity.

Now, after all these years of dedicated effort on behalf of his home district, his State, and his Nation, WILLIAM M. COLMER will retire. While I know that all of us in the Congress wish him well in the years ahead, I also know that we will miss the face and voice that have become so familiar and respected.

While wishing Godspeed to BILL COLMER, I hope that the years of retirement will prove as rewarding to him as his years here have been to all of us.

MILITARY CONSTRUCTION APPROPRIATIONS 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 1192, H.R. 16754.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 16754) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time for the quorum call not be charged against either side.

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

The second assistant legislative clerk proceeded to call the roll.

Mr. 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.

EXECUTIVE SESSION

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

I make this request at this time pending the arrival of other Senators who are interested and who should be here during the consideration of the military construction bill.

The PRESIDING OFFICER. Is there objection?

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

PROTOCOL TO THE INTERNATIONAL CONVENTION FOR THE NORTHWEST ATLANTIC FISHERIES RELATING TO AMENDMENTS TO THE CONVENTION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Chair lay before the Senate Executive C, 92d Congress, first session.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider Executive C, 92d Congress, first session, the protocol to the International Convention for the Northwest Atlantic Fisheries relating to amendments to the convention, which was read the second time, as follows:

PROTOCOL TO THE INTERNATIONAL CONVENTION FOR THE NORTHWEST ATLANTIC FISHERIES RELATING TO AMENDMENTS TO THE CONVENTION

The Governments parties to the International Convention for the Northwest Atlantic Fisheries signed at Washington under date of February 8, 1949, which Convention, as amended, is hereinafter referred to as the Convention, desiring to facilitate the entry into force of amendments to the Convention, agree as follows:

ARTICLE I

Article XVII of the Convention is renumbered "Article XVIII" and a new Article XVII is inserted to read as follows:

"ARTICLE XVII

"1. Any Contracting Government or the Commission may propose amendments to this Convention to be considered and acted upon by a regular meeting of the Commission or by a special meeting of the Commission called in accordance with the provisions of paragraph 6 of Article II of the Convention. Any such proposed amendment shall be sent to the Executive Secretary at least ninety days prior to the meeting at which it is proposed to be acted upon, and he shall immediately transmit the proposal to all Contracting Governments and to all Commissioners.

"2. A proposed amendment to the Convention shall be adopted by the Commission by a three-fourth majority of the votes of all Contracting Governments. The text of any proposed amendment so adopted shall be transmitted by the Depository Government to all Contracting Governments.

"3. Any amendment shall take effect for all Contracting Governments one hundred and twenty days following the date on the notification by the Depositary Government of receipt of written notification of approval by three-fourths of all Contracting Governments unless any other Contracting Government notifies the Depositary Government that it objects to the amendment, within ninety days of the date on the notification

by the Depositary Government of such receipt, in which case the amendment shall not take effect for any Contracting Government. Any Contracting Government which has objected to an amendment may at any time withdraw that objection. If all objections to an amendment are withdrawn, the amendment shall take effect for all Contracting Governments one hundred and twenty days following the date on the notification by the Depositary Government of receipt of the last withdrawal.

"4. Any Government which becomes a party to the Convention after an amendment has been adopted in accordance with paragraph 2 of this Article shall be deemed to have approved the said amendment.

"5. The Depositary Government shall promptly notify all Contracting Governments of the receipt of notifications of approval of amendments, the receipt of notifications of objection or withdrawal of objections, and the entry into force of amendments."

ARTICLE II

1. This Protocol shall be open for signature and ratification or approval or for adherence on behalf of any Government party to the Convention.

2. This Protocol shall enter into force on the date on which instruments of ratification or approval have been deposited with, or written notices of adherence have been received by, the Government of the United States of America, on behalf of all Governments parties to the Convention.

3. Any Government which becomes a party to the Convention after this Protocol has been opened for signature shall at the same time adhere to this Protocol.

4. The Government of the United States of America shall inform all Government signatory or adhering to the Convention of all ratifications and approvals deposited and adherences received and of the date this Protocol enters into force.

5. Any Protocol amending the Convention which has been signed but which has not entered into force at the date of entry into force of the present Protocol shall thereafter enter into force in accordance with the provisions of the present Protocol; provided, however, that, if instruments of ratification or approval or notices of adherence with respect to such Protocol have been received by the Depositary Government from three-fourths of all Contracting Governments at the time of entry into force of the present Protocol, the date on which the ninety, and one hundred and twenty, day periods specified in the first sentence of paragraph 3 of Article XVII shall commence with regard to such amendment shall be the date of entry into force of the present Protocol.

ARTICLE III

1. The original of this Protocol shall be deposited with the Government of the United States of America, which Government shall communicate certified copies thereof to all the Governments signatory or adhering to the Convention.

2. This Protocol shall bear the date on which it is opened for signature and shall remain open for signature for a period of fourteen days thereafter, following which period it shall be open for adherence.

IN WITNESS WHEREOF the undersigned, having deposited their respective full powers, have signed this Protocol.

DONE at Washington this sixth day of October 1970, in the English language.

For Canada:

For Denmark:
TORBEN RØNNE
Oct. 16, 1970

For France:
CHARLES LUCET
Oct. 12th 1970

For the Federal Republic of Germany:
ROLF PAULS
Oct. 9, 1970

For Iceland:
MAGNÚS V. MAGNÚSSON
Oct. 6, 1970

For Italy:
EGIDIO ORTONA
Oct. 16—1970

For Japan:

For Norway:
ARNE GUNNENG
October 6, 1970

For Poland:
JERZY MICHALOWSKI
October 20th 1970

For Portugal:
VASCO VIEIRA GARIN
October 20th 1970

For Romania:
CORNELIU BOGDAN
Oct. 19, 1970

For Spain:
JAIME ARGUELLES
19–Octubre–1970

For the Union of Soviet Socialist Republics:
YULY M. VORONTSOV
[Romanization]
20.10.70

For the United Kingdom of Great Britain and Northern Ireland:
JOHN FREEMAN
Oct. 15, 1970

For the United States of America:
BURDICK H. BRITTIN
Oct. 6, 1970

I CERTIFY THAT the foregoing is a true copy of the Protocol to the International Convention for the Northwest Atlantic Fisheries relating to Amendments to the Convention, which Protocol was signed at Washington under date of October 6, 1970 in the English language, the signed original of which is deposited in the archives of the Government of the United States of America.

IN TESTIMONY WHEREOF, I, WILLIAM P. ROGERS, Secretary of State of the United States of America have hereunto caused the seal of the Department of State to be affixed and my name subscribed by the Authentication Officer of the said Department, at the city of Washington, in the District of Columbia, this sixteenth day of November, 1970.

[SEAL]

WILLIAM P. ROGERS,
Secretary of State.

By BARBARA WARTMAN,
Authentication Officer,
Department of State.

Mr. PELL. Mr. President, this treaty is designed to provide a more expeditious method of amending the 1949 Convention for the Northwest Atlantic Fisheries. Under the terms of the 1949 Convention, amendments can be achieved only by means of a treaty requiring affirmative action by all the contracting governments. This protocol is designed to remedy the situation by allowing an amendment to enter into force 120 days after the approval of only three-fourths of the contracting governments. The entry into force will automatically occur without the advice and consent of the Senate unless the Secretary of State files an objection within 90 days of the date of the notification by the depository government.

However, the Secretary of State's letter of submittal specifically affirms that:

It would be the duty of the Secretary of State to register an objection to any proposed amendment if upon approval of it by ¾ of the contracting governments, approval of the proposed amendment had not been completed in accordance with the U.S. constitutional process.

During the recent hearings conducted by the Subcommittee on Oceans and International Environment of the Senate Foreign Relations Committee, Ambassador Donald L. McKernan stated that the Department of State would have no objection to a statement of interpretation embodying the language of the Secretary of State's letter of submittal. The committee in attaching this statement of interpretation believes that such an interpretation would protect and strengthen the Senate's constitutional role in the treaty-making process.

Therefore, Mr. President, I urge the Senate to grant its advice and consent to ratification of this protocol, subject to this statement of interpretation and understanding.

The PRESIDING OFFICER. Without objection, the treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will read for the information of the Senate.

The assistant legislative clerk read as follows:

Resolved (two-thirds of the Senate concurring therein), That the Senate advise and consent to accession to the Protocol to the International Convention for the Northwest Atlantic Fisheries Relating to Amendments to the Convention, dated October 6, 1970 (Executive C, 92d Congress, 1st session), with the understanding, which shall be made a part and condition of the resolution of ratification, that in accordance with Article I of the Protocol, it shall be the duty of the Secretary of State to register an objection to any proposed amendment if, upon approval of it by three-fourths of the Contracting Governments, action on the proposed amendment has not been completed in accordance with Article 2, Section 2 of the United States Constitution, which states that the President "shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur."

AMENDMENTS TO THE CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1960

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Chair lay before the Senate Executive O, 92d Congress, second session.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider Executive O, 92d Congress, second session, amendments to the Convention for the Safety of Life at Sea, 1960, which was read the second time, as follows:

AMENDMENTS TO THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1960

RESOLUTION A.146(ES. IV) adopted on 26 November 1968

The Assembly,

Recognizing the need to improve safety of life at sea,

Noting Article 16(i) of the Convention on the Inter-Governmental Maritime Consultative Organization, concerning the functions of the Assembly with regard to regulations relating to maritime safety,

Noting further that Article IX of the International Convention for the Safety of Life at Sea, 1960 in paragraphs (b), (d), (e), (g) and (h), provides for procedures of amendment involving participation of the Organization,

Having considered certain amendments to the International Convention for the Safety of Life at Sea, 1960, forming the subject of a recommendation adopted by the Maritime Safety Committee at its seventeenth session, and directed towards improvement of safety of navigation.

Adopts the following amendment to Chapter V of the Regulations annexed to the International Convention for the Safety of Life at Sea, 1960, which shall be communicated for acceptance to Contracting Governments in accordance with Article IX(d) of the Convention:

"The replacement of Regulation 12 by a new Regulation and the addition of new Regulations 19 and 20. The text of this amendment appears in the Annex to this Resolution,"

Requests the Secretary-General of the Organization, in conformity with Article IX(b)(i), to communicate for purposes of acceptance, certified copies of this Resolution and the Annex to all Contracting Governments of the International Convention for the Safety of Life at Sea, 1960, together with copies to all Members of the Organization, and

Invites all Governments concerned to accept the amendment at the earliest possible date.

ANNEX

Regulation 12—Shipborne Navigational Equipment

(a) All ships of 1,600 tons gross tonnage and upwards shall be fitted with a radar of a type approved by the Administration. Facilities for plotting radar readings shall be provided on the bridge in those ships.

(b) All ships of 1,600 tons gross tonnage and upwards, when engaged on international voyages, shall be fitted with radio direction-finding apparatus complying with the provisions of Regulation 11 of Chapter IV. The Administration may, in areas where it considers it unreasonable or unnecessary for such apparatus to be carried, exempt any ship under 5,000 tons gross tonnage from this requirement, due regard being had to the fact that radio direction-finding apparatus is of value both as a navigational instrument and as an aid to locating ships, aircraft or survival craft.

(c) All ships of 1,600 tons gross tonnage and upwards, when engaged on international voyages, shall be fitted with a gyro-compass in addition to the magnetic compass. The Administration, if it considers it unreasonable or unnecessary to require a gyro-compass, may exempt any ship under 5,000 tons gross tonnage from this requirement.

(d) All new ships of 500 tons gross tonnage and upwards, when engaged on international voyages, shall be fitted with an echo-sounding device.

(e) Whilst all reasonable steps shall be taken to maintain the apparatus in an efficient condition, malfunction of the radar equipment, the gyro-compass or the echo-sounding device shall not be considered as making the ship unseaworthy or as a reason for delaying the ship in ports where repair facilities are not readily available.

Regulation 19—Use of the automatic pilot

(a) In areas of high traffic density, in conditions of restricted visibility and in all other hazardous navigational situations where the automatic pilot is used, it shall be possible to establish human control of the ship's steering immediately.

(b) In circumstances as above, it shall be possible for the officer of the watch to have available without delay the services of a qualified helmsman who shall be ready at all times to take over steering control.

(c) The changeover from automatic to manual steering and vice versa shall be made by or under the supervision of a responsible officer.

Regulation 20—Nautical Publications

All ships shall carry adequate and up-to-date charts, sailing directions, lists of lights, notice to mariner, tide tables and all other nautical publications necessary for the intended voyage.

Certified a true copy of the English and French text of Resolution A.146(ES.IV) adopted by the Assembly of the Inter-Governmental Maritime Consultative Organization on 26 November 1968 and of the English and French texts of the Annex thereto comprising an amendment to the International Convention for the Safety of Life at Sea, done in London on 17 June 1960, which amendment was recommended and adopted in conformity with Article IX(b)(i) of the aforesaid Convention, the original of which is deposited with the Inter-Governmental Maritime Consultative Organization.

[SEAL]

THOMAS MENSAH,
Secretary-General of the Inter-Governmental Maritime Consultative Organization.

London, 31 December 1968.

AMENDMENTS TO THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1960

RESOLUTION A.174(VI) ADOPTED ON 21 OCTOBER 1969

The Assembly,

Recognizing the need to improve safety of life at sea,

Noting Article 16(i) of the Convention on the Inter-Governmental Maritime Consultative Organization, concerning the functions of the Assembly with regard to regulations relating to maritime safety,

Noting further that Article IX of the International Convention for the Safety of Life at Sea, 1960, in paragraphs (b), (d), (e), (g) and (h), provides for procedures of amendment involving participation of the Organization,

Having considered certain amendments to the International Convention for the Safety of Life at Sea, 1960, forming the subject of recommendations adopted by the Maritime Safety Committee at its seventeenth and nineteenth sessions in accordance with Article IX of that Convention, and directed towards improvement of requirements for firemen's outfits and personal equipment in cargo ships, or the specification of a lifebuoy and/or lifejackets, for radio installations and shipborne navigational equipment.

Adopts the following eight amendments to the Regulations and Safety Certificates annexed to the International Convention for the Safety of Life at Sea, 1960, each of which amendments shall be communicated for acceptance to Contracting Governments in accordance with Article IX(d) of the Convention:

(a) The replacement of Regulation 65(j) of Chapter II by a new Regulation, the text of which is at Annex I to this Resolution;

(b) the replacement of Regulation 21(f) of Chapter III by a new Regulation, together with a footnote to that Regulation, and the replacement of Regulation 22 of Chapter III by a new Regulation. The text of this amendment is at Annex II to this Resolution;

(c) the replacement of Regulation 2(c) of Chapter IV by a new Regulation, the text of which is Annex III to this Resolution;

(d) the replacement of Regulations 9(c), 9(h)(i), 13(c), 13(f), 15(a), 15(b), 15(f) and 15(g) of Chapter IV by new Regulations. The text of this amendment is at Annex IV of this Resolution;

(e) the renumbering of existing paragraphs(a)–(g) of Regulation 11 of Chapter IV to (a)(i)–(a)(vii), and the addition of a new paragraph (b) to this Regulation, and the addition of a new paragraph (f) to Regulation 12 of Chapter V. The text of this amendment is at Annex V to this Resolution;

(f) the addition of a new Regulation 21 of Chapter V, the text of which is at Annex VI to this Resolution;

(g) the replacement of sub-paragraphs (i) and (ii) of paragraph (b) of Regulation 7 of Chapter I by new sub-paragraphs, and the replacement of Regulations 8 and 9 of Chapter I by new Regulations. The text of this amendment is at Annex VII to this Resolution;

SAFETY OF LIFE AT SEA, 1960

(h) the replacement of Parts VI and VIII of the Passenger Ship Safety Certificate, Part V of the Cargo Ship Safety Equipment Certificate, Part I of the Cargo Ship Safety Radiotelegraphy Certificate, Parts VII and IX of the Nuclear Passenger Ship Safety Certificate and Parts VII and IX of the Nuclear Cargo Ship Safety Certificate by new Parts. The text of this amendment is at Annex VIII to this Resolution,

Requests the Secretary-General of the Organization, in conformity with Article IX(b)(i), to communicate, for purposes of acceptance, certified copies of this Resolution and its Annexes, to all Contracting Governments to the International Convention for the Safety of Life at Sea, 1960, together with copies to all Members of the Organization, and

Invites all Governments concerned to accept each of the amendments at the earliest possible date.

Annex I

AMENDMENT TO REGULATION 65 OF CHAPTER II OF THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1960

Regulation 65

Paragraph (j) is replaced by the following:

(j) Fireman's Outfits and Personal Equipment:

(i) A cargo ship, whether new or existing, shall carry at least two fireman's outfits complying with the requirements of Regulation 63 of this Chapter. Furthermore, Administrations may require in large cargo ships additional sets of personal equipment and in tankers and special ships such as factory ships, additional fireman's outfits.

(ii) For each fireman's outfit which includes a self-contained breathing apparatus as provided in Regulation 63(b) of this Chapter, spare charges shall be carried on a scale approved by the Administration.

(iii) The fireman's outfits and personal equipment shall be stored so as to be easily accessible and ready for use and, where more than one fireman's outfit and set of personal equipment are carried, they shall be stored in widely separated positions.

Annex II

AMENDMENTS TO CHAPTER III OF THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1960

Regulation 21

Paragraph (f) is replaced by the following text and footnote.

(f) The self-igniting lights required by paragraph (e) of this Regulation shall be such that they cannot be extinguished by water. They shall be capable of burning for not less than 45 minutes and shall have a luminous intensity of not less than 2 candelas in all directions of the upper hemisphere. The lights shall be kept near the lifebuoys to which they belong, with the necessary means of attachment. Self-igniting lights used in tankers shall be of an approved electric battery type.*

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* The following ranges of visibilities of the light might be expected in given atmospheric conditions:

Atmospheric transmissivity factor	Meteorological range of visibility (nautical miles)	Range of visibility of the light (nautical miles)
0.3	2.4	0.96
0.4	3.3	1.05
0.5	4.3	1.15
0.6	5.8	1.24
0.7	8.4	1.34
0.8	13.4	1.45
0.9	28.9	1.57

Regulation 22

Regulation 22 is replaced by the following:

(a) Ships shall carry for every person on board a lifejacket of an approved type and, in addition, unless these lifejackets can be adapted for use by children, a sufficient number of lifejackets suitable for children. Each lifejacket shall be suitably marked showing that it has been approved by the Administration.

(b) In addition to the lifejackets required by paragraph (a) there shall be carried on passenger ships lifejackets for 5 per cent of the total number of persons on board. These lifejackets shall be stowed in a conspicuous place on deck.

(c) An approved lifejacket shall comply with the following requirements:

(i) It shall be constructed with proper workmanship and materials.

(ii) It shall be so constructed as to eliminate so far as possible all risk of its being put on incorrectly, except that it shall be capable of being worn inside out.

(iii) It shall be capable of lifting the face of an exhausted or unconscious person out of the water and holding it above the water with the body inclined backwards from its vertical position.

(iv) It shall be capable of turning the body in the water from any position to a safe floating position with the body inclined backwards from its vertical position.

(v) It shall not be adversely affected by oil or oil products.

(vi) It shall be of a highly visible colour.

(vii) It shall be fitted with an approved whistle, firmly secured by a cord.

(viii) The buoyancy of the lifejacket required to provide the foregoing performance shall not be reduced by more than 5 per cent after 24 hours submergence in fresh water.

(d) A lifejacket, the buoyancy of which depends on inflation, may be permitted for use by the crews of all ships except passenger ships and tankers provided that:

(i) It has two separate inflatable compartments;

(ii) It is capable of being inflated both mechanically and by mouth; and

(iii) It complies with the requirements of paragraph (c) with either compartment inflated separately.

(e) Lifejackets shall be so placed as to be readily accessible and their position shall be plainly indicated.

Annex III

AMENDMENT TO REGULATION 2 OF CHAPTER IV OF THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1960

Regulation 2

Paragraph (c) is replaced by the following:

(c) "Radio Officer" means a person holding at least a first or second class radiotelegraph operator's certificate, or a radiocommunication operator's general certificate for the maritime mobile service, complying with the provisions of the Radio Regulations, who is employed in the radiotelegraph station of a ship which is provided with such a station in compliance with the provisions of Regulation 3 or Regulation 4 of this Chapter.

Annex IV

AMENDMENTS TO REGULATIONS 9, 13 AND 15 OF CHAPTER IV OF THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1960

Regulation 9

Paragraphs (e) and (h) (i) are replaced by the following:

(e) The main and reserve transmitters shall be capable of transmitting on the radiotelegraph distress frequency using a class of emission assigned by the Radio Regulations for that frequency. In addition, the main transmitter shall be capable of transmitting on at least two working frequencies in the authorized bands between 405 kc/s and 535 kc/s, using classes of emission assigned by the Radio Regulations for these frequencies. The reserve transmitter may consist of a ship's emergency transmitter, as defined in and limited in use by the Radio Regulations.

(h) (i) The main and reserve receivers shall be capable of receiving the radiotelegraph distress frequency and the classes of emission assigned by the Radio Regulations for that frequency.

Regulation 13

Paragraphs (c) and (f) are replaced by the following:

(c) The transmitter shall be capable of transmitting on the radiotelegraph distress frequency using a class of emission assigned by the Radio Regulations for that frequency, and, in the bands between 4,000 kc/s and 27,500 kc/s, of transmitting on the radiotelegraph frequency, and of using a class of emission, assigned by the Radio Regulations for survival craft. However, the Administration may permit the transmitter to be capable of transmitting on the radiotelephone distress frequency, and of using a class of emission, assigned by the Radio Regulations for that frequency, as an alternative or in addition to transmission on the radiotelegraph frequency assigned by the Radio Regulations for survival craft in the bands between 4,000 kc/s and 27,500 kc/s.

(f) The receiver shall be capable of receiving the radiotelegraph distress frequency and the classes of emission assigned by the Radio Regulations for that frequency. If the transmitter is capable of transmitting on the radiotelephone distress frequency the receiver shall also be capable of receiving that frequency and a class of emission assigned by the Radio Regulations for that frequency.

Regulation 15

Paragraphs (a), (b), (f) and (g) are replaced by the following:

(a) The radiotelephone installation shall include transmitting and receiving equipment and appropriate sources of energy (referred to in the following paragraphs as "the transmitter", "the receiver" and "the source of energy" respectively).

(b) The transmitter shall be capable of transmitting on the radiotelephone distress frequency and on at least one other frequency in the bands between 1,605 kc/s and 2,850 kc/s, using the classes of emission assigned by the Radio Regulations for these frequencies. In normal operation a double sideband transmission or a single sideband transmission with full carrier (i.e. A3H) shall have a depth of modulation of at least 70 percent at peak intensity. Modulation of a single sideband transmission with reduced or suppressed carrier (A3A, A30) shall be such that the intermodulation products shall not exceed the values given in the Radio Regulations.

(f) The receiver required by paragraph (a) of this Regulation shall be capable of receiving the radiotelephone distress frequency and at least one other frequency available for maritime radiotelephone stations in the bands between 1,605 kc/s and 2,850 kc/s, using the classes of emission assigned by the Radio Regulations for these frequencies. In addition the receiver shall permit the reception of such other frequencies, using the classes of emission assigned by the Radio Regulations, as are used for the transmission by radiotelephoning of meteorological messages and such other communications relating to the safety of navigation as may be considered necessary by the Administration. The receiver shall have sufficient sensitivity to produce signals by means of a loudspeaker when the receiver input is as low as 50 microvolts.

(g) The receiver used for maintaining watch on the radiotelephone distress frequency shall be preset to this frequency, or so arranged that setting to the frequency may be carried out in a rapid and precise manner and that, when set to this frequency, the receiver shall not easily be detuned accidentally. The use of a separate single channel watch receiver for the radiotelephone distress frequency fulfills this requirement.

Annex V

AMENDMENTS TO REGULATION 11 OF CHAPTER IV AND REGULATION 12 OF CHAPTER V OF THE INTERNATIONAL CONVENTION FOR THEIR SAFETY OF LIFE AT SEA, 1960

Regulation 11 of Chapter IV

Existing paragraphs (a)–(g) are renumbered (a) (i)–(a) (vii) and a new paragraph (b) is added as follows:

(b) (i) Radio equipment for homing on the radiotelephone distress frequency shall be capable of taking direction-finding bearings on that frequency without ambiguity of sense within an arc of 30 degrees on either side of the bow.

(ii) When installing and testing the equipment referred to in this paragraph due regard should be given to the relevant recommendation of the International Radio Consultative Committee (CCIR).

(iii) All reasonable steps shall be taken to ensure the homing capability required by this paragraph. In cases where due to technical difficulties the homing capability cannot be achieved, Administrations may grant to individual ships exemptions from the requirements of this paragraph.

Regulation 12 of Chapter V (as amended by Resolution A.146(ES.IV))

A new paragraph (f) is added as follows:

(f) All ships of 1,600 tons gross tonnage and upwards, the keel of which is laid on or after the date of coming into force of this paragraph, when engaged on international voyages, shall be fitted with radio equipment for homing on the radiotelephone distress frequency complying with the relevant provisions of Regulation 11, paragraph (b) of Chapter IV.

Annex VI

AMENDMENT TO CHAPTER V OF THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1960

A new Regulation is added as follows:

Regulation 21—International Code of Signals

All ships which in accordance with the present Convention are required to carry a radiotelegraph or a radiotelephone installation shall carry the International Code of Signals. This publication shall also be carried by any other ship which in the opinion of the Administration has a need to use it.

Annex VII

AMENDMENTS TO REGULATIONS 7, 8, AND 9 OF CHAPTER I OF THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1960

Regulation 7

Paragraphs (b) (i) and (b) (ii) are replaced by the following:

(b) (i) The survey before the ship is put in service shall include a complete inspection of its structure, machinery and equipments, including the outside of the ship's bottom and the inside and outside of the boilers. This survey shall be such as to ensure that the arrangements, material, and scantlings of the structure, boilers and other pressure vessels and their appurtenances, main and auxiliary machinery, electrical installation, radio installation, radiotelegraph installations in mo-

tor lifeboats, portable radio apparatus for survival craft, life-saving appliances, fire detecting and extinguishing appliances, radar, echo-sounding device, gyro-compass, pilot ladders and other equipments, fully comply with the requirements of the present Convention, and of the laws, decrees, orders and regulations promulgated as a result thereof by the Administration for ships of the service for which it is intended. The survey shall also be such as to ensure that the workmanship of all parts of the ship and its equipments is in all respects satisfactory, and that the ship is provided with the lights, means of making sound signals and distress signals as required by the provisions of the present Convention and the International Collision Regulations.

(b)(ii) The periodical survey shall include an inspection of the structure, boilers and other pressure vessels, machinery and equipments, including the outside of the ship's bottom. The survey shall be such as to ensure that the ship, as regards the structure, boilers and other pressure vessels and their appurtenances, main and auxiliary machinery, electrical installation, radio installation, radiotelegraph installations in motor lifeboats, portable radio apparatus for survival craft, life-saving appliances, fire detecting and extinguishing appliances, radar, echo-sounding device, gyro-compass, pilot ladders and other equipments, is in satisfactory condition and fit for the service for which it is intended, and that it complies with the requirements of the present Convention, and of the laws, decrees, orders and regulations promulgated as a result thereof by the Administration. The lights and means of making sound signals and the distress signals carried by the ship shall also be subject to the above-mentioned survey for the purpose of ensuring that they comply with the requirements of the present Convention and of the International Collision Regulations.

The existing text of Regulation 8 is replaced by the following:

Regulation 8—Surveys of Life-Saving Appliances and Other Equipment of Cargo Ships

The life-saving appliances, except a radiotelegraph installation in a motor lifeboat or a portable radio apparatus for survival craft, the echo-sounding device, the gyro-compass, and the fire extinguishing appliances of cargo ships to which Chapters II, III and V of the present Regulations apply shall be subject to initial and subsequent surveys as provided for passenger ships in Regulation 7 of this Chapter with the substitution of 24 months for 12 months in sub-paragraph (a)(ii) of that Regulation. The fire control plans in new ships and the pilot ladders, lights and means of making sound signals carried by new and existing ships shall be included in the surveys for the purpose of ensuring that they comply fully with the requirements of the present Convention and, where applicable, the International Collision Regulations.

The existing text of Regulation 9 is replaced by the following:

Regulation 9—Surveys of Radio and Radar Installations of Cargo Ships

The radio and radar installations of cargo ships to which Chapters IV and V of the present Regulations apply and any radiotelegraph installation in a motor lifeboat or portable radio apparatus for survival craft which is carried in compliance with the requirements of Chapter III of the present Regulations shall be subject to initial and subsequent surveys as provided for passenger ships in Regulation 7 of this Chapter.

Annex VIII

AMENDMENTS TO CERTAIN SAFETY CERTIFICATES APPENDED TO THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1960

Passenger Ship Safety Certificate

Parts VI and VIII are replaced by the following:

VI. That the ship complied with the requirements of the Regulations as regards radiotelegraph installations, viz.:

Requirements of regulation and actual provision

Hours of listening by operator
Number of operators
Whether auto alarm fitted
Whether main installation fitted
Whether reserve installation fitted
Whether main and reserve transmitters electrically separated or combined
Whether direction-finder and/or radio equipment for homing on the radiotelephone distress frequency fitted
Whether radar fitted
Number of passengers for which certificated

VIII. That the ship complied with the requirements of the Regulations as regards fire-detecting and fire-extinguishing appliances, radar, echo-sounding device and gyro-compass and was provided with navigation lights and shapes, pilot ladder, and means of making sound signals, and distress signals in accordance with the provisions of the Regulations and also the International Collision Regulations.

CARGO SHIP SAFETY EQUIPMENT CERTIFICATE

Part V is replaced by the following:

V. That the inspection showed that the ship complied with the requirements of the said Convention as regards fire-extinguishing appliances and fire control plans, echo-sounding device and gyro-compass and was provided with navigation lights and shapes, pilot ladder, and means of making sound signals and distress signals, in accordance with the provisions of the Regulations and the International Collision Regulations.

CARGO SHIP SAFETY RADIOTELEGRAPHY CERTIFICATE

Part I is replaced by the following:

I. That the above-mentioned ship compiles with the provisions of the Regulations annexed to the Convention referred to above as regards radiotelegraphy and radar:

Requirements of regulation and actual provision

Hours of listening by operator
Number of operators
Whether auto alarm fitted
Whether main installation fitted
Whether reserve installation fitted
Whether main and reserve transmitters electrically separated or combined
Whether direction-finder and/or radio equipment for homing on the radiotelephone distress frequency fitted
Whether radar fitted

Nuclear Passenger Ship Safety Certificate

Parts VII and IX are replaced by the following:

VII. That the ship complied with the requirements of the Regulations as regards radiotelegraph installations, viz.:

Requirements of regulations and actual provision

Hours of listening by operator
Numbers of operators
Whether auto alarm fitted
Whether main installation fitted
Whether reserve installation fitted
Whether main and reserve transmitters electrically separated or combined
Whether direction-finder and/or radio equipment for homing on the radiotelephone distress frequency fitted
Whether radar fitted
Number of passengers for which certificated

IX. That the ship complied with the requirements of the Regulations as regards fire-detecting and fire-extinguishing appliances, radar echo-sounding device and gyro-compass and was provided with navigation lights and shapes, pilot ladder, and means of making sound signals and distress signals in accordance iwth the provisions of the Regulations and also the International Collision Regulations.

NUCLEAR CARGO SHIP SAFETY CERTIFICATE

Parts VII and IX are replaced by the following:

VII. That the ship complied with the requirements of the Regulations as regards radiotelegraph installations viz.:

Requirements of regulations and actual provision

Hours of listening by operator
Numbers of operators
Whether auto alarm fitted
Whether main installation fitted
Whether reserve installation fitted
Whether main and reserve transmitters electrically separated or combined
Whether direction-finder and/or radio equipment for homing on the radiotelephone distress frequency fitted
Whether radar fitted

IX. That the inspection showed that the ship complied with the requirements of the said Convention as regards fire-extinguishing appliances, radar, echo-sounding device and gyro-compass and was provided with navigation lights and shapes, pilot ladder, and means of making sound signals and distress signals in accordance with the provisions of the Regulations and the International Collision Regulations.

Certified a true copy of the English and French text of Resolution A.174(VI) adopted by the Assembly of the Inter-Governmental Marine Consultative Organization on 21 October 1969 and of the English and French texts of Annexes I to VIII thereto comprising eight amendments to the international Convention for the Safety of Life at Sea, done in London on 17 June 1960, which were recommended and adopted in conformity with Article IX(b)(i) of the aforesaid Convention, the original of which is deposited with the Inter-Governmental Maritime Consultative Organization.

[SEAL]

THOMAS MENSAH,
Head of Legal Division
London, 15 January 1970
(For the Secretary-General
of the Inter-Governmental
Maritime Consultative Organization).

Mr. PELL. Mr. President, I am particularly proud to have chaired the hearings in this matter. The 11 amendments to the Convention for the Safety of Life at Sea, 1960, were negotiated by the U.S. Coast Guard, of which I am the only Active Reserve officer now serving in Congress and am, in fact, the third senior captain in the service.

These 11 amendments are designed to improve the standard of safety provided by the technical regulations annexed to the 1960 convention by: First requiring that specified navigational equipment be carried aboard certain vessels; second, specifying conditions of operation that

must be made by vessels using automatic pilot; third, requiring that all ships subject to the Convention carry adequate and up-to-date nautical publications; and fourth, improving the requirements for firemen's outfits and personal equipment in cargo ships, as well as requirements for lifebuoys, lifejackets, radio installations, and ship-borne navigational equipment. These changes will require other nations to conform to a standard of safety which the U.S. merchant marine vessels already adhere to.

The United States participated in the formulation and eventual adoption of all these amendments, after full consultation with the American maritime interests, including management, labor, and other governmental and nongovernmental offices. This consultation was very extensive, and involved working groups in various technical areas. The Shipping Coordinating Committee which advises the Department of State on U.S. positions prior to meetings such as the IMCO assembly also participated in the development of the provisions of these amendments. The United States fully supported all these amendments at the IMCO assembly meetings, and recommends strongly that the Senate give its advice and consent to the acceptance of these amendments.

The PRESIDING OFFICER. Without objection, the treaty will be considered as having passed through its various parliamentary stages, up to and including the presentation of the resolution of ratification, which the clerk will read for the information of the Senate.

The assistant legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the accession of the United States of America to the Eleven Amendments to the Convention for the Safety of Life at Sea, 1960 (Executive O, 92d Congress, 2d session).

AGREEMENT WITH BRAZIL CONCERNING SHRIMP

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Chair lay before the Senate Executive P, 92d Congress, second session.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider Executive P, 92d Congress, second session, the agreement with Brazil concerning shrimp, which was read the second time, as follows:

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL CONCERNING SHRIMP

The Parties to this Agreement,

Note the position of the Government of the Federative Republic of Brazil,

that it considers its territorial sea to extend to a distance of 200 nautical miles from Brazil's coast,

that the exploitation of crustaceans and other living resources, which are closely dependent on the seabed under the Brazilian territorial sea, is reserved to Brazilian fishing vessels, and

that exceptions to this provision can only be granted through international agreements,

Note also the position of the Government of the United States of America that it does not consider itself obligated under international law to recognize territorial sea claims of more than 3 nautical miles nor fisheries jurisdiction of more than 12 nautical miles, beyond which zone of jurisdiction all nations have the right to fish freely, and that it does not consider that all crustaceans are living organisms belonging to sedentary species as defined in the 1958 Geneva Convention on the Continental Shelf, and further

Recognizing that the difference in the respective juridical positions of the Parties has given rise to certain problems relating to the conduct of shrimp fisheries,

Considering the tradition of both Parties for resolving international differences by having recourse to negotiation,

Believing it is desirable to arrive at an interim solution for the conduct of shrimp fisheries without prejudice to either Party's juridical position concerning the extent of territorial seas or fisheries jurisdiction under international law,

Concluding that, while general international solutions to issues of maritime jurisdiction are being sought and until more adequate information regarding the shrimp fisheries is available, it is desirable to conclude an interim agreement which takes into account their mutual interest in the conservation of the shrimp resources of the area of this Agreement,

Have Agreed as Follows:

ARTICLE I

This Agreement shall apply to the fishery for shrimp (*Penaeus* (M.) *duorarum notialis*, *Penaeus braziliensis* and *Penaeus* (M.) *aztecus subtilis*) in an area of the broader region in which the shrimp fisheries of the Parties are conducted, hereinafter referred to as the "area of agreement" and defined as follows: the waters off the coast of Brazil having the isobath of thirty (30) meters as the south-west limit and the latitude 1° north as the southern limit and 47°30' west longitude as the eastern limit.

ARTICLE II

1. Taking into acount their common concern with preventing the depletion of the shrimp stocks in the area of agreement and the substantial difference in the stages of development of their respective fishing fleets, which results correspondingly in different kinds of impact on the resources, the two Parties agree that, during the term of this Agreement, the Government of the Federative Republic of Brazil is to apply the measures set forth in Annex I to this Agreement and the Government of the United States of America is to apply the measures set forth in Annex II to this Agreement.

2. The measures set forth in Annexes may be changed by agreement of the Parties through consultation pursuant to Article X.

ARTICLE III

1. Information on catch and effort and biological data relating to shrimp fisheries in the area of agreement shall be collected and exchanged, as appropriate, by the Parties. Unless the Parties decide otherwise, such exchange of information shall be made in accordance with the procedure described in this Article.

2. Each vessel fishing under this Agreement shall maintain a fishing log, according to a commonly agreed model. Such fishing logs shall be delivered quarterly to the appropriate Party which shall use the data therein contained, and other information it obtains about the area of agreement, to prepare reports on the fishing conditions in that area, which shall be transmitted periodically to the other Party as appropriate.

3. Duly appointed organizations from both Parties shall meet in due time to exchange scientific data, publications and knowledge acquired on the shrimp fisheries in the area of agreement.

ARTICLE IV

1. The Party which under Article V has the responsibility for enforcing observance of the terms of the Agreement by vessels of the other Party's flag shall receive from the latter Party the information necessary for identification and other enforcement functions, including name, port of registry, port where operations are usually based, general description with photograph in profile, radio-frequencies by which communications may be established, main engine horsepower and speed, length, and fishing method and gear employed.

2. Such information shall be assembled and organized by the flag Government and communications relating to such information shall be carried out each year between the appropriate authorities of the Parties.

3. The Party which receives such information shall verify whether it is complete and in good order, and shall inform the other Party about the vessels found to comply with the requirements of paragraph 1 of this Article, as well as about those which would, for some reason, require further consultation among the Parties.

4. Each of those vessels found in order shall receive and display an identification sign, agreed between the Parties.

ARTICLE V

1. In view of the fact that Brazilian authorities can carry out an effective enforcement presence in the area of agreement, it shall be incumbent on the Government of Brazil to ensure that the conduct of shrimp fisheries conforms with the provisions of this Agreement.

2. A duly authorized official of Brazil, in exercising the responsibility described in paragraph 1 of this Article may, if he has reasonable cause to believe that any provision of this Agreement has been violated, board and search a shrimp fishing vessel. Such action shall not unduly hinder fishing operations. When, after boarding or boarding and searching a vessel, the official continues to have reasonable cause to believe that any provision of this Agreement has been violated, he may seize and detain such vessel. In the case of a boarding or seizure and detention of a United States vessel, the Government of Brazil shall promptly inform the Government of the United States of its action.

3. After satisfaction of the terms of Article VI as referred to in paragraph 4 of this Article, a United States vessel seized and detained under the terms of this Agreement shall, as soon as practicable, be delivered to an authorized official of the United States at the nearest port to the place of seizure, or any other place which is mutually acceptable to the competent authorities of both Parties. The Government of Brazil shall, after delivering such vessel to an authorized official of the United States, provide a certified copy of the full report of the violation and the circumstances of the seizure and detention.

4. If the reason for seizure and detention falls within the terms of Article II or Article IV, paragraph 4 of this Agreement, a United States vessel seized and detained shall be delivered to an authorized official of the United States, after satisfaction of the terms of Article VI relating to unusual expenses.

5. If the nature of the violation warrants it, and after carrying out the provision of Article X, vessels may also suffer forfeiture of that part of the catch determined to be taken illegally and forfeiture of the fishing gear.

6. In the case of vessels delivered to an authorized official of the United States under paragraphs 3 or 4 of this Article, the Government of Brazil will be informed of the institution and disposition of any case by the United States.

ARTICLE VI

In connection with the enforcement arrangements specified in Article V, including

in particular any unusual expenses incurred in carrying out the seizure and detention of a United States vessel under the terms of paragraph 4 of Article V, and taking into account Brazil's regulation of its flag vessels in the area of agreement, the Government of Brazil will be compensated in an amount determined and confirmed in an exchange of notes between the Parties. The amount of compensation shall be related to the level of fishing by United States nationals in the area of agreement and to the total enforcement activities to be undertaken by the Government of Brazil pursuant to the terms of this Agreement.

ARTICLE VII

The implementation of this Agreement may be reviewed at the request of either Party six months after the date on which this Agreement becomes effective, in order to deal with administrative issues arising in connection with this Agreement.

ARTICLE VIII

The Parties shall examine the possibilities of cooperating in the development of their fishing industries; the expansion of the international trade of fishery products; the improvement of storage, transportation and marketing of fishery products; and the encouragement of joint ventures between the fishing industries of the two Parties.

ARTICLE IX

Nothing contained in this Agreement shall be interpreted as prejudicing the position of either Party regarding the matter of territorial seas or fisheries jurisdiction under international law.

ARTICLE X

Problems concerning the interpretation and implementation of this Agreement shall be resolved through diplomatic channels.

ARTICLE XI

This Agreement shall enter into force on a date to be mutually agreed by exchange of notes, upon completion of the internal procedures of both Parties, and shall remain in force until January 1, 1974, unless the Parties agree to extend it.

IN WITNESS WHEREOF the undersigned Representatives have signed the present Agreement and affixed thereto their seals.

DONE in duplicate, this ninth day of May, 1972, in the English and Portuguese languages, both texts being equally authoritative.

For the United States of America:
WILLIAM M. ROUNTREE
For the Federative Republic of Brazil:
MARIO GIBSON BARBOZA

ANNEX I

(a) Prohibition of shrimp fishing activities, for conservation purposes, in spawning and breeding areas;

(b) Prohibition of the use of chemical, toxic or explosive substances in or near fishing areas;

(c) Registry of all fishing vessels with the Maritime Port Authority (Capitania dos Portos) and with SUDEPE;

(d) Payment of fees and taxes for periodical inspections;

(e) Use of the SUDEPE fishing logs to be returned after each trip or weekly;

(f) Prohibition of the use of fishing gear and of other equipment considered by SUDEPE to have destructive effects on the stocks;

(g) Prohibition of discharging oil and organic waste.

ANNEX II

(a) Not more than 325 vessels flying the United States flag shall fish for shrimp in the area of agreement and the United States Government undertakes to maintain a presence of no more than 160 of those vessels in the area at any one time. Such vessels shall be of the same type and have the same gear as those commonly employed in this fishery in the past, noting that electric equipment for fishing purposes has not been commonly employed by boats in this fishery in the past.

(b) Shrimp fishing in the area of agreement shall be limited to the period from March 1 to November 30.

(c) Shrimp fishing in that part of the area of agreement southeast of a bearing of 240° from Ponta do Ceu radio-beacon shall be limited to the period March 1 to July 1.

(d) Transshipment of catch may be made only between vessels authorized under this Agreement to fish in the area of agreement.

AGREED MINUTE RELATING TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL CONCERNING SHRIMP

The Delegations of the Government of the United States of America and the Government of the Federative Republic of Brazil consider it desirable to record the points set out below relating to the Agreement between the two Governments concerning shrimp signed on this ninth day of May, 1972:

The Brazilian Delegation informed the United States Delegation that the portion of the area of agreement between the true bearing of 240° and 225°, drawn from the Ponta do Ceu radio-beacon, has a special interest to the Brazilian shrimp vessels, in view of its vicinity to both the port and the industries existing in Belem, State of Para. Under these circumstances, the Brazilian Delegation informed the United States Delegation that it was not the intention of the Brazilian Government to re-include such region in agreements it might conclude after 1973.

The United States Delegation stated its view to the Brazilian Delegation that the area of the Agreement between the true bearing of 240° and 225°, drawn from the Ponta do Ceu radio-beacon, lies on the high seas and is thus open to fishing by all nations.

Both the United States and the Brazilian Delegations agreed that, based on the available information, the expression "of the same type", included in item a of Annex II in relation to United States vessels that have in the past fished in the area of the Agreement, means vessels having a length up to approximately eighty-five feet.

With respect to item a of Annex II, both Delegations agreed that an excess of up to 15 vessels in the area of agreement over the figure of 160 shall constitute, during the first fishing season of the Agreement, a situation requiring consultations between the Parties within the scope of Article X with a view toward arriving at as promptly as possible the agreed figure. In view of the special nature of the arrangements contained in item a of Annex II, both Delegations understand that consultations referred to in paragraph 2, Article II will be held as soon after the close of the current fishing season as possible, to examine the operation of this provision with a view toward revising, if necessary, the meaures outlined in item a of Annex II or revising the procedures necessary to achieve better compliance with them.

DONE in duplicate, this ninth day of May, 1972, in the English and Portuguese languages, both texts being equally authoritative.

For the United States of America:
WILLIAM M. ROUNTREE
For the Federative Republic of Brazil:
MARIO GIBSON BARBOZA

EMBASSY OF THE
UNITED STATES OF AMERICA,
Brasilia, May 9, 1972.

No. 150.
His Excellency MARIO GIBSON BARBOZA,
Minister of Foreign Affairs, Brasilia.

EXCELLENCY: I have the honor to refer to the Agreement on Shrimp signed today by the Governments of the Federative Republic of Brazil and the United States of America and to confirm, on behalf of my Government, the following:

(a) The Government of the United States of America shall, after the appropriation of funds by Congress, compensate the Government of Brazil in an annual amount of U.S. $200,000 (two hundred thousand dollars) pursuant to the terms of Article VI;

(b) The Government of the United States of America shall, after the appropriation of funds by Congress, further compensate the Government of Brazil in the amount of U.S. $100.00 (one hundred dollars) for each day a United States flag shrimp fishing vessel is under the control of Brazilian enforcement authorities pursuant to the terms of paragraph 2 of Article V.

I have the honor to propose that this Note and Your Excellency's reply confirming the above points of understanding on behalf of your Government shall be regarded as constituting satisfaction of the terms of Article VI of the aforementioned Agreement between the two Governments.

Accept, Excellency, the renewed assurances of my highest consideration.

WILLIAM M. ROUNTREE.

[Translation]

DPB/DAI/DAS/67/562.8(22)

MAY 9, 1972.

His Excellency WILLIAM MANNING ROUNTREE,
Ambassador Extraordinary and Plenipotentiary of the United States of America.

Mr. AMBASSADOR: I have the honor to acknowledge the receipt of Your Excellency's Note dated today, the text of which, translated into Portuguese, reads as follows:

[The Portuguese translation of Note No. 150 agrees in all substantive respects with the original English text.]

In reply, I wish to confirm, in the name of the Brazilian Government, that the points of understanding mentioned above be considered as fulfilling the terms of Article VI of the Agreement on Shrimp signed today by the two Governments.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

(S) MÁRIO GIBSON BARBOZA.

No. 151

The Embassy of the United States of America presents its compliments to the Ministry of External Relations of the Federative Republic of Brazil, and with reference to the Agreement Concerning Shrimp signed on this date, as well as the accompanying exchange of Notes related to Article VI of that Agreement, has the honor to inform the Ministry of the following:

Pending the entering into force of the Agreement as provided for in Article Eleven, the Government of the United States of America is prepared to make every effort to encourage the voluntary compliance by its industry of the provisions of the Agreement so as to ensure that events in the interim period do not prejudice the successful implementation of those provisions. It is the understanding of the Government of the United States of America that the Government of the Federative Republic of Brazil intends also to abide by the spirit of the proposed interim Agreement.

Following the entering into force of the Agreement as provided for in Article Eleven, but prior to the passage of enabling legislation, the Government of the United States of America proposes to continue its efforts to encourage voluntary compliance.

In the period between the completion of internal procedures as noted in Article Eleven and the entering into force of the Agreement, the Government of the United States of America will seek, *inter alia*, with the voluntary cooperation of U.S. flag vessel owners,

1. To achieve the objectives of Article II
2. To institute appropriate Article III procedures
3. To achieve the intent of Articles IV and V.

In stating its willingness to encourage the voluntary compliance with appropriate provisions of the Agreement so that the intent

of the accord may be achieved while awaiting its entering into force, it is the understanding of the Government of the United States of America that the Government of the Federative Republic of Brazil agrees that in this same interim period both Parties should have as their objective the achievement of the intent of the Agreement.

With specific reference to Article III, paragraph 2, the Government of the United States of America shall treat the information obtained from individual fishing logs as confidential.

The Embassy takes the opportunity to renew to the Ministry the assurance of its highest consideration.

W. M. R.

Embassy of the United States of America
Brasilia, May 9, 1972

[Translation]

DPB/DAI/DAS/68/562.8(22)

BRASILIA, *May 9, 1972.*

The Ministry of Foreign Relations presents its compliments to the Embassy of the United States of America and has the honor to acknowledge the recepit of the Embassy's note dated today, the text of which, translated into Portuguese, reads as follows:

[The Portuguese translation of Note No. 151 agrees in all substantive respects with the original English text.]

2. In reply, the Ministry of Foreign Relations wishes to confirm that the understanding, referred to in the penultimate paragraph of the Embassy's note, is also that of the Brazilian Government.

3. Furthermore, the Ministry of Foreign Relations wishes to declare that, while awaiting the entry into force of the Agreement, it is the intention of the Brazilian Government to apply its provisions, insofar as possible, beginning today, so as to ensure that the events in the interim period do not prejudice the successful implementation of those provisions.

4. With specific reference to Article 3, paragraph 2, the Government of the Federated Republic of Brazil will treat as confidential the information obtained from the individual fishing logs.

GIBSON.

Mr. PELL. Mr. President, fisheries disputes between the United States and certain countries of Latin America have been a disturbing element in our relations with the hemisphere for almost 20 years. These disputes arise from differences regarding the breadth of the territorial sea and coastal State rights over the resources of the waters adjacent to their coasts. The United States recognizes a 3-mile territorial sea and, by statute—Public Law 89–658—claims a 9-mile contiguous zone of exclusive jurisdiction over fisheries. On the other hand, 10 Latin American countries claim fishing rights or territorial jurisdiction over 200 miles of their coastal seas.

Over the years these claims have come into conflict with the interests of the U.S. distant-water fishing fleets. Subsequently, the United States has been involved for over a decade in an effort to peacefully negotiate some mutually acceptable solution to this problem.

The United States-Brazil shrimp agreement is an attempt to establish a regulatory system which will provide for the conservation of the shrimp resources and forestall any problems which might arise because of the differences in the views of the governments concerning the justification of these fisheries. This agreement seeks to accomplish this objective without prejudice to the legal position maintained by the United States and Brazil with respect to the breadth of the territorial sea or fisheries jurisdiction under international law. Representatives of the U.S. shrimp industry accompanied Government negotiators in the capacity of advisers and were satisfied with the terms of the agreement.

Mr. President, I believe that the U.S. shrimp agreement is a reasonable solution to a rather difficult and sensitive problem. In addition, the State Department hopes that this agreement will provide a useful precedent for resolving similar, but more volatile situations on the west coast of Latin America.

The PRESIDING OFFICER. Without objection, the treaty will be considered as having passed through its various parliamentary stages, up to and including the presentation of the resolution of ratification, which the clerk will read for the information of the Senate.

The assistant legislative clerk read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the accession of the United States of America to the Agreement between the Government of the United States of America and the Government of the Federative Republic of Brazil concerning shrimp, together with an Agreed Minute and with a Related Exchange of Notes concerning compensation, signed at Brasilia on May 9, 1972; and a Related Exchange of Notes concerning interim undertakings (Executive P, 92d Congress, 2d session).

SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF CIVILIAN AVIATION

Mr. MANSFIELD. Mr. President, it is not very often that a Member of this body has the opportunity to call up and to explain three treaties; but at this time the distinguished Senator from Rhode Island, after the next item is brought to final reading, will have the distinct honor of being the only Senator I know of who has called up four treaties on one occasion.

So at this time, Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Executive T, 92d Congress, 2d session, Convention for the Suppression of Unlawful Acts Against the Safety of Civilian Aviation, which likewise was reported unanimously by the Committee on Foreign Relations.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider Executive T, 92d Congress, 2d session, Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, which was read the second time, as follows:

CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF CIVIL AVIATION

The States Parties to this Convention—

Considering that unlawful acts against the safety of civil aviation jeopardize the safety of persons and property, seriously affect the operation of air services, and undermine the confidence of the peoples of the world in the safety of civil aviation;

Considering that the occurrence of such acts is a matter of grave concern;

Considering that, for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders;

Have agreed as follows:

ARTICLE 1

1. Any person commits an offence if he unlawfully and intentionally;

(a) Performs an act of violence against a person on board an aircraft in flight if that act is likely to endanger the safety of that aircraft; or

(b) Destroys an aircraft in service or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight; or

(c) Places or causes to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that aircraft, or to cause damage to it which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight; or

(d) Destroys or damages air navigation facilities or interferes with their operation, if any such act is likely to endanger the safety of aircraft in flight; or

(e) Communicates information which he knows to be false, thereby endangering the safety of an aircraft in flight.

2. Any person also commits an offence if he:

(a) Attempts to commit any of the offences mentioned in paragraph 1 of this Article; or

(b) Is an accomplice of a person who commits or attempts to commit any such offence.

ARTICLE 2

For the purposes of this Convention:

(a) An aircraft is considered to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation; in the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board;

(b) An aircraft is considered to be in service from the beginning of the preflight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight as defined in paragraph (a) of this Article.

ARTICLE 3

Each Contracting State undertakes to make the offenses mentioned in Article 1 punishable by severe penalties.

ARTICLE 4

1. This Convention shall not apply to aircraft used in military, customs or police services.

2. In the cases contemplated in subparagraphs (a), (b), (c) and (e) of paragraph 1 of Article 1, this Convention shall apply, irrespective of whether the aircraft is engaged in an international or domestic flight, only if:

(a) The place of take-off or landing, actual or intended, of the aircraft is situated outside the territory of the State of registration of that aircraft; or

(b) The offense is committed in the territory of a State other than the State of registration of the aircraft.

3. Notwithstanding paragraph 2 of this Article, in the cases contemplated in subparagraphs (a), (b), (c) and (e) of paragraph 1 of Article 1, this Convention shall also apply if the offender or the alleged offender is found in the territory of a State other than the State of registration of the aircraft.

4. With respect to the States mentioned in

Article 9 and in the cases mentioned in subparagraphs (a), (b), (c) and (e) of paragraph 1 of Article 1, this Convention shall not apply if the places referred to in subparagraph (a) of paragraph 2 of this Article are situated within the territory of the same State where that State is one of those referred to in Article 9, unless the offence is committed or the offender or alleged offender is found in the territory of a State other than that State.

5. In the cases contemplated in subparagraph (d) of paragraph 1 of Article 1, this Convention shall apply only if the air navigation facilities are used in international air navigation.

6. The provisions of paragraphs 2, 3, 4 and 5 of this Article shall also apply in the cases contemplated in paragraph 2 of Article 1.

ARTICLE 5

1. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over the offences in the following cases:

(a) When the offence is committed in the territory of that State;

(b) When the offence is committed against or on board an aircraft registered in that State;

(c) When the aircraft on board which the offence is committed lands in its territory with the alleged offender still on board;

(d) When the offence is committed against or on board an aircraft leased without crew to a lessee who has his principal place of business or, if the lessee has no such place of business, his permanent residence, in that State.

2. Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offences mentioned in Article 1, paragraph 1 (a), (b) and (c), and in Article 1, paragraph 2, in so far as that paragraph relates to those offences, in the case where the alleged offender is present in its territory and it does not extradite him pursuant to Article 8 to any of the States mentioned in paragraph 1 of this Article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

ARTICLE 6

1. Upon being satisfied that the circumstances so warrant, any Contracting State in the territory of which the offender or the alleged offender is present, shall take him into custody or take other measures to ensure his presence. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary enquiry into the facts.

3. Any person in custody pursuant to paragraph 1 of this Article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national.

4. When a State, pursuant to this Article, has taken a person into custody, it shall immediately notify the States mentioned in Article 5, paragraph 1, the State of nationality of the detained person and, if it considers it advisable, any other interested States of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary enquiry contemplated in paragraph 2 of this Article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

ARTICLE 7

The Contracting State in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State.

ARTICLE 8

1. The offences shall be deemed to be included as extraditable offences in any extradition treaty existing between Contracting States. Contracting States undertake to include the offenses as extraditable offences in every extradition treaty to be concluded between them.

2. If a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of the offences. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. Contracting States which do not make extradition conditional on the existence of a treaty shall recognize the offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Each of the offences shall be treated, for the purpose of extradition between Contracting States, as if it had been committed not only in the place in which it occurred but also in the territories of the States required to establish their jurisdiction in accordance with Article 5, paragraph 1 (b), (c) and (d).

ARTICLE 9

The Contracting States which establish joint air transport operating organizations or international operating agencies, which operate aircraft which are subject to joint or international registration shall, by appropriate means, designate for each aircraft the State among them which shall exercise the jurisdiction and have the attributes of the State of registration for the purpose of this Convention and shall give notice thereof to the International Civil Aviation Organization which shall communicate the notice to all States Parties to this Convention.

ARTICLE 10

1. Contracting States shall, in accordance with international and national law, endeavour to take all practicable measures for the purpose of preventing the offences mentioned in Article 1.

2. When, due to the commission of one of the offences mentioned in Article 1, a flight has been delayed or interrupted, any Contracting State in whose territory the aircraft or passengers or crew are present shall facilitate the continuation of the journey of the passengers and crew as soon as practicable, and shall without delay return the aircraft and its cargo to the persons lawfully entitled to possession.

ARTICLE 11

1. Contracting States shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences. The law of the State requested shall apply in all cases.

2. The provisions of paragraph 1 of this Article shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

ARTICLE 12

Any Contracting State having reason to believe that one of the offences mentioned in Article 1 will be committed shall, in accordance with its national law, furnish any relevant information in its possession to those States which it believes would be the States mentioned in Article 5, paragraph 1.

ARTICLE 13

Each Contracting State shall in accordance with its national law report to the Council of the International Civil Aviation Organization as promptly as possible any relevant information in its possession concerning:

(a) The circumstances of the offence;

(b) The action taken pursuant to Article 10, paragraph 2;

(c) The measures taken in relation to the offender or the alleged offender and, in particular, the results of any extradition proceedings or other legal proceedings.

ARTICLE 14

1. Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other Contracting States shall not be bound by the preceding paragraph with respect to any Contracting State having made such a reservation.

3. Any Contracting State having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the Depositary Governments.

ARTICLE 15

1. This Convention shall be open for signature at Montreal on 23 September 1971, by States participating in the International Conference on Air Law held at Montreal from 8 to 23 September 1971 (hereinafter referred to as the Montreal Conference). After 10 October 1971, the Convention shall be open to all States for signature in Moscow, London and Washington. Any State which does not sign this Convention before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

2. This Convention shall be subject to ratification by the signatory States. Instruments of artification and instruments of accession shall be deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, which are hereby designated the Depositary Governments.

3. This Convention shall enter into force thirty days following the date of the deposit of instruments of ratification by ten States signatory to this Convention which participated in the Montreal Conference.

4. For other States, this Convention shall enter into force on the date of entry into force of this Convention in accordance with paragraph 3 of this Article, or thirty days following the date of deposit of their instruments of ratification or accession, whichever is later.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of entry into force of this Convention and other notices.

6. As soon as this Convention comes into force, it shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations and pursuant to Article 83 of the Convention on International Civil Aviation (Chicago, 1944).

ARTICLE 16

1. Any Contracting State may denounce this Convention by written notification to the Depositary Governments.

2. Denunciation shall take effect six months following the date on which notification is received by the Depositary Governments.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized

thereto by their Governments, have signed this Convention.

DONE at Montreal, this twenty-third day of September, one thousand nine hundred and seventy-one, in three originals, each being drawn up in four authentic texts in the English, French, Russian and Spanish languages.

The PRESIDING OFFICER. Without objection, the treaty will be considered as having passed through its various parliamentary stages, up to and including the presentation of the resolution of ratification, which the clerk will read for the information of the Senate.

The assistant legislative clerk read as follows:

Resolved, (*two-thirds of the Senators present concurring therein*), That the Senate advise and consent to the ratification of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation signed at Montreal on September 23, 1971 (Executive T, 92d Congress, 2d Session).

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be in order, at an appropriate time, to request that the vote on the four treaties be taken en bloc and that each vote be considered a separate vote.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate return to legislative session.

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

MILITARY CONSTRUCTION APPROPRIATIONS, 1973

The Senate continued with the consideration of the bill (H.R. 16754) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes.

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

The PRESIDING OFFICER. On whose time?

Mr. MANSFIELD. I ask unanimous consent that the time not be charged against either side.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the unfinished business remain in a temporarily aside status today until the military construction appropriation bill is disposed of, or until the hour of 12:50, whichever is the earlier.

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

MILITARY CONSTRUCTION APPROPRIATIONS, 1973

The Senate resumed the consideration of the bill (H.R. 16754) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be in order, at an appropriate time, to request the yeas and nays on final passage of the pending bill, the military construction appropriation bill for fiscal year 1973.

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

Mr. MANSFIELD. Mr. President, I present today for the consideration of the Senate, H.R. 16754, making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes.

May I say, Mr. President, that the subcommittee was unanimous in its final recommendations on this bill and the full Appropriations Committee accepted what the subcommittee did without question and no amendments were offered in the full committee. Therefore, the bill was able to come to the floor in a reasonably good period of time.

The Military Construction Subcommittee of the Appropriations Committee again held joint hearings this year with the Military Construction Subcommittee of the Armed Services Committee chaired by the able Senator from Missouri (Mr. SYMINGTON). The joint hearings were most productive in saving the time of both Senators and witnesses from the Department of Defense. Additional hearings by the Appropriations Subcommittee were held to hear testimony on items in the bill which were previously authorized, and on the American barracks rehabilitation in Germany which is being constructed and paid for by the Federal Republic of Germany.

It is not my intention in presenting the bill to give detailed figures concerning each item. The line item breakdown and explanations are contained in the construction report on each Senator's desk and further information is contained in the hearings.

Before going into the recommendations of the Appropriations Committee, I would like briefly to summarize the pertinent figures pertaining to the bill. The fiscal year 1973 estimates for new obligational authority, as submitted to the Congress for military construction, were $2,661,384,000, broken down as follows:

Army	$619,207,000
Navy	554,200,000
Air Force	357,200,000
Defense agencies	48,200,000
Army National Guard	40,000,000
Army Reserve	38,200,000
Naval Reserve	16,000,000
Air Reserve	7,000,000
Air National Guard	10,600,000
Family housing	1,067,268,000

The total for the military construction bill as reported by the Committee on Appropriations is $2,337,726,000. This is an increase of $56,942,000 over the $2,280,784,000 provided by the House. The total of the bill as reported to the Senate is $323,658,000 under the budget estimate of $2,661,384,000.

GENERAL STATEMENT

For military construction for the Active Forces of the Department of the Army, the committee has approved an amount totaling $421,879,000. This is an increase of $16,615,000 over the amount of $405,264,000 approved by the House, and a reduction of $197,321,000 below the budget estimate of $619,200,000.

For military construction for the Active Forces of the Department of the Navy, the committee has approved an amount totaling $520,612,000. This is an increase of $19,741,000 over the $500,871,000 allowed by the House and a decrease of $33,588,000 below the budget estimate of $554,200,000.

For military construction for the Active Forces of the Department of the Air Force, the committee has approved an amount totaling $269,169,000. This is an increase of $18,686,000 over the $250,483,000 allowed by the House and a decrease of $88,031,000 below the budget estimate of $357,200,000.

For the Army National Guard, the committee has approved $40 million, and approval was given for the Army Reserve in the amount of $38,200,000, the budget estimate.

For the Naval Reserve, the committee recommends an appropriation of $20,500,000, an increase of $4,500,000 above the budget estimate.

For the Air Force Reserve, the committee recommends an appropriation of $7 million.

For the Air National Guard, the committee recommends an appropriation of $16,100,000.

For the Department of Defense agencies, the committee recommends an appropriation of $36,704,000. This is $11,496,000 below the budget estimate of $48,200,000, and is $1,900,000 above the House allowance.

The appropriation breakdown is as follows:

Defense Nuclear Agency, $2,596,000; National Security Agency, $5,221,000; Defense Supply Agency, $6,087,000; and, the Defense Intelligence Agency, $1,600,000. The committee also recommends for the Department of Defense general support programs a total of $3,700,000, including planning and design; and, for the Office of the Secretary of Defense emergency fund, $17,500,000.

ARMY

The largest single item included in this bill for the Army is $238,444,000 for the construction of 15,901 new enlisted barracks spaces and 458 bachelor officer quarters at permanent installations in the United States. The Army, in locating this new construction, has placed emphasis on those Army bases which have shown the largest deficits in permanent construction, and the Army is making a real effort in furthering an overall plan to take World War II temporary barracks out of service as rapidly as possible. I would like to point out that the Army has assured the committee that none of the barracks spaces provided for in this bill are in Europe or Okinawa, where alternative methods of funding

have become available. The Army has assured the committee that the Federal Republic of Germany is making a very determined effort to upgrade the living conditions for our troops in Germany. In fact, in the so-called "Offset Agreement Program" the Federal Republic of Germany is providing 600 million deutsche marks over a 2-year period for modernization, construction, and improvement of barracks. The Army's allocation of deutsche marks is 576 million, and the Air Force will receive 24 million deutsche marks for the improvement of Air Force barracks.

The committee has been informed that a similar program is being worked out with the Japanese for the improvement of barracks spaces in Okinawa.

Mr. President, I would like to point out that this certainly is in keeping with the policy enunciated last year by the Senate Appropriations Committee in advising the military services that they should seek greater financial construction aid from our allies in Europe.

The committee has approved $35,712,000 for medical facilities. This constitutes another large portion of the Army budget. However, I would like to point out that this is a significant reduction from last year's Army hospital program, when an appropriation of $101,670,000 was made for the construction of a new Walter Reed Army Hospital. I am pleased to inform the Senate that this project is now underway and excellent progress is being made to provide this new facility for the Army. A contract award was made within the available money and completion of the Walter Reed Main Hospital facility is projected for year 1976.

The largest single project in the hospital category this year is $16,757,000 to expand the Wood Army Hospital at Fort Leonard Wood, Mo. Also included are clinic expansions for the permanent hospitals at Fort Eustis, Va., and Benning, Ga., and construction of new clinics at Seneca and Sierra Army Depots, as well as new dental clinics at Fort Gordon, Ga., and Fort Hood, Tex.

The Army's program for community facilities, amounting to $61,600,000, is a decided increase over the $11,600,000 approved by the Congress in last year's appropriation bill. The Army is making a determined effort to upgrade its bases by building new community facilities and to demolish the temporary World War II structures that are no longer adequate to support community programs. The remoteness and large populations of the majority of Army installations in the United States generally preclude utilization of civilian facilities as a substitute. During our hearings, the Army pointed out that new community facilities are necessary "to provide for a quality of life which will attract and obtain personnel to man a modern volunteer army."

The Army is making a continued effort to provide adequate aviation facilities for its helicopters and fixed-wing aircraft. This bill contains $16,484,000 which is directly related to aviation operational activities. The projects include expansion of air fuel facilities at Fort Hood, Tex., Fort Campbell, Ky., and Fort Eustis, Va., plus the improvement of aviation fuel facilities at two locations in Germany. The bringing of the troops home from Vietnam, with accompanying aviation activities, has created a problem for the Army in providing adequate aviation maintenance facilities and the committee has been assured by the Army that they are outlining a continuing program for future years to upgrade aviation facilities. The Army today maintains some 12,000 rotary and fixed-wing aircraft. This is a tripling of the number of aircraft in the Army in the last 12 years.

During fiscal years 1968–72, $805 million was made available for planning and construction of the Safeguard sites. Of this amount, as of July 31, 1972, $525 million had been obligated and $401 million expended. These funds have been used primarily for major construction of the Grand Forks, N. Dak., site and Malmstrom, Mont., site; community impact assistance in the vicinity of these two sites; advanced preparation for the Whiteman, Mo., and Warren, Wyo., sites; essential research and development construction at the Kwajalein Missile Range; construction of a central training facility at Fort Bliss, Tex.; and construction of a Safeguard dedicated mission depot at Glasgow Air Force Base, Mont.

The committee understands that construction at the Grand Forks site is proceeding on schedule. The beneficial occupancy date for the perimeter acquisition radar building occurred in August 1972. Beneficial occupancy dates for the perimeter acquisition radar powerplant and supporting facilities, and for the missile site radar site and remote launch sites will occur during the remainder of 1972 and through the first half of 1973.

As a result of the Anti-Ballistic Missile Treaty signed May 26, 1972, in Moscow, the original fiscal year 1973 military construction, Army budget request of $390 million has been reduced to zero. Planning for the Whiteman and Warren sites and construction of the Malmstrom site have been suspended and will be terminated consistent with the authority of the fiscal year 1973 Defense Procurement Authorization Act. Sunk costs at the Whiteman and Warren sites are estimated to total around $8 million. At the Malmstrom site, where considerable construction had been accomplished prior to May 26, preliminary estimates indicate that total sunk costs could be as high as $175 million. This includes $77 million expended to date; the cost to terminate the suspended construction effort; and the cost to dismantle and restore the site.

The Army pollution abatement program contained in this bill is the largest ever requested by the Army. Over a period, fiscal year 1968 to fiscal year 1972, the committee has approved appropriations in the amount of $49.6 million for air pollution abatement projects and $78.2 million for water pollution abatement projects. This year's Army program includes an additional $31.7 million for air pollution abatement projects and $39.5 for water pollution abatement projects. These projects will reduce particulate and gaseous emissions, provide treatment of industrial wastes, provide incinerators for waste disposal, provide connections to regional sewage systems, and upgrade existing sewage treatment plants to conform with local, State, and Federal standards. The Army informed the committee that all the pollution abatement projects have been coordinated with the other Federal agencies involved in pollution abatement and are generally in phase with the environmental improvement plans of the local communities.

The total obligational authority requested for the U.S. share of the common-funded NATO infrastructure program for fiscal year 1973 is $48 million and new obligational authority is $38 million. These funds are required to meet U.S. obligations during fiscal year 1973. These projects were previously approved by NATO in the NATO annual programs—slices—and receive final approval for construction and funding from the NATO Payments and Progress Committee. It is anticipated that recoupments from projects prefinanced will total $10 million in fiscal year 1973.

NAVY

Mr. President, the Navy and the Marine Corps have all types of military projects and operational facilities in this year's, fiscal 1973, construction bill. I will not attempt to go into an explanation of each project. I will, for the sake of brevity, limit my remarks to some particular significant portions of the Navy construction program.

Testimony of naval witnesses for the last several years shows that the Navy is making a determined effort to upgrade its facilities for naval personnel. Significant emphasis is again being placed on bachelor housing and messing facilities. This year's program will provide 12,725 new spaces and will modernize 9,058 spaces for bachelor enlisted personnel. For bachelor officers, this year's program will provide 195 new spaces and the modernization of 563 spaces.

If the Navy were to obtain in future programs the average funding of approximately $82 million requested for the last 3 years for bachelor enlisted housing, it would take 10 years to eliminate the deficiency. Similarly, if the average funding for bachelor officers quarters of the last 3 years of approximately $9 million were obtained in future programs, it would take 22 years to eliminate the stated deficiency. The committee concurs with the emphasis placed on solving the enlisted quarters problem at a faster rate than the officers' quarters problem.

The Navy's hospital program for this year plans for the replacement of World War II-type substandard medical facilities. Specifically, funds have been approved to construct new hospitals at Pensacola, Fla., and New Orleans, La. Existing facilities at these locations are overcrowded, substandard, and incapable providing the required medical services. Other hospital projects include air conditioning at the Naval Station, Guam, and the Naval Air Station at Lakehurst, N.J.; the dispensary at Exmouth, Australia, and at the Naval Air Station, Sigonella, Sicily. The Navy still has a number of hospitals that are World

War II structures which will have to be replaced in future years.

In this year's program, the Navy included only $10,621,000 for community facilities programs. The approved projects included enlisted men's clubs, theaters, post offices, commissaries, gymnasiums, and recreational buildings. The Navy contends that with the approach of the all-volunteer forces, improved community support facilities comparable to those available in civilian communities are necessary. Information from the Navy indicates a huge backlog of community facilities will have to await future year appropriations.

Significant increases for the Navy's pollution abatement program have occurred during the last several years. In this year's program, approximately 15.1 percent of the Navy's program is for pollution abatement. With respect to the water pollution abatement deficiency, approximately one-third of the deficiency is associated with the provision of ship to shore sewage systems for handling sanitary waste products. Another significant portion of the deficiency is associated with elimination of the pollution associated with oily waste discharges. The expected imposition of more restrictive standards by the host countries will generate a requirement to upgrade sanitary sewage disposal systems at overseas installations. Approximately 10 percent of the deficiency is associated with this requirement.

The termination of deep water dumping as a means of disposal of unserviceable ammunition requires facilities to break down the ammunition into its component parts and the disposition of the explosive components. For large ordnance items, the metal casings will be emptied by a water or steam jet system. Facilities will be required to process the wash water contaminated by these explosive chemicals. The remaining portion of the deficiency is for industrial waste treatment projects such as discharge water from cooling towers and maintenance and production facilities.

Operational facilities represent about 9.5 percent of the appropriations request. It contains 38 projects for essential aviation, communications, and waterfront operational facilities. Major aviation projects included in this category are aircraft parking improvements at the Naval Air Station, Whidbey Island, Wash.; runway and taxiway extension at the Naval Air Station, Meridian, Miss.; flight control and rescue facilities at the Naval Air Station, North Island, Calif.; and runway navigational aids at the Naval Station, Keflavik, Iceland. Other important projects in this category are the $2.8 million meteorological building at the Fleet Numerical Weather Central, Monterey, Calif.; and pier improvement projects and associated "Cold Iron" facilities at nine naval installations in the amount of $19.7 million.

Training facilities included this year's construction program cover a wide range of naval training activities for officers and enlisted personnel. Approximately $55 million has been approved by the committee for these facilities. Major training facilities proposed are the $9.3 million phase III of the engineering studies complex at the Naval Academy and the $8.5 million academic instruction building at the Naval War College, Newport Rhode Island. Both projects are vital or strengthening and modernizing programs for training officer personnel. Other important projects in this category are the $3.7 million applied instruction building at the Naval Air Station, Jacksonville, Fla., required for operational and air maintenance training; the $5.2 million combat systems maintenance school, Naval Schools Command, Mare Island, Calif., needed for integrated command, control, and weapons-systems training; the $5.2 million applied instruction buildings at Naval Air Station, Memphis, Tenn.; and the $5 million electronics warfare training facilities, Naval Communication Training Center, Pensacola, Fla., for the training of electronic warfare technicians. At the Naval Training Center, Great Lakes, Ill., the $6.2 million recruit processing facility will provide a suitable environment for the processing of new recruits. The training category represents 10.3 percent of the authorization request and contains 18 projects.

The maintenance and production facilities requested in this year's Navy program amount to approximately $60 million. The committee has approved facilities to support aircraft-oriented engine and avionics maintenance facilities, mine assembly, and torpedo overhaul shops, as well as shops to support maintenance of station facilities.

Mr. President, I would like to point out that the Senate has not approved the $14.3 million which is the first phase of the undersea long-range missile system, commonly known as the Trident system. This $14.3 million was to begin construction of a new base for the Trident submarine. The Navy thus far has been unable to inform the Senate as to where this new base will be located. Thus, until the Navy informs the Senate of its plans and intentions, construction money for the new base will not be approved. However, I would like to point out that there is contained in this bill $13 million which will allow the Navy to go ahead with construction planning for the new base.

AIR FORCE

The committee has approved for the Air Force approximately $35 million for community facilities. This includes schools, commissaries, gymnasiums, and open messes for airmen and officers. The Air Force testified that they maintain 111 dependents' schools worldwide to provide education for eligible dependent children of the U.S. military and Department of Defense civilian employees through 13 years of school. The Air Force stated that they plan in future years to carry on a balanced program to update inadequate community facilities on their air bases in the United States.

Under administrative facilities, the committee did not approve the three-phase project to construct the Defense Office Building in the Bolling Air Force Base-Anacostia Naval Station area. The committee contends that the Department of Defense should be certain of how many Defense employees will be continued in the Washington area before undertaking this expensive construction project which could cost approximately $174 million.

The committee approved for the Air Force Academy two projects totaling $3,212,000. Part of this money was for the flight indoctrination support facilities at the Air Force Academy, which will enable a considerable savings in time for the cadets. At the present time, the cadets have to travel a distance of some 15 miles to Peterson Field for flight indoctrination courses. Now, a short airstrip will be available on the academy grounds for the light planes in which the cadets take their instructions.

An additional $848,000 was approved for a noncommissioned officers open mess. The present building which houses the open mess is completely inadequate. Testimony during the hearings indicated that the Air Force Academy has about completed all of its construction requirements and that little or no funds will be needed in the foreseeable future. In fact, the Air Force declared that in the next 4 years they could see only about $4.9 million being needed for construction projects at the Academy. The total investment to date at the Air Force Academy is $205,426,000.

The Air Force, like the other services, has allocated a large amount of fiscal year 1973 construction funds for bachelor housing. Approximately $43 million has been approved for Air Force bachelor housing—both enlisted and officer quarters. This year's appropriation will provide 6,412 new dormitory spaces and 220 officer quarters. Also, the Air Force will modernize 8,996 existing dormitory spaces and 180 officer quarters. The Air Force states that this program is a continuation of a phase program to replace the old World War II barracks with modern composite structures. The Air Force, in its bachelor housing program, is also air conditioning a number of airmen's dining halls at eight locations.

The committee has approved approximately $10 million for Air Force research, development, test, and evaluation. This segment of the Air Force construction request provides the buildings, laboratories, and specialized test structures that are required in the conduct of a quality R. & D. program. A flight control development laboratory for $4.5 million, an electronic warfare systems integration/evaluation facility for $4.8 million, and a minor alteration and expansion of the human impact lab are located at Wright-Patterson AFB, Ohio.

The Air Force has, since 1967, spent over $93 million from all accounts on pollution abatement at fixed facilities. Of this, the military construction program totaled $23 million for air pollution abatement projects and $43 million for water pollution abatement projects. This year, we propose projects for air pollution and water pollution control totaling $21.7 million.

The $21.7 million proposed in this year's bill consists of 46 line items of which $14.2 million is for control of water pollution and $7.5 is for air pollution control. Air pollution projects are in those areas where standards have been

established. They include projects for proper disposal of solid waste—so that open burning is avoided—conversion of heating plant fuels from coal to oil and gas, and a firefighting training facility at Hill Air Force Base which will meet the State standards.

The water pollution control projects will bring all Air Force installations in the continental United States into compliance with water pollution control standards which were established when the program was initially presented. These provide for sanitary and industrial waste treatment and connection to municipal or regional systems where feasible. The committee anticipates many future projects of this nature as the several States establish more stringent air and water pollution control standards. The committee has been advised that all projects included in the bill have been coordinated with the Environmental Protection Agency.

MILITARY FAMILY HOUSING

The committee has approved a construction program of 12,181 military family housing units for fiscal year 1973—4,409 units for the Army; 4,600 units for the Navy, including the Marine Corps; 3,168 units for the Air Force and four units for the Defense Intelligence Agency.

Approval for construction of 1,403 spaces for mobile homes owned by military personnel has been approved as follows: 421 spaces for the Army, 432 for the Navy and Marine Corps, and 550 for the Air Force. The committee is aware that mobile home ownership is increasing, especially on the part of military personnel, and that military families are experiencing more and more difficulty in finding suitable parking accommodations for their mobile homes, because of high rentals and restrictions on children and pets.

Continuing and increasing attention has been given by Defense to improving older existing public quarters and $43,587,000 has been proposed for this purpose as follows: $22,511,000 for the Army; $9,121,000 for the Navy and Marine Corps, and $11,955,000 for the Air Force. This is considerably above the amount for last year, but the need is urgent because of the estimated backlog of about $588 million in necessary improvements to upgrade the military family housing inventory.

Mr. President, may I say that there is nothing in this appropriation bill which has to do with Southeast Asia, that it is confined almost entirely to housekeeping matters such as housing facilities and the like which are needed for the upkeep and the care of troops in various parts of the world.

The important thing I want to say to the Senate is that my distinguished colleague, the ranking Republican member of the subcommittee, the Senator from Massachusetts (Mr. BROOKE) was a tower of strength in the preparation of the bill. And the important thing in both of our minds is not only that we have taken care of the troops—and that includes the Army, Air Force, and the Navy—but, that what we have done is to bring about a reduction under the budget estimate of $323,658,000. And this is a reduction of 12.1 percent. That is no small achievement. And I think that since the distinguished Senator from Massachusetts (Mr. BROOKE) and I have been heading this particular subcommittee over the past 4 years, what we are doing today is in accord with the savings which we have made in the past.

Mr. President, I ask unanimous consent that there be printed in the RECORD a comparative statement of the new budget obligational authority for fiscal year 1973 and the amounts recommended in the bill for fiscal year 1973.

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

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1972 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1973

Item	New budget (obligational) authority, fiscal year 1972	Budget estimates of new (obligational) authority, fiscal year 1973	New budget (obligational) authority recommended in the House bill	Amount recommended by Senate committee	Senate committee bill compared with— New budget (obligational) authority, fiscal year 1972	Senate committee bill compared with— Budget estimates of new (obligational) authority, fiscal year 1973	Senate committee bill compared with— House allowance
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Military construction, Army	[1] 536,816,000	[2] 619,200,000	405,264,000	421,879,000	−114,937,000	−197,321,000	+16,615,000
Military construction, Navy	355,500,000	554,200,000	500,871,000	520,612,000	+165,112,000	−33,588,000	+19,741,000
Military construction, Air Force	[3] 289,851,000	[4] 357,200,000	250,483,000	269,169,000	−20,682,000	−88,031,000	+18,686,000
Military construction, Defense agencies	[3] 14,139,000	48,200,000	34,804,000	36,704,000	+22,565,000	−11,496,000	+1,900,000
Transfer, not to exceed	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)			
Military construction, Army National Guard	29,000,000	40,000,000	40,000,000	40,000,000	+11,000,000		
Military construction, Air National Guard	10,600,000	10,600,000	16,100,000	16,100,000	+5,500,000	+5,500,000	
Military construction, Army Reserve	33,500,000	38,200,000	38,200,000	38,200,000	+4,700,000		
Military construction, Naval Reserve	10,900,000	16,000,000	20,500,000	20,500,000	+9,600,000	+4,500,000	
Military construction, Air Force Reserve	6,581,000	7,000,000	7,000,000	7,000,000	+419,000		
Family housing, defense	[5] 945,025,000	[6] 1,067,268,000	1,064,046,000	1,064,046,000	+119,021,000	−3,222,000	
Portion applied to debt reduction	−94,152,000	−96,484,000	−96,484,000	−96,484,000	−2,332,000		
Homeowners assistance fund, defense	7,575,000				−7,575,000		
Subtotal, family housing	(858,448,000)	(970,784,000)	(967,562,000)	(967,562,000)	(+109,114,000)	(−3,222,000)	
Grand tota. new budget (obligational) authority	2,145,335,000	2,661,384,000	2,280,784,000	2,337,726,000	+192,391,000	−323,658,000	+56,942,00

[1] Includes $98,500,000 contained in Defense appropriation bill for Safeguard construction.
[2] Budget estimate of $1,009,200,000 amended by H. Doc. 92-321 to delete $390,000,000 for Safeguard construction.
[3] Reflects $662,000 transferred to military construction Air Force from military construction, Defense Agencies.
[4] Budgt estimate of $317,200,000 amended by H. Doc. 92-321 to add $40,000,000 for satellite basing.
[5] Includes $11,070,000 contained in Defense appropriation bill for Safeguard family housing.
[6] Budget estimate of $1,073,681,000 amended by H. Doc. 92-321 to delete $6,416,000 for Safeguard family housing at Malmstrom ABM Site, Mont.; retains $6,004,000 for Safeguard family housing at Grand Forks ABM site, N. Dak.

Mr. BROOKE. Mr. President, I thank my distinguished majority leader for his very kind and generous words.

Mr. President, I wish to commend the distinguished chairman of the Subcommittee on Military Construction, Committee on Appropriations, on his deep interest and thorough development of this bill.

The bill provides $2,337,726,000 for military construction for our Armed Services in the continental limits of the United States and U.S. bases located on foreign soil. This sum provides $192,391,000 more than was appropriated in the fiscal year 1972 bill. This is $323,658,000 less than the budget request sent to the Congress. Funds are provided for those items on which agreement has been reached by the conference on authorization.

The subcommittee investigated and reported those areas stressed by the respective service. These included bachelor housing, community support, hospitals, military academies, pollution abatement, maintenance and production facilities, strategic arms limitation agreement, and the offset agreement with the Federal Republic of Germany. I invite the attention of my colleagues to these items as well as others contained in the report on this bill.

This bill provides $13,000,000 for Trident planning, and defers the additional requested funds until the Navy identifies where Trident faciilties will be built and provides the necessary supporting detail for such construction.

Mr. President, I support and recommend the support of the other members of this body in the passage of the bill.

Mr. President, I thank the distinguished chairman of the subcommittee for all of the splendid work he has done in reporting out the bill.

Mr. MANSFIELD. Mr. President, may I say that if it were not for the distinguished Senator from Massachusetts (Mr. BROOKE), we would not have been able to have cooperated so closely and I think, speaking for myself, so effectively in taking care of the needs which had to be taken care of and at the same time bringing about a substantial reduction under the estimates, which I think should be emphasized and reemphasized. As a matter of fact, I would anticipate that with this reduction in the military construc-

tion appropriations bill, what the Congress will have accomplished this year before it adjourns sine die—hopefully around the middle of the month—will be a savings of somewhere in the neighborhood of $5 billion reduction under the Department of Defense budget estimate presented to the Congress earlier this year.

I think that is an accomplishment in which the Congress—and I emphasize the Congress—can take great satisfaction and great credit.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as thus amended be regarded for the purpose of amendment as original text, providing that no point of order shall be waived by reason of agreement to this request.

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

The amendments agreed to en bloc are as follows:

On page 2, at the beginning of line 4, strike out "$405,264,000" and insert $421,879,000."

On page 2, line 14, after the word "appropriation," strike out "$500,871,000" and insert "$520,612,000".

On page 2, line 22, after the word "Code", strike out "$250,483,000" and insert $269,169,000'.

On page 3, line 2, after the word "the", where it appears the second time, strike out "Office of"; in line 3, after the word "Defense", insert "Preparedness Agency"; and, in line 6, after the word "Code", strike out "$34,804,000" and insert "$36,-704,000".

Mr. MANSFIELD. Mr. President, I know of no amendments. The Senator from Massachusetts (Mr. BROOKE) and I have received no indication that any Senator wishes to offer amendments. However, just to play it safe, I suggest the absence of a quorum briefly.

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 bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

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

The bill (H.R. 16754) was read the third time.

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, will the distinguished majority leader yield to me for 1 minute?

Mr. MANSFIELD. Yes, indeed.

TIME LIMITATION AGREEMENT ON BILL TO STRENGTHEN AND IMPROVE THE OLDER AMERICANS ACT OF 1965 (S. 4044)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 1185, S. 4044, a bill to strengthen and improve the Older Americans Act of 1965, is called up and made the pending business before the Senate, there be a time limitation thereon of one-half hour, to be equally divided between the distinguished Senator from Missouri (Mr. EAGLETON) and the distinguished Senator from Maryland (Mr. BEALL), but at the moment I will say the distinguished Republican leader or his designee; that time on any amendment in the first degree and/or the second degree be limited to 20 minutes, with the exception of an amendment in the first degree to be offered by Mr. BEALL, on which there be a time limitation of 40 minutes; that time on any debatable motion or appeal be limited to 10 minutes, and that the agreement be in the usual form.

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

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. 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.

AUTHORIZATION FOR SECRETARY OF SENATE TO MAKE CORRECTION IN ENGROSSMENT OF H.R. 16593, THE DEPARTMENT OF DEFENSE APPROPRIATION BILL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized in the engrossment of the bill H.R. 16593, defense department appropriation bill, to strike section 729 from the amendment by the Senator from Massachusetts (Mr. KENNEDY) which was adopted last night on page 51, line 18, down through line 5 on page 52. Through a misunderstanding, this language was retained in the amendment when it had been agreed by the manager of the bill to take the amendment if that were eliminated.

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

QUORUM CALL

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.

ORDER FOR YEAS AND NAYS ON FOUR TREATIES AND MILITARY CONSTRUCTION APPROPRIATION BILL (H.R. 16754)

Mr. MANSFIELD. Mr. President, I ask unanimous consent that with one show of hands it may be in order at this time to ask for the yeas and nays on the four treaties, which will be voted on en bloc, with the single vote to be shown as four separate votes in the RECORD; and also for the yeas and nays on the Military Construction bill, which is now the pending business, and in this connection that rule XII be waived.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second, and the yeas and nays are ordered.

ORDER FOR VOTE ON PENDING BUSINESS

Mr. MANSFIELD. Mr. President, for the further information of the Senate, the pending business, the Military Construction Appropriations bill for fiscal year 1973, which has now had a third reading, will be voted on immediately following the disposition of the four treaties. I ask unanimous consent that the Senate be granted that permission at this time.

The PRESIDING OFFICER (Mr. TUNNEY). Is there objection? The Chair hears none, and 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.

MESSAGES FROM THE PRESIDENT

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

REPORT ON SALARIES OF OFFICERS AND EMPLOYEES OF ORGANIZATIONS FUNDED UNDER THE ECONOMIC OPPORTUNITY ACT—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. TUNNEY) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

I am submitting the accompany report on salaries of officers and employees of organizations funded under the Economic Opportunity Act as required by Section 610-1(b) of the Economic Opportunity Act of 1964, as amended. The re-

port was prepared by the Office of Economic Opportunity and covers the fiscal year that ended on June 30, 1972.

RICHARD NIXON.

THE WHITE HOUSE, *October 3, 1973.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. TUNNEY) laid before the Senate a message from the President of the United States submitting sundry nominations, which was referred to the Committee on Armed Services.

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

QUORUM CALL

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.

OLDER AMERICANS COMPPREHENSIVE SERVICES AMENDMENTS OF 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1185, S. 4044, with the understanding that at no later than 1 p.m. today the Senate will proceed to the consideration of the unfinished business.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 4044) to strengthen and improve the Older Americans Act of 1965, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. EAGLETON. Mr. President, this legislation extends and expands the Older Americans Act of 1965 to enlarge the scope of the services provided therein; it improves the organizational structure at the Federal, State and local level of the agencies having responsibility for the delivery of such services; and it creates new programs to meet the demonstrated needs of older Americans. In addition, the bill creates an advocate for older persons to act on their behalf with all departments and agencies of the Federal Government whose policies and programs relate to or affect the particular problems and needs of the aging. More specifically, S. 4044 contains the following provisions:

The Older Americans Advocacy Commission is created, composed of six members serving on a part-time basis and appointed by the President with the advice and consent of the Senate, no more than three of whom may be members of the same political party. The Commission is to—

Act as an advocate for the aging throughout the Federal Government with respect to policies and programs relating to their particular needs and problems;

Evaluate existing programs intended to benefit the aging;

Make recommendations to the President, Congress, and to the heads of Federal departments and agencies regarding policies and programs affecting the aging;

By means of hearings, studies, publications, etc. inform the public about the problems and needs of the aging and activities of the Federal Government designed to meet these problems and needs.

I might add, Mr. President, that this is the one section of the bill that is subject to some contention; and it is expected that the junior Senator from Maryland (Mr. BEALL) will offer an amendment with respect to this provision.

The Administration on Aging is reorganized within the Department of Health, Education, and Welfare by removing it from its present location in the Social and Rehabilitation Service—which is oriented primarily toward income maintenance programs—and placing it in the Office of the Secretary of Health, Education, and Welfare and assigning primary responsibility for carrying out the Act to the Commissioner on Aging. In addition to his other duties, the Commissioner is directed to establish and operate a National Older Americans Information Clearinghouse to collect, maintain and disseminate information relating to the needs and interest of older persons and to render technical assistance to similar clearinghouse operations operated by state and local governments for the purpose of providing information and referral services related to the needs and interests of the aging in their respective jurisdictions.

The existing program of formula grants to the states is substantially expanded and reorganized to provide that funds shall be granted the states to provide a range of social services to the aging in accordance with approved state plans. The legislation provides further that the delivery of such services shall be accomplished primarily by area planning and service agencies to be designated by the State agencies and operated in accordance with area plans approved by the state agencies. State agencies are required to designate those area agencies of highest priority, in order to concentrate limited resources, and in such priority areas 90 percent Federal funding is provided while 75 percent Federal funding is authorized for projects in non-priority areas. Area agencies are intended, primarily, to coordinate and fund existing service providers rather than to establish themselves as now providers of services to the aging.

In addition to formula grants to states, funds are authorized for direct grants by the Commissioner on Aging to model projects which will expand or improve social services for the aging. In making such grants, the Commissioner is directed to give priority consideration to projects in the areas of housing, transportation, continuing education, pre-retirement training and services to the physically and mentally handicapped elderly.

The Commissioner is authorized to make grants and contracts to conduct research in the field of aging and for training personnel for programs for the aging, including the establishment of multidisciplinary centers of gerontology. A special program of grants and contracts is authorized for the conduct of special demonstration programs for meeting the transportation needs of older Americans.

Funds are authorized to make grants to pay up to 75 percent of the cost of acquiring or renovating facilities for use as multipurpose senior centers. Also authorized is Federal loan insurance and interest subsidies to assist in such acquisition or renovation, and funds are authorized for initial staffing grants for the operation of such centers.

The authorization for the Foster Grandparent and RSVP programs—previously conducted by the Administration on Aging and since transferred to the ACTION agency—is extended for an additional three years and a new program is established to permit the provision of services to individuals other than children.

Title VII of the Older Americans Act, which provides nutrition services for the elderly, is amended to expand the range of surplus commodities available for the use in such programs, and to consolidate the state administration of Title VII and Title III programs.

The Commissioner is authorized to make grants to the states for special library and education programs for the elderly.

New programs are created in the Department of Labor to provide for the employment of individuals 55 and older in community service activities, and to provide special counseling and training programs for middle-aged and older workers.

Mr. President, I would now like to consider in more elaborate detail title I, the older Americans' advocacy commission, anticipating the amendment to be offered by the distinguished Senator from Maryland (Mr. BEALL).

America's older citizens occupy a unique position. With some exceptions, they are not actively discriminated against. Rather, they are often subjected to an even more cruel condition—they are ignored. In a society which is preoccupied with concerns about youth, at the other end of the age spectrum the needs of the elderly tend to be overlooked by our public and private institutions. With respect to the Federal government, the elderly are also unique in that nearly every department or agency conducts some program or programs which relate directly to the needs and concerns of the aging.

Mr. President, I ask unanimous consent that a partial list of such activities be printed in the RECORD.

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

LIST OF ACTIVITIES

1. Department of Health, Education and Welfare:

(a) Social and Rehabilitation Service:

(1) Administration of Aging—State and community service programs, training in the field of aging, nutrition services.

(2) Assistance Payments Administration—old age assistance payments.

(3) Medical Services Administration—medical payments for people with low incomes under the Medicaid program.

(4) Community Services Administration—social services for recipients of old age assistance and other needy individuals.

(5) Rehabilitation Services Administration—vocational rehabilitation services.

(6) Office of Research, Planning, and Training—research and demonstration projects in a wide range of areas.

(b) Public Health Service:

(1) National Institutes of Health—research into the biological and psychological aspects of aging.

(2) Health Services and Mental Health Administration—health services and mental health programs.

(c) Social Security Administration—benefits under the old-age, survivors, and disability insurance program, health insurance protection under the Medicare program, research relating to economic security for the aged.

(d) Office of Education—research and training activities, Library Services, University Community Services, and Adult Education.

2. Department of Labor:

(a) Manpower Administration—jobs for low-income older persons in Operation Mainstream.

(b) Employment Standards Administration—enforces the Age Discrimination in Employment Act.

3. Department of the Treasury: Assistance relating to the tax problems of senior citizens provided by the Internal Revenue Service.

4. Department of Defense: Payments under the military retirement program.

5. Department of the Interior: Issues a Golden Eagle Passport.

6. Department of Agriculture—

(a) Food and Nutrition Service—Food Stamps and Food Distribution Program.

(b) Extension Service—educational programs including nutrition education, housing and continuing education.

(c) Farmers House Administration—loans for housing.

7. Department of Housing and Urban Development:

(a) Office of Housing Production and Mortgage Credit—low-rent public housing, section 236 program, rent supplements, congregate housing, section 235 program, nursing and intermediate care facilities.

(b) Office of Housing Management—services in housing for the elderly.

(c) Office of Community Development—programs for the elderly in Model Cities and grants for neighborhood centers under the Neighborhood Facilities program.

(d) Office of Community Planning and Management—development of a national urban growth policy and new community projects.

8. Department of Transportation: Urban Mass Transportation Administration provides funding to assist in providing mass transportation facilities and service for elderly persons.

9. Federal Trade Commission: Action against unfair and deceptive practices such as in the sale of hearing aids.

10. Office of Economic Opportunity—

(a) Office of Operations: Senior Opportunities and Services and Community Action agency multi-generational programs.

(b) Office of Legal Services: Legal problems of the elderly poor.

(c) Office of Health Affairs: Emergency Food Assistance and Comprehensive Health Services.

11. Veterans' Administration:

(a) Department of Medicine and Surgery—comprehensive health care for older veterans.

(b) Department of Veterans' Benefits—compensation, pension, and dependency and indemnity compensation.

12. Action: volunteer service opportunities through VISTA, Peace Corps, SCORE (Service Corps of Retired Executives), ACE (Active Corps of Executives), Foster Grandparents Programs, RSVP (Retired Senior Volunteer Program).

13. Railroad Retirement Board: payments under the Railroad Retirement program.

14. General Services Administration: enforcement of Architectural Barriers Act requiring Federal buildings and structures built with Federal aid to have ready access by handicapped.

15. Civil Service Commission: administers the Civil Service Retirement program and provides protection of older workers from age discrimination.

16. Department of Commerce: enforces the Flammable Fabrics Act.

17. Advisory Commission on Intergovernmental Relations: property tax relief studies.

18. Library of Congress: Division for the Blind and Physically Handicapped provides talking books and braille books.

Mr. EAGLETON. Mr. President, despite this display of seemingly active involvement with older persons by the Federal government, it is a commonplace that, "What is everyone's business is no one's business." This maxim is applicable to the Federal programs regarding the aging for they are spread thinly over virtually the entire range of the Federal establishment and too often fall between the cracks.

Efforts have been underway for some time to provide a spokesman for the aging in the Federal government in an effort to overcome the diffusion of responsibility and corresponding lack of performance. At the time of the enactment of the Older Americans Act of 1965, it was anticipated that the Administration on Aging (AOA), created thereby, would serve as the long-sought advocate for the aging at the Federal level.

Unfortunately, this expectation has not been fulfilled by AOA. Testimony before this committee and before the Special Committee on Aging, as well as the proceedings of the White House Conference on Aging, reflect a widespread disillusionment with the activities of AOA in the advocacy role originally intended for it. The committee recognizes that the failure of AOA to act as an effective advocate stems largely from unrealistic expectations and structural infirmities. Quite clearly, a relatively low level agency within one department (HEW) has little standing in influencing the activities of other Cabinet level departments and independent agencies.

Moreover, the principal task of AOA in the years since 1965 has necessarily been the operation of programs under the Older Americans Act. Inevitably, an organization charged with the operation of such programs—particularly greatly expanded programs of the kind authorized by this bill—becomes a captive of those programs and its scope is limited by them. The bulk of the manpower, energy, and creative ideas available within the agency is directed toward the successful operation of the programs for which it is responsible.

As stated, the shortcomings of the Administration on Aging in fulfilling its advocacy role have been stressed by witnesses before this committee representing a wide range of organizations devoted to improving the lot of America's older citizens. The White House Conference on Aging emphasized the need to "pursue more vigorously the advocacy of older people interests" and urged that that public agencies be empowered to fill this function.

The Older Americans Advocacy Commission created by Title I of this bill is designed to meet these demonstrated needs. The bill provides that the Commission shall be composed of six members, appointed by the President with the advice and consent of the Senate, serving three-year staggered terms. Not more than three of the members are to be of the same political party and at least two of the members are themselves to be older persons. While the Commission is lodged in the executive branch, it is intended that it retain the independence necessary to fill its advocacy responsibility and thus it is empowered to employ its own staff.

As its name denotes, the Commission is charged, first and foremost, with the duty of advocating the interests of older Americans throughout the whole range of the Federal government. At those critical points in the development of policies and programs when older peoples' needs are so often ignored at present, the Commission should speak out.

Moreover, it is directed to evaluate and review existing programs affecting the aging to appraise their value and impact upon the lives of those who are intended to be benefitted by them. In connection with both its advocacy and evaluate functions, the Commission is empowered to request information in writing from the heads of Federal departments and agencies, which requests generally shall be answered within thirty days, unless the release of the requested information is barred by law or executive order.

It is also intended that the Commission shall serve to inform the public about the needs and concerns of the aging and about Federal activities concerning them. The Commission is further directed to make specific recommendations to the President, the Congress, and the heads of Federal departments and agencies with respect to aging problems.

In brief, the Older Americans Advocacy Commission is intended to be the principal spokesman in the executive branch for America's older citizens and to provide the visibility, identification, and advocacy that have so long been lacking in the relations between the elderly and their government.

The Administration has opposed the establishment of the Commission on several grounds. Primary reliance has been placed on the proposition that the establishment of such a spokesman for the aging creates a precedent that soon will be seized upon by other interest groups, resulting in a proliferation of such agencies. However, as pointed out above, the aging are indeed *sui generis* in this re-

gard. No other group is affected by the activities of so many departments and agencies—with so few results. The committee considers that, in general, the needs of other groups can be met by a single department or agency administering the programs related to them. Quite clearly, this is not the case with regard to the aging.

The Administration contends further that the Commission will absorb funds that could be used for needed services to the elderly and will function as simply another layer of bureaucracy impeding the delivery of such services. It is not the committee's intention that large sums of money be devoted to the Commission's operations. While the authorization of appropriations is left open because of a lack of information about precise funding needs, the committee anticipates that the Commission should be able to operate effectively at a funding level of less than $2 million. Further, the Commission will have no programs to operate, nor is it charged with a coordinating function; hence, it will not serve to hinder the operation of programs for the aging but rather to comment on their scope and effectiveness.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The time of the Senator has expired.

The Senator from Maryland is recognized.

Mr. BEALL. Mr. President, to clarify the groundrules under which we are operating, how much time is there on the bill?

The PRESIDING OFFICER. There is 30 minutes on the bill, 15 minutes to each side.

Mr. BEALL. Then, if I offer an amendment, which I am going to do, there will be 40 minutes on that amendment, 20 minutes to the side.

The PRESIDING OFFICER. The Senator is correct. There will be 40 minutes on the amenndment of the Senator from Maryland, the time to be equally divided.

Mr. EAGLETON. Mr. President, I yield 10 minutes of my 20 minutes on the amendment to the Senator from Maryland so that he will have 30 minutes.

Mr. BEALL. Mr. President, the Senator from Missouri is always most generous. I appreciate it.

Mr. President, it is a pleasure for me to join the distinguished chairman of the Labor and Public Welfare Committee's Subcommitee on Aging in managing Senate consideration of S. 4044, the comprehensive older Americans services amendments. The distinguished junior Senator from Missouri has diligently overseen the deliberations of this committee throughout the last 6 months and as a result of his efforts, we have brought forth a bill that, with one reservation, I believe is worthy of prompt and favorable consideration on the part of the full Senate. This bill reflects many of the ideas that were contained in the testimony of expert witnesses, the advice and guidance of the appropriate officials from the various Government agencies involved, as well as inputs from Senators on both sides of the aisle. In addition, I believe that we should mention that the chairman of the full committee (Mr. WILLIAMS) and the able junior Senator from Vermont (Mr. STAFFORD) put forth a proposal which is incorporated into this bill which will provide for an extensive series of demonstration projects in the field of transportation. The distinguished senior Senator from West Virginia (Mr. RANDOLPH) has long worked for the enactment of legislation designed to provide for a job training program to open new employment opportunities to middle-aged and older workers. This concept is embodied in title X of the legislation that is presently pending before the Senate.

The senior Senator from Massachusetts (Mr. KENNEDY), whose interest in the nutrition program for the elderly is well known, continued to make a valuable contribution as we sought to coordinate the nutrition and social service programs embodied in the Older Americans Act. Senator KENNEDY's community service employment program for older Americans, which was recently passed by the Senate as a separate measure, appears as a title IX of the Older Americans Act, reflecting the committee's hope that we can, in fact, make additional job opportunities available to older Americans without further delay. The distinguished senior Senator from California (Mr. CRANSTON) was most helpful in developing the language contained in title VI which covered the older American volunteer programs which are administered by the Action Agency. Senator PACKWOOD's interest in home health services is likewise reflected in this bill. Senators SCHWEIKER and STEVENSON were most helpful as the committee sought to resolve the language regarding the status of large cities in the administrative structure which we are mandating in this bill. I would be remiss, Mr. President, if I did not publicly thank the ranking member of the full commitee (Mr. JAVITS) for his support and advice and counsel throughout the deliberations on this measure. I believe that we should also note that a number of Senators, not on the committee, also made valuable inputs of information. The able chairman of the Special Committee on Aging (Mr. CHURCH), the ranking Republican on that committee (Mr. FONG), the senior Senator from Indiana (Mr. HARTKE) and the junior Senator from Texas (Mr. BENTSON), all made significant contributions to this bill.

Mr. President, throughout the past several months, an effort was made by all Senators involved to produce a bill that would achieve the fundamental objective of delivering social services to our older Americans in a prompt, efficient, and effective manner. I would once again simply say that Senator EAGLETON is to be commended for the open and bipartisan manner in which this subcommittee processed this legislation, and I would hope, Mr. President, that that spirit will prevail during the floor debate on S. 4044.

Mr. President, before proceeding with the debate on S. 4044, I would like to briefly summarize some of the accomplishments we have seen in recent years in our efforts to improve the well-being of our older citizens. Since I first came to Congress in January of 1969, I have had the pleasure of working with two Secretaries of Health, Education, and Welfare, Robert Finch and Elliot Richardson, both of whom are men of great ability, great sensitivity, and great compassion for our aging Americans as well as the other recipients of services in the area of their responsibility. Commissioner Martin, is a man widely respected in the field of aging and I believe that he is a dedicated public servant who has done everything in his power to see that the Administration on Aging fulfills its mandate.

One could hardly comment on the progress we have made in understanding and meeting the needs of the elderly without mentioning the role of Dr. Arthur S. Flemming. Dr. Flemming is a distinguished public servant and academician who has served his Nation in a variety of capacities during the last four decades. As the Chairman of the White House Conference on Aging—1971—Dr. Flemming brought together thousands of delegates and experts from across our Nation. Dr. Flemming oversaw an immensely successful and productive White House Conference which has generated the type of momentum needed to bring the problems of our Nation's senior citizens to the attention of all of our people. Even though the final reports and recommendations of this conference are not yet in, the President and the Congress have both taken decisive action aimed at resolving these problems. Now, as the Special Consultant to the President on Aging, Dr. Flemming is in an excellent position to advocate the cause of senior citizens, coordinate interdepartmental governmental programs, and inform the public of the needs and possible solutions to the various problems confronting our Nation's older Americans. Assisting Dr. Flemming in coordinating domestic programs for the aging is the Committee on Aging within the Cabinet-level Domestic Council. The creation of a Domestic Council in general and the Committee on Aging specifically reflects President Nixon's commitment to coordinate and deliver services to older Americans in a coherent, efficient manner. It is now up to the Congress to take those decisive steps necessary to end the isolation, the neglect and the indifference which have plagued older Americans for far too long.

Mr. President, I believe that S. 4044 will make a very significant contribution to the well-being of older Americans. This legislation dramatically strengthens the Commissioner on Aging and the Administration on Aging, upgrades it by moving it to the Office of the Secretary, and expands its authority as well as its authorization levels. Under this bill, the Administration on Aging will foster the growth and development of State aging units, strengthen existing aging agencies, and provide them with the technical know-how needed to meet the requirements contained in this legislation. Within each State, areas selected for priority consideration, will receive funds to establish area planning and service units. These organizations will serve to coordinate existing social and nutritional services so that they can

be efficiently delivered to the senior citizens who are in need of such services. It is not envisioned, that these regional planning units will actually deliver services to the elderly unless the needed services are not available from other sources. Thus, we are talking about an apparatus that will coordinate programs conducted under the Social Security Act, within the Department of Transportation, and other agencies of the Department of Health, Education, and Welfare, Department of Housing and Urban Development, and so forth. In addition, these area aging units will draw upon existing State and local services as well as nonprofit organizations designed to assist the elderly. At the present time, AOA lacks the authority to coordinate the delivery of various social services and I believe that this reform is one of the most significant contained in this legislation. In addition, this bill will provide for a comprehensive national information clearinghouse as well as State and local information and referral systems that will serve to place much-needed information in the hands of our senior citizens, so that they can resolve many of their problems by their own initiatives.

The subcommittee sought to touch as many bases as possible with regard to the problems facing senior citizens. This bill will enable us to expand and improve our system of senior citizen centers, expand the volunteer programs for the elderly which are administered by the Action Agency, provide employment programs and job training programs, promote expanded library reading and educational programs for senior citizens. Train personnel to meet the needs of older Americans, undertake various gerontological research projects, as well as a variety of demonstration projects designed to further our knowledge with regard to the problems of the aging.

Mr. President, I am an enthusiastic supporter of the initiatives contained in this legislation, and I am firmly of the opinion that a significant corner has been turned in our efforts to make life a little better for our Nation's 20 million senior citizens.

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

Mr. BEALL. I yield to the distinguished Senator from Missouri.

Mr. EAGLETON. Mr. President, do I understand that the Senator from Maryland desires the yeas and nays on his prospective amendment?

Mr. BEALL. Mr. President, I do desire the yeas and nays on my prospective amendments, and I ask for the yeas and nays.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. BEALL. Mr. President, I do not intend to offer the amendment as yet.

Mr. JAVITS. Mr. President, I ask unanimous consent that it may be in order to ask for the yeas and nays on the amendment which is at the desk, although it has not yet been called up.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object—and I shall not object—I ask unanimous consent that one show of seconds may authorize the yeas and nays on both the amendment and the passage of the bill, and that rule XII be waived.

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

The yeas and nays were ordered on the Beall amendment and on the bill.

EXHIBITION OF THE GUNBOAT "CAIRO"

Mr. BIBLE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1475.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.) laid before the Senate the amendment of the House of Representatives to the bill (S. 1475) to authorize the Secretary of the Interior to provide for the restoration, reconstruction, and exhibition of the gunboat *Cairo*, and for other purposes, which was to strike out all after the enacting clause, and insert:

That in order to preserve an object having national significance as part of the history of the Civil War, for the benefit and inspiration of the people of the United States, the Secretary of the Interior shall, in such manner as he deems advisable, utilize the authorities contained in the Act of August 21, 1935 (49 Stat. 666) to provide for the restoration and reconstruction on the gunboat "Cairo", formerly of the Union Navy, sunk in action in the Yazoo River, Mississippi, and for its exhibition at the Vicksburgh National Military Park.

SEC. 2. At such time as the restoration and reconstruction of the "Cairo" shall have been completed, and it has been located within the boundaries of the Vicksburgh National Military Park, the "Cairo" shall be administered in accordance with all laws, rules, and regulations applicable to such park.

SEC. 3. There are hereby authorized to be appropriated not more than $4,500,000 for the restoration of the "Cairo" and for the development of protective and interpretive facilities associated therewith.

Mr. BIBLE. Mr. President, the Senate passed S. 1475 last December 6, 1971. At the time of our consideration of this measure, it was the opinion of the Senate Interior Committee as expressed in our report on the legislation that a replica of the entire original ship would be adequate to explain the historic significance of this vessel in the history of the Civil War in this area of the Nation.

The House of Representatives took the position when they amended S. 1475 that the ship should be restored by utilizing the original materials to the greatest extent possible. This position was prompted by the feeling on the part of the House Interior Committee that the greatest degree of historic integrity would be achieved, even though the cost would be almost twice as much as that contemplated by the Senate.

Since the House has acted on the Senate bill, I have held several discussions with the distinguished Senators from Mississippi, representatives of the National Park Service, and my colleagues in the House of Representatives in an effort to find a meaningful compromise between the different positions taken by each body on this legislation. I believe that an acceptable alternative to the plans that have been discussed in the past is to restore the starboard half of the vessel while leaving port half in its present severely damaged condition. This is acceptable to the National Park Service. Visitors could thereby view essential parts of the boat as they originally appeared, as well as the ravages caused by the mine that sank her and the salvage operation that recovered her.

This compromise position would cost about $1.3 million less than the House-passed bill authorized and approximately $700,000 more than the Senate-passed bill. I believe that this approach would be in the public interest to adequately preserve an important historic object and is a reasonable accommodation of the different points of view.

Therefore, Mr. President, I move that the Senate concur in the amendment of the House with an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

In section 3 strike the sum "$4,500,000" and insert in lieu thereof "$3,200,000".

Mr. BIBLE. Mr. President, I move that the Senate concur in the House amendment, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nevada.

The motion was agreed to.

Mr. BIBLE. Mr. President, I ask unanimous consent that the official position of the National Park Service under date of September 27, 1972, in a letter signed by Acting Director Stanley Hulett be printed in the RECORD.

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

DEPARTMENT OF THE INTERIOR,
Washington, D.C., September 27, 1972.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The National Park Service has reassessed the plans and estimates presented to your committee in support of S. 1475 and H.R. 6618, legislation to provide for the rehabilitation of the gunboat "Cairo." We have consulted closely in this process with Commander J. Delano Brusstar, Naval Architect and Marine Consultant, who has been intimately involved with the "Cairo" project from the beginning.

We believe that an acceptable alternative to the plans that have been discussed in the past is to restore the starboard half of the vessel while leaving the port in its present severely damaged condition. Visitors could thereby view essential parts of the boat as they originally appeared, as well as the ravages caused by the mine that sank her and the salvage operation that recovered her.

This approach will allow us to construct an exhibit building containing fewer cubic feet and thus less expensive. Moreover, it is now our view, based on a recent examination of the "Cairo's" resistance to weather over the past decade, that it will survive adequately without precise temperature and humidity controls.

We believe this plan could be carried out within a cost ceiling of $3.2 million—$1.3 million less than authorized in the House-passed bill. We estimate the cost of restoration of the vessel and its transfer to Vicks-

burg National Military Park at $1.5 million and the cost of construction of an exhibit building at $1.7 million.

Sincerely yours,

STANLEY W. HULETT,
Acting Director.

OLDER AMERICANS COMPREHENSIVE SERVICES AMENDMENTS OF 1972

The Senate resumed the consideration of the bill (S. 4044) to strengthen and improve the Older Americans Act of 1965, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. BEALL. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

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

Mr. BEALL. Mr. President, how much time is remaining on the bill?

The PRESIDING OFFICER. The Senator from Maryland has 7 minutes remaining on the bill and the Senator has time on the amendment.

Mr. BEALL. I thank the Chair.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. BEALL. Mr. President, as I indicated earlier, I am an enthusiastic supporter of the initiatives contained in S. 4044 and I believe that they will go a long way toward meeting the pressing needs of our senior citizens. I have, however, continued to express reservations about the Older Americans Advocacy Commission contained in title I. The House bill, H.R. 15657, contains a provision creating a National Advisory Council on the Aging. This Council would advise the President, the Secretary of Health, Education and Welfare, the Commissioner on Aging, and the Congress on programs and activities involving senior citizens. An advisory council such as this would serve to provide both the executive and legislative branches of our Government with a steady input of information regarding the problems of senior citizens. Such a council would serve to give the problems of the aging maximum visibility, guarantee the attention of the occupant of the White House, as well as promoting coordination between various Federal departments and agencies responsible for delivering services to senior citizens. I believe that this is a constructive approach that would serve to reinforce the commitment on the part of both the executive branch, as well as Congress, and thus assure that our commitment to resolving these problems will not flag.

The amendment which I am offering at this time, would have the effect of deleting the National Advocacy Commission and replacing it with the House approved National Advisory Commission on Aging. My fundamental opposition to the inclusion of the Advocacy Commission is based on the following points:

First. One of the persistent problems with the Administration on Aging, stemmed from the decision made in 1967 to "bury it" deep within the administrative structure of the Department of Health, Education, and Welfare. To be more explicit, AOA was incorporated into the Social and Rehabilitation Services—SRS—which is primarily responsible for the income maintenance programs of the Department of Health, Education, and Welfare. This decision served to dramatically reduce AOA's visibility and effectiveness. In fact, the Commissioner on Aging, who is appointed by the President and confirmed by the Senate, was made answerable to the Administrator of SRS who is appointed by the Secretary without the need for congressional confirmation.

In the ensuing years, those organizations primarily concerned with the welfare of senior citizens became increasingly critical, and rightly so, of AOA's reduced stature. This is certainly a criticism which I share, and in fact I said during my introductory remarks for S. 3391 last March that "I believe that it was the intention of Congress, upon the enactment of the original legislation, that the Administration on Aging would be a strong separate entity directly answerable to the Secretary of Health, Education, and Welfare." I went on to say that, "I do not believe that we should ask our senior citizens to 'wait in line' before their advocates within the Department of Health, Education, and Welfare are given the authority, the status, and the stature needed to effectively coordinate and implement the many programs needed to come to grips with the problems confronting our senior citizens." My views have not changed in the intervening months, and I am pleased that S. 4044 legislatively upgrades the Administration on Aging by removing it from SRS and placing it in the Office of the Secretary. In addition, the Administration on Aging is clearly designated as the "principal agency" for the carrying out of the provisions of this act.

I believe, that the creation of an independent advocacy commission would tend to negate the efforts of this subcommittee to upgrade and strengthen the Administration on Aging. The mere creation of such an independent advocacy commission imparts the belief that those who manage AOA are of questionable competence and possibly even guilty of malfeasance in the performance of their responsibilities. This approach would clearly contradict the entire thrust of title II, if we do not trust AOA to carry out the mandate Congress has given it, then why upgrade and expand its authority?

I believe that the record of the Administration on Aging is a relatively impressive one in spite of its limited manpower and very limited resources. Last year 800,000 older persons were served by 1,721 projects funded under title III. I believe that the creation of such an oversight commission would be ill-advised and ill-timed and perhaps more importantly would create a spirit of negativism that is totally inconsistent with our efforts to strengthen and make more visible the administrative structure responsible for delivering services to older Americans.

Second. Title I, which creates the advocacy commission, contains no specific authorization, but it is estimated that between $1 and $2 million a year will be "bled away" from vital nutritional and social services. While this may not sound like a great deal of money, we should remember that the average grant under the existing title III program is $14,000. If one stops to think how many small, but significant, grants would be eliminated by the deletion of $1 to $2 million one realizes that a great many meals will not be served, transportation services will not be rendered, senior citizen centers will not be manned, and so forth. When one examines this proposition from the point of view of service to needy senior citizens that will not be rendered, one is inclined to believe that at best this is a very dubious proposal.

Third. While its proponents envision a very positive reaction to such an advocacy commission within the various executive departments, I am far more inclined to believe that a very negative and permanently disruptive reaction would be likely to set in. Tensions and disharmony would exist within the Administration on Aging and other agencies designed to carry out the programs for the benefit of the elderly. Under the impact of a "institutionalized surveillance system" one might well expect the administrators responsible for the conduct of such programs to become very defensive, very cautious, and very unimaginative. I believe that we need a creative and innovative approach to the problems of senior citizens and I am firmly convinced that this is exactly what we will not get if we incorporate such an advocacy commission into this legislation. If the programs authorized in this legislation are to work as Congress intended them to, then we must have cooperation and coordination in the delivery of social and nutritional services. We must always remember that our goal is to deliver services in a responsive way and such an operation is not an adversary function. In the long run, the creation of disruptive tension will prove to be counterproductive to the well-being of our 20 million senior citizens.

Fourth. The Federal Government operates many hundreds of programs designed to render a variety of social services to a specific constituency. The creation of such a specialized advocacy commission would clearly establish a precedent for similar oversight organizations designed to supervise other Government programs. As Secretary Richardson pointed out in his letter:

> A proliferation of such bodies would not improve services to people. It would only further defuse responsibility for real results and it would represent a major step away from the kind of Executive consolidation proposed by the long series of bi-partisan studies culminating in the Ashe Council Report and Embodied in the Administration's Executive Re-organization bills.

Mr. President, I ask unanimous consent that the full text of Secretary Richardson's letter be printed in the RECORD at this point in my remarks.

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

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C.

Hon. J. GLENN BEALL, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BEALL: On Friday, September 22, the Labor and Public Welfare Committee reported favorably the Comprehensive Older Americans Services Amendments of 1972. While I am pleased that the bill incorporated most of the provisions of the Administration's bill, S. 3391, I am very much concerned that the reported bill would create another agency with responsibilities for programs for the aged.

Title I would establish an Older Americans Advocacy Commission, a body of six members with permanent staff outside the Department of HEW, to act as an independent advocate on behalf of older Americans, to review and evaluate programs for the aged, and to disseminate information relevant to them. The proposed Commission would thus duplicate many of the functions already assigned by law to the Administration on Aging (AOA), which Title I would also upgrade organizationally within this Department.

The Federal government now has authority to mount programs to provide virtually every type of service older persons may need, and we also have significantly enlarged resources for fiscal year 1973 for these programs. What is needed now is effective management of these programs and resources. The proposed Commission would, instead, further fragment responsibility for these programs and make sound management more difficult. The bill explicitly lodges authority for policy development, program evaluation and information dissemination with both the Secretary of HEW (or the Commissioner of the AOA) and the new proposed Commission. The bill would thus fragment responsibility and result in less accountability to the public for these activities than at present. In addition, the duplication of authority is likely to result in wasted resources.

The creation of the proposed Commission will also set a dangerous precedent. Every interest group which is the beneficiary of a Federal program will demand the establishment of a similar independent advocacy body. Yet a proliferation of such bodies would not improve services to people. It would represent a major step away from the kind of Executive consolidation proposed by the long series of bipartisan studies culminating in the Ashe Council Report and embodied in the Administration's Executive reorganization bills.

I would strongly urge you and your colleagues to support deletion of this provision from the bill.

Sincerely,

ELLIOT RICHARDSON,
Secretary.

Mr. BEALL. Mr. President, my next point is:

Fifth. Although, on paper, this advocacy commission would not have any coordinating or administrative functions, I think it is almost impossible for it not to become deeply involved in the workings of the various agencies it is called upon to oversee. Administrators in various Government agencies, and especially AOA, would have to anticipate a possible complaint to the advocacy commission every time they make a determination as to who will receive a specific grant. If the advocacy commission became involved in every decision such as this, and there is nothing in this legislation that precludes it, then the potential is there for divisions between groups representing older Americans, the possible paralysis of AOA, and the distinct possibility that the advocacy commission would "assume" an extra-legal place in the bureaucracy.

Mr. President, this legislation constitutes an almost revolutionary new approach to Federal programs on behalf of senior citizens. Our goal is to deliver services and to deliver them effectively. I believe that this bill establishes an apparatus that can do that, for it is based on the experience we have gained during the 7 years which have elapsed since the enactment of the original Older Americans Act and it would appear to me that the goal is far to important for us to distract our attention away from the job that must be done. I believe that this provision decreases rather than increases the likelihood that we can achieve the goal all of us want to achieve, and for that reason I would urge my colleagues to support this amendment that would restore the language contained in the House bill, and I believe remove a provision which could seriously jeopardize the effectiveness of this bill.

As an aside, the members of the Subcommittee on Aging had before them the House passed version of this bill, thus we were able to gain from the benefit of the thinking and the effort of the Members of the other body. I personally believe, with the exception of title I, that the Senate bill is an excellent bill that would be largely upheld in conference.

In fact, I would not be too surprised if the House were to accede to Senate changes and not require a conference at all. Thus, I think it would improve the ability to have the bill pass both Houses before Congress adjourns if we were to accept title I as my amendment. The likelihood of such an occurrence would be greatly enhanced if my amendment were adopted.

In closing, Mr. President, I would like to personally assure my colleagues that if, after this new apparatus has had an appropriate period of time in which to function, there is an obvious need to consider additional steps to promote the needs of the elderly, I would be more than willing to consider whatever steps we might need to take to fulfill that need. But I think that, in light of the changes made in this legislation, such an action at this time would be unwise and premature.

Mr. JAVITS. Mr. President, will the Senator from Maryland yield?

Mr. BEALL. I yield.

Mr. JAVITS. I think it is critically important to make it clear, if it is the fact—and I have been trying to ascertain that—that the amendment of the Senator from Maryland does not simply strike out all participation by the nongovernmental element in the administration of the bill, but substitutes an advisory group for the so-called advocacy commission.

Mr. BEALL. The Senator is exactly correct. As a matter of fact, the substitute amendment would allow for greater participation by senior citizens and senior citizen groups, who need service and deserve service. I have the greatest concern about service.

Mr. JAVITS. So what the Senator is in effect saying to the proponents of the advocacy commission is: We ask you to bear the burden of providing that such an "ombudsman" is necessary in this field, whereas in most others it is handled by an advisory committee. Is that not so?

Mr. BEALL. The Senator is exactly correct.

Mr. JAVITS. I thank the Senator, because I think it will help to give Senators a clear view of what the Senator from Maryland is seeking to effect.

Mr. BEALL. I think it is fair to point out also that nowhere else in our Government has an independent commission been used in the deliverance of service. Usually it is called in on regulatory matters, and there is no regulatory matter involved in this particular piece of legislation.

Mr. JAVITS. Is the Senator prepared to yield any time on the amendment? Or I could offer an amendment to the amendment, since I have not yet spoken on the bill and would like to do so.

Mr. BEALL. I would be happy to yield to the distinguished Senator from New York, the ranking Republican member of the Committee on Labor and Public Welfare.

Mr. JAVITS. Mr. President, will the Senator yield me 10 minutes?

Mr. BEALL. I yield 10 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, I ask unanimous consent that what I shall now say may be a part of the general debate on the bill.

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

Mr. JAVITS. Mr. President, this is a very carefully drawn, bipartisan bill. We are generally agreed on the major outlines of it. Most older people hope for a chance to remain participating, self-sustaining, and respected individuals. The traditional expression in the geriatrics field is: "Keep them walking," which is a euphemism for the kind of thing which we are trying to effect by this bill.

I hope, however, that the various points of view with regard to the advocacy commission, and the substitution of an advisory council, will not distract us from the broader legislative intentive initiative to provide greater visability and leadership capability with respect to the aged.

It is our hope that this bill will provide the essential framework for enabling older Americans to fully participate in our society with the maximum degree of independence. The life of older Americans, as for all Americans, should be a life filled with hope, confidence, and freedom to act. In my judgment, the bill provides one of the basic tools for assisting our older people to secure equal opportunity for the full and free enjoyment of their golden years.

I am particularly gratified that the bill upgrades and strengthens the Administration on Aging by placing it in the office of the Secretary of the Department of Health, Education, and Welfare and assigning primary responsibility for carrying out the act to the Commissioner on Aging. The administration is to be

commended for supporting this initiative which will provide greater visibility and leadership capability to the Administration on Aging and which will remove it from conflicting tendencies generated as a result of its present location in the Social and Rehabilitation Service. In addition, the bill directs the Commissioner to establish and operate a National Older Americans Information Clearinghouse which I believe can play a vital role in serving as a focal point for information relating to the needs and interests of older persons. Again, the administration and Senator BEALL are to be complimented for promoting this very useful concept, and, of course, the author of the bill, the Senator from Missouri (Mr. EAGLETON), and his associates on the Democratic side.

One out of every 10 Americans is age 65 or older. By the year 2000 it is projected that more than 30 million Americans will be of age 65 or over. If we are to provide older Americans with opportunities and programs which will enable them to sustain their independence and the effectiveness of their contributions to the society, it is clear we must provide the knowledge necessary to adequately meet the physical, mental, social and environmental problems and needs of this rapidly growing segment of our population. S. 4044 recognizes this need by establishing a more adequate and coordinated program of research and training related to the aging processes and the diseases of aging in order that we may specially deal with the needs of the elderly. The bill will develop the leadership, technical specialists, and facilities from which to understand very thoroughly the impact of various disciplines on the aging processes, and this includes special provisions for study and demonstration projects on the transportation problems of older Americans. The current lack of effective approaches to this transportation is a serious impediment to meeting the mobility requirements of the elderly.

Finally, I applaud the intent of S. 4044 to expand and improve social services for the aging by more generous formula grants to the States and for the initiating of model projects which will more fully test the best delivery system for dealing with the problems of the elderly in the areas of housing, continuing education, free retirement training, and services to the physically and mentally handicapped elderly. I also note that title VII of the Older Americans Act, which provides nutritional services for the elderly, is expanded and that the authorization for the Foster Grandparents of RSVP programs, which have continued to grow and develop since their transfer to the ACTION agency, is extended for an additional 3 years with new programs established to permit the provision of expanded services.

Mr. President, most older Americans seek from the Government only that which they cannot obtain for themselves. They want to be treated as full citizens and welcomed as participants in the mainstream of American life. S. 4044 is a salutory effort to restore first class citizenship to all older Americans, by strengthening the Older Americans Act and providing adequate financial support for ongoing and future programs under the act, we will have made a great stride forward to assure that quality of life that we owe to our elderly citizens.

I invite the attention of the Senate to a basic concern in respect to the two-manpower program titles of this bill which should be mentioned:

Title IX, "The Older Americans Community Service Employment Act", which passed the Senate on September 21, 1972, as a separate measure, would authorize $100 million in fiscal year 1973 and $150 million in fiscal year 1974 for programs under which low-income persons 55 years or older would be employed in rendering community service activities in social, health, welfare, education and other vital fields; it is estimated that as many as 40,000 and 60,000 jobs could be funded in fiscal year 1973 and fiscal year 1974 respectively.

Title X, "The Middle-aged and Older Workers Training Act", previously reported by the Committee as a separate measure, would authorize $100 million in fiscal year 1973 and $150 million in fiscal year 1974 for training opportunities and related activities for persons 45 years or older.

We are hopeful that we may soon have a general comprehensive manpower training bill, which we do not have now. It would be very seriously duplicative of everything we are trying to do for the aged if we do not make provision in this bill for that general expectation. Accordingly, there are provisions in this bill—which I am proud to say the minority sponsored—which provide that when we do have a general manpower program, the duty of the Secretary will be to integrate these programs under the new measure, so that they will fit fully into the broader outline which has been established.

Mr. President, I ask unanimous consent that the letter of Malcolm R. Lovell, Jr., Assistant Secretary for Manpower, regarding S. 1307, which is the basis for title X, be printed at this point in the RECORD.

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

U.S. DEPARTMENT OF LABOR, OFFICE OF THE ASSISTANT SECRETARY FOR MANPOWER,
Washington, D.C., September 22, 1972.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: I wish to communicate to you the views of the Department of Labor on S. 1307, a bill to provide increased employment opportunities for middle-aged and older workers, and for other purposes.

Title II of S. 1307, providing for a Mid-career Development Service Program, is largely duplicative of efforts now maintained under the Manpower Development and Training Act, the Economic Opportunity Act, and the Wagner-Peyser Act. These laws now authorize work experience, training, counseling and other supportive services for middle-aged and older persons. Moreover, this past fiscal year, the Manpower Administration obligated over $260 million to provide work and training opportunities for enrollees 45 years of age and over. In our judgment, the categorical centralized approach of this title is highly undesirable, for it further impairs our efforts to obtain comprehensive manpower planning for all who require such services.

Likewise, Title III of S. 1307, Special Reports and Studies, overlaps existing authority. Most of the reports and studies required in this section are currently being made under the authority granted in the Manpower Development and Training Act, the Economic Opportunity Act, and the Wagner-Peyser Act.

Sincerely,
MALCOLM R. LOVELL, JR.,
Assistant Secretary for Manpower.

Mr. JAVITS. The department has expressed the same objection with respect to title IX.

Mr. President, the general thrust of the objection, which is, incidentally, a perfectly proper one, although I may not agree with it, is one which the Senate should have very much in mind. It makes the point that the mid-career development service program is duplicative of what is now provided in the Manpower Development and Training Act, the Economic Opportunity Act, and the Wagner-Peyser Act. It is pointed out that as a result of those acts and other services for the middle aged, $260 million was provided in the past fiscal year, dealing with persons who were 45 years of age and over.

Therefore, the letter concludes:

In our judgment, the categorically centralized approach of this title is highly undesirable, for it further impairs our efforts to obtain comprehensive manpower planning for all who require such services.

Mr. President, I believe the minority has done its best to honor—as far as it could—any such views by making provision in section 1033(c)(2), contained at page 97, lines 16 to 21, in which the Secretary is authorized:

(2) The Secretary is authorized to make whatever arrangements that are necessary to carry out the programs assisted under this title as part of any general manpower legislation hereafter enacted, except that appropriations for programs assisted under this title may not be expended for programs assisted under that title.

A similar provision is contained in the other title.

In other words, the appropriation cannot be pulled out.

Second, I wish to point out that at my strong urging a very material reduction was effected in the authorization part of the bill which related to title X. The Senator from West Virginia (Mr. RANDOLPH), who authored that particular amendment, cut the amount for fiscal 1973, from $140 million to $100 million; and for fiscal 1974, from $210 million to $150 milion, to comport in each case with the amounts authorized under the title XI.

We have put a very serious caveat there. The administration is now expending given sums of money for public service employment under the Emergency Employment Act of 1971, a special bill which we passed. The number of workers that are engaged approximates 170,000.

I should like to ask the Senator from Missouri (Mr. EAGLETON), if I may have his attention, a question that he may not wish to answer, but which may cause a dilemma. If we pass this bill, and it becomes law, the administration might say to us for example, "Look, that is fine—that is, if you want to spend money for those who are 45 years old or 55 years old and over, and forget all about the other

categories contained in the Public Service Employment Program, we will simply devote the money for that purposes."

So I think that if we—I say this to the Senator from Missouri (Mr. EAGLETON) as one who is very sympathetic to the bill, and joined with him, indeed, in sponsoring it—had some expression of view on the part of the managers, to wit, the Senator from Missouri (Mr. EAGLETON) and the Senator from Maryland (Mr. BEALL) as to how we face that kind of contingency, it would be very helpful. What do we really have in mind?

We can answer two ways. We can say, "Yes, we want this to take priority, and if we do not have enough money for this—quite outside of the other—we want the money put into this effort prorated." Or we can say, "We expect separate appropriations for whatever we do in respect of this particular act," or make some other answer. But I do believe this bill should not leave here, passed by the Senate, without some expression of view by the managers on that particular subject.

Mr. EAGLETON. Mr. President, I do not have a utopian answer to the dilemma raised by the Senator from New York, but it would be my personal judgment that the area he discusses would deserve separate appropriations, and that considerable support from mayors, Governors, and others interested in this area could be mobilized to support such separate appropriations.

Mr. JAVITS. I am delighted with the Senator's answer. I thoroughly agree with him.

We have to fight for both, and we do not want to negate either. But we think they should stand on their own feet; and I think that is an honorable, sensible course. On that basis, I do not see how any of us could be against this bill.

Mr. EAGLETON. I thank the Senator from New York.

Mr. BEALL. Mr. President, I yield myself 1 minute to concur in the statement made by the chairman of the subcommittee in response to the question of the Senator from New York that there should be separate appropriations on these matters, and it ought to be perfectly clear that there is unanimity of opinion throughout both parties that this should be the case. I hope the record is very clear on that.

Mr. JAVITS. I think it is now, and I thank both my colleagues very much.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). Who yields time?

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

Mr. EAGLETON. Mr. President, I shall be very brief with respect to the amendment of the Senator from Maryland, which, on an anticipatory basis, I discussed somewhat earlier.

It is my opinion that doing away with the advocacy commission and creating an advisory commission would not provide the visible identification and the advocacy which have so long been lacking between the elderly and their Government.

It is my position that only an advocacy commission can give such visible identification and advocacy. Further, let me say that the following national organizations are in vigorous and enthusiastic support of an Older American Advocacy Commission:

The National Council of Senior Citizens.
The American Association of Retired Persons.
The National Council on Aging.
The Retired Federal Employees Association.
The American Gerontological Society.

Mr. President, I am prepared to yield back the remainder of my time on the amendment.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. BEALL. Mr. President, I am almost prepared to yield back the remainder of my time, since there is no one else here that I can convince. The Senator from Missouri is not thoroughly convinced, but I assume that the Senator from Virginia is already convinced.

I would just like to say that I think what we are all concerned about is delivery of services to the elderly. There is no more deserving constituency in America today than our senior citizens, who have devoted their lives to building the kind of amenities and opportunities we all enjoy today. I think we are all concerned that our senior citizens get the proper services from their Government at this stage in their lives.

I am concerned, however, that if we try to create an advocacy commission, we are showing some lack of enthusiasm for what we seek to do in this bill, because, on the one hand, we have said that one of the problems facing the elderly today is the fact that the bureaucratic administration set up to deal with their problems has not had the kind of visibility it deserves and the authorization it deserves, so in this act today we are giving it the visibility; we are seeing that COA gets into the office of the Secretary of Health, Education, and Welfare, right next to the man who makes the decisions.

We know that the President has created a special assistant to deal with the problems of the elderly, Dr. Arthur Flemming.

So what we are doing, I think, in seeking the establishment of an advocacy commission, is saying that in doing the things we have done in this bill, we do not have much confidence in ourselves because we feel what we have created will not be responsive to the needs of the aging.

I do not think we do justice to the Commission on Aging if we take that position. I think we have given them the visibility to allow them to do the job, and I do not think we ought to create another level of bureaucracy to make it that much more difficult for senior citizens to get to the programs designed to do the job.

Mr. President, in our society today senior citizens are unique, because they have the energy, the time, and the concern to deal with their own problems, and they are expressing that concern very vocally these days. I think it is unnecessary to create another level of bureaucracy to provide a thicket in which they might get caught as they try to get to the program.

I think if we substitute for the advocacy commission this kind of advisory council, it will provide the opportunity for senior citizens to have an overview of all governmental programs and, through their own abilities, to be vocal and to bring the kind of attention that is necessary to the bureaucratic difficulties that may arise from time to time. So, Mr. President, I certainly hope the Senate will adopt the amendment I have proposed, and I am prepared to yield back the remainder of my time.

Mr. FONG. Mr. President, I believe that the needs of older Americans deserve the very highest priority. The contributions made by our older citizens in the growth of our Nation are so great that it is almost impossible for us to pay our debt to them.

It is my hope that every Member of the Congress, sensitive to what we owe older Americans, will continue to serve as faithful advocates to be sure that the problems they face will be met as fully as possible. I am confident that every Member of this legislative body shares my hope.

I believe, too, that it is most desirable for the various organizations of senior citizens, such as the American Association of Retired Persons, the National Retired Teachers Association, the National Council of Senior Citizens, the National Association of Retired Federal Employees, to be strengthened in their legitimate efforts on behalf of themselves and other older people.

These organizations and others active on behalf of older persons deserve the highest tribute for the tremendous progress we have seen during the past several years in meeting needs of our aged population. The progress in health services, income, housing, and other concerns of older people which we have seen would never have occurred had it not been for their dedication and hard work.

It is my hope that they will continue to grow and expand their proven abilities to act as advocates for their own constituencies and all older persons. From what they have done in the past, I am sure they will do so.

In the achievement of their objectives, however, I believe it would be undesirable to create, at taxpayer's expense, a Federal Government agency responsible for preempting their advocacy role.

Senator BEALL and others have given serious reasons why creation of an Older American's Advocacy Commission within the Administration on Aging would constitute a disservice to older Americans. I agree with their observations, including the fact that such a Commission would tend to divert badly needed money from service programs.

Beyond this I have two special reservations, however, about the propriety of an Older American's Advocacy Commission.

In the first instance, it seems to me that such a tax-supported Federal agency might tend to supplant the existing, and effective organizations of older persons who have done so well as advocates up until now.

Second, I have serious questions about the legitimacy of using tax dollars for an agency whose responsibilities include ad-

vocating legislation. The legislation so advocated may be highly desirable, but should the tax dollar be used to pay for any special plea?

If we approve an Older Americans Advocacy Commission, how can we legitimately refuse to do the same for education, housing, health, and other special interests?

For these reasons, I feel I must join in support of Senator BEALL in this amendment to delete the committee provision for an Older Americans Advocay Commission, and to replace it with a National Advisory Commission on Aging as provided for in H.R. 15657, the House version of this bill.

It is most important that the Older Americans Act be extended without delay. I would not want to risk loss of this important legislation through a Senate-House conference. I believe that support of this amendment on this ground alone is sufficient.

Mr. BENTSEN. Mr. President, the Older Americans Comprehensive Services Amendments of 1972, is a landmark piece of legislation. It combines and strengthens many of our currently existing programs for the elderly and adds several new programs which give evidence of a new commitment from this Congress to give special attention to the needs of our 20 million citizens over the age of 65.

The measure clarifies the role of the Administration on Aging as the principal spokesman for older Americans. It expands the programs under title III, which provides grants to States and communities for programs on the aging. It offers new initiatives in setting up centers of gerontology. It gies new emphasis to our national volunteer program for older Americans, such as the Foster Grandparent program and the Older Americans Community Service program.

I support this legislation.

I am particularly gratified, Mr. President, by the inclusion of a new title VIII, the Older Readers Services Act, a measure which I authored and introduced in the Senate on February 18 of this year.

A similar measure was introduced in the House and was incorporated in the House Older Americans amendments under the gifted leadership of Congressman JOHN BRADEMAS of Indiana. When the President signs this bill, for the first time we will have earmarked funds to enable libraries to serve the needs of America's elderly.

It is no small accomplishment.

America's older citizens have a wide variety of needs which are properly addressed by this comprehensive bill; they need more adequate income, better transportation, better housing, more of a voice in Government.

But they also need to overcome the isolation which is so prevalent in their lives. The Older Readers Services Act can offer them the opportunity to escape isolation, can give them emotional and intellectual stimulation, and can provide them with meaningful employment opportunities.

For the elderly man or woman confined to a nursing home or confronted with a daily routine lacking in emotional or intellectual stimulation, the delivery of books or other library materials and the visit of a librarian can be a window to the outside world. For the elderly who have some mobility, special library programs provided by public libraries can be an equally valuable experience.

The delegates to the White House Conference on the Aging recognized the untapped potential of library services for the elderly, and this legislation closely corresponds to their recommendations for a new Federal program in this field.

The citizens of Detroit, Cleveland, and San Francisco have already participated successfully in programs which have provided direct library service to nursing homes, bookmobile services for the homebound aged, and special reading programs at public libraries.

Unfortunately, these are the exceptions. A recent study of public libraries revealed that a majority give lowest priority to the aging, with less than 0.5 percent of all funds being budgeted for programs in this special field.

Now, with this legislation, the Federal Government can offer an incentive to libraries to expand their programs for the elderly. The bill provides for the training of librarians to work with older citizens; special library programs for the aged; the purchase of special library materials—including page turners, prism glasses, large print materials—for use by older readers; salaries for older persons who wish to work on library programs for the elderly; in-home visits by librarians and other library personnel to the homebound elderly; outreach programs to notify the elderly of available library programs; transportation to enable older citizens to utilize library services.

In brief, Mr. President, it authorizes a series of programs designed to bring the resources of the library to those who have no mobility and to bring the elderly person within the reach of programs that may be offered within the walls of the library itself.

I believe that this program will provide both stimulation and serenity for thousands of our older citizens. I urge the Appropriations Committee to fund it at a significant level so that the promise of the Older Readers Services Act can be fulfilled.

And I want to express my gratitude to the distinguished chairman of the Subcommittee on Aging, Senator EAGLETON, for incorporating my bill into the comprehensive legislation he offers to the Senate today.

Mr. CRANSTON. Mr. President, as ranking majority member of the Subcommittee on Aging of the Labor and Public Welfare Committee, I would like to extend my congratulations to the distinguished Senator from Missouri (Mr. EAGLETON) who as chairman of the Subcommittee on Aging has led in the development of S. 4044, the Older Americans Comprehensive Services Amendments of 1972. This legislation reflects a significant move toward government that is truly responsive to the needs of older Americans—particularly those nearly 20 million citizens living on fixed incomes. I would also like to extend my appreciation for the excellent work of Jim Murphy, subcommittee counsel, and the many other majority and minority staff people involved in the development of this bill.

ADVOCACY COMMISSION

S. 4044 differs from the House version in many important areas, but the most important is the addition of the Older Americans Advocacy Commission. Over 10 years ago the first White House Conference on Aging recommended a strong Federal commission, responsible to the President, with powers and authority similar to the Civil Rights Commission, to investigate what was being done—and not being done—by Federal agencies on behalf of elderly citizens. That recommendation has finally been implemented in S. 4044. People like Dr. Arthur Flemming, the Special Adviser on Aging to the President, are owed a great debt of public gratitude for the excellent job they have done in the past years. But opportunities have been limited by organizational restraints imposed on the Administration on Aging. We cannot expect that the Administration on Aging act as an effective advocate for older Americans submerged within the Social and Rehabilitation Services Administration at HEW.

To expect an agency within HEW to push the Department of Transportation toward addressing the impediments of elderly mobility, or effectively to influence HUD in the development of adequate housing for the elderly, or to motivate the Department of Labor to act against the frequent job discrimination faced by the elderly worker, is to expect that a deputy administrator—for that has been, if not in name, at least in practice, the role of the Director of the Administration on Aging—to influence Cabinet-level policy decisions. That approach to administrative organization has never worked in the past, and there is no reason to expect it to suddenly begin to work now. For this reason, I wholeheartedly support the Advocacy Commission as contained in S. 4044.

HOME HEALTH CARE

I was pleased that the subcommittee adopted a suggestion which I offered with the cosponsorship of Senator PACKWOOD to include specifically the provision of home health services in the definition of social services. It is imperative, I think, that we do all we can to provide these essential services to the elderly to enable them to avoid institutionalization. The recent report of the Special Subcommittee on Aging on home health services quoted one physician as follows:

> We are warehousing thousands of functioning human beings because they need some relatively inexpensive health care; they can't change their own bed linen; carry the groceries upstairs; wash their own hair; occasionally need a little help getting in and out of the bathtub and aren't able to take a bus ride to the doctor. The same fragile, but psychologically and socially functioning individual who is lucky enough to have a good doctor, a family and friends or is able to buy a little help for himself doesn't have to give everything up and share a hole in the wall with a stranger and become a vegetable because nobody there is much interested in doing those things for him either. And the worst of it is, there's no return.

In the coming weeks the Subcommittee on Aging will be holding hearings on alternatives to institutional care, and I am particularly pleased that S. 4044 recognizes the importance of the development of adequate home health care services for the elderly.

AREA AGENCIES DESIGNATION

Another amendment which I strongly urged, along with several other members of the full committee, including the distinguished Senator from New York (Mr. JAVITS), to spell out procedures for the designation of area agencies was adopted in the full committee. This amendment mandates the designation as an area agency of any unit of local government containing either 15 percent of the State's elderly population or 50,000 elderly citizens. In my view, any unit of government with an elderly population of that size should be automatically designated, and not have to await the possibly unreasonable decision of State governments. This amendment affects about 33 areas in the entire country, including four—Long Beach, ad San Diego—in my home State of California.

AUTHORIZATION

In keeping with the significantly increased authorization levels in this legislation, I offered an amendment with Senator EAGLETON which increased from $12 million to $20 million the authorization for administrative expenses contained in section 306 of the bill. The legislation had originally contained an authorization of $12 million with a minimum allocation of $200,000 to any one State. Even if most of the States were able to administer programs effectively at the minimum allocation level, it would leave less than $2 million to be allocated among the larger States—most definitely an inadequate amount. And this would have been true only if the full authorization amount was appropriated. By increasing the total authorization we are able to insure that adequate financing for all the States will be available before the $200,000 minimum will be applicable, and I would hope that during conference on this measure, the Senate conferees will be able to convince the House Members on the merits of this increase.

OLDER AMERICANS VOLUNTEER PROGRAMS

As chairman of the Special Subcommittee on Human Resources, I have had ample opportunity to note the important effects of the volunteer programs contained in the Older Americans Act, and heard numerous knowledgeable witnesses testify to the effectiveness of these programs. Programs like Foster Grandparents and RSVP have allowed older people to utilize a lifetime of experience in helping others. During the hearing which I chaired on the proposed ACTION Act earlier this year, many of the witnesses from both the administration and senior citizens groups testified to the need for two improvements in the legislation, which have now been incorporated in S. 4044 on the basis of amendments I offered to title VI of the bill.

First, many individuals recommended lowering the eligibility age for participation in the Foster Grandparents and RSVP programs. Present law limits participation in these programs to those 60 and over. In today's job market, if an individual 55 or over chooses to retire—and he is more often than not forced to do so—or for some other reason leaves his place of employment, the chances of he or she finding other employment are very slight, though his or her ability to contribute to the development of our society is still significant. In light of limited employment opportunities for older workers, and the growing trend to retire voluntarily at an earlier age, the committee has agreed to lower the entry age to 55 for both the Foster Grandparents and RSVP programs.

The second concern of many witnesses, including those within the ACTION agency who administer the Foster Grandparents program, was a desire to expand the Foster Grandparents program to include services to people other than children. At the same time, there was great concern among many senior citizens groups that this expansion not occur at the expense of the present Foster Grandparent program.

In order to meet both these concerns, I offered an amendment, which was adopted in subcommittee, creating another category of volunteer service—with special emphasis on older volunteers serving as senior companions and senior health aides, with a separate authorization of appropriations of $6 million in 1973, $7 million in 1974, and $8 million in 1975. It is my hope that by expanding the program in this manner, those older citizens who wish to do so will be able to work directly with other elderly citizens—and other persons with special needs—in their homes as well as in institutions, while fully preserving the integrity and purpose of the Foster Grandparent program.

Mr. President, at my request, certain language was included in the committee report—No. 92-1242—to clarify the present title VI of the Older Americans Act and my amendments in the committee bill revising that title, at pages 17 through 19. Mr. President, I ask unanimous consent that these excerpts be set forth in the RECORD at this point.

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

TITLE VI—NATIONAL OLDER AMERICANS VOLUNTEER PROGRAM

In retaining the basic language of Section 611(a) of the Older Americans Act (in Section 603(b) of this bill), the Committee bill made two changes: First, it dropped the 90 percent limitation on the Federal Share so that in exceptional cases 100% funding would be permissible at the discretion of the program head. Second, the age of eligibility for entry into the program was reduced from 65 to 55, to reflect testimony before the Subcommittee on Aging, and the Special Subcommittee on Human Resources which indicated the desire and ability of persons 55 to 59 to participate in Foster Grandparent, RSVP, and Senior Companion-type programs, and in accordance with the manpower provisions of Title IX of this bill.

The Committee recognizes that not all persons between the age of 55 and 59 seeking to participate will be able to do so, any more than there are opportunities for all those 60 and over to participate under present law. But the Committee thinks that the lower eligibility age is more realistic in today's job market and retirement situation.

In addition, there are two matters regarding language retained from the present law in Section 611(a) which require further clarification: the effect of the "person-to-person" provision and the language "including services as 'Foster Grandparents' to children receiving care in hospitals, homes for dependent and neglected children, or other establishments providing care for children with special needs.".

The Committee does not intend "person-to-person" services which Foster Grandparents are authorized to provide under this section to be limited to those in a direct one-to-one relationship with a particular child. Rather, it would be consistent with the Committee's intention for a Foster Grandparent to serve in a project or program where he or she inter-relates with several children. The Committee expects, however, that the major thrust of the subsection (a) program—bringing older persons in direct and personal contact with a child or several children with the purpose of developing an enriching relationship between them, as in a surrogate grandparent/grandchild relationship—will be carried out in programs conducted under this subsection.

Second, the Committee wishes to make clear that it does not agree with the restrictive interpretation apparently given by ACTION to the "including" clause at the end of the subsection. The Committee's view is that this language is not, and was not, exclusive with respect with respect to the places where Foster Grandparents could serve children and that service in a private home or other non-institutional setting, as well as in "hospitals, homes for dependent and neglected children, or other establishments providing care for children with special needs" is permissible as long as the other basic requirements of the Title are satisfied.

SPECIAL EMPHASIS CATEGORIES

In adding the special category in Section 611(b) of the Older Americans Act (in Section 603(b) of this bill), it is the intent of the Committee to expand volunteer opportunities for persons fifty-five and over to include situations where persons other than children are involved and to stress two special emphasis programs—Senior Companions and Senior Health Aids.

The Committee also wishes to make clear its intention with regard to the language "including services as 'senior companions' to persons having developmental disabilities". The Committee does not regard this language as being exclusive or limiting the programs conducted under section 611(b) to non-institutional settings. The Committee expects, however, in conjunction with the recommendations of the White House Conference on Aging—which stressed the importance of older persons staying in their own homes and in familiar surroundings—that the programs conducted under section 611(b would be conducted with an emphasis on volunteer services directed toward preventing institutionalization.

In addition, the Committee's intention is that the language "developmental disabilities" be interpreted to include physical or mental disabilities, and the Committee does not construe developmental disabilities to be limited specifically to mental or physical disabilities, but rather intends volunteer services from "senior companions" and "senior health aids" to be available to all "persons (other than children having exceptional needs", as is stated in the new section 611(b).

CONTINUATION OF DELEGATION OF AUTHORITY

Section 605 is intended to make clear the Committee's intention that nothing in this Act shall in any way modify, repeal or affect the continuation in full force and effect of delegations of authority, transfers, or reorganizations made effective before the effec-

tive date of this Act with respect to functions carried out under Title VI of the Older Americans Act of 1965.

OTHER MAJOR PROVISIONS

Mr. CRANSTON. I would also like to mention, briefly, my strong support for both title IX of the committee bill, the Community Service Employment for Older Americans, authored by Senator KENNEDY, and title X, the Middle Aged and Older Workers Training title, authored by Senator RANDOLPH. Both of these provisions, now incorporated in S. 4044, represent a recognition of the important contributions which can be made to the Nation's economy by middle-aged and older workers, while also recognizing the difficulty older workers are often faced with in finding meaningful employment.

Mr. President, I urge the Members of the Senate to join with me and the members of the subcommittee and the full committee in adopting this most important measure.

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

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Maryland.

Mr. JAVITS. Mr. President, I would suggest, or perhaps the assistant majority leader would suggest, that in view of the fact that other business is taking place elsewhere, the rollcall votes on this amendment and on the bill occur after the votes already scheduled for 2 p.m. today.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator for his suggestion. I ask unanimous consent that immediately following the vote which will occur on the passage of the military construction appropriation bill, and prior to the Senate's resumption of the consideration of H.R. 1 under the previous order, the Senate proceed to vote on the pending amendment offered by the Senator from Maryland (Mr. BEALL), and that immediately following that vote, the Senate proceed to vote on passage of the bill, S. 4044.

The PRESIDING OFFICER. Without objection, it is so ordered. Does the Senator——

Mr. ROBERT C. BYRD. Mr. President, I think I know what the Chair is about to say: that immediately following the vote on the pending amendment, the Senate proceed to vote on the comparable House bill to S. 4044.

The PRESIDING OFFICER. Does the Senator from West Virginia want the yea-and-nay vote on passage transferred to the House bill?

Mr. ROBERT C. BYRD. I ask unanimous consent, Mr. President, that that also be done.

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

Mr. ROBERT C. BYRD. Mr. President, I want to be sure that all Senators understand that no other amendment would be in order following the disposition of the amendment by Mr. BEALL, under this order.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, I do not quite understand the reasons for shutting off any Senator's opportunity to amend.

Mr. ROBERT C. BYRD. Mr. President, the Senator makes a very legitimate point. May I revise the unanimous-consent request to include a request that if any other amendments are offered, they be voted on immediately, without time for debate?

Mr. JAVITS. Mr. President, again reserving the right to object, we have been through this before, and Senators have become very dissatisfied. I am the ranking Republican member of this committee; I respectfully suggest to the Senator that he make it 5 minutes on a side. It does not matter how long, so long as a Senator can explain his amendment. Will the Senator do that?

Mr. ROBERT C. BYRD. Yes, I will do that, Mr. President. The Senator's request is a reasonable one.

I think I should explain why I made the request that I did. The order is that once we get through with this succession of rollcall votes, the Senate will return to the consideration of H.R. 1.

I just do not want to get into a situation in which we have several amendments coming one after the other, with time on those amendments, because that would push further consideration of H.R. 1 into the late, late afternoon.

So, Mr. President, I modify my request to ask that if any other amendments are offered to the Older Americans Act, time on any such amendment be limited to 10 minutes, to be equally divided between the mover of such and the distinguished manager of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object—and I shall not object—what would this do to the vote on cloture? Would it in any way affect that vote?

Mr. ROBERT C. BYRD. It would not in any way affect the vote.

Mr. JAVITS. I thank the Senator.

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

Mr. EAGLETON. Mr. President, do I correctly understand that the earlier unanimous consent request of the distinguished Senator from West Virginia included a request that the Committee on Labor and Public Welfare be discharged from further consideration of H.R. 15657, which is the House passed companion measure to the Older Americans Act amendments, to be voted on by the Senate? Also, did his unanimous-consent request contain the provision that the Senate proceed to the consideration of H.R. 15657? If so, I would move to strike out all after the enacting clause.

Mr. ROBERT C. BYRD. I did not include that in my request. I do not think it would be a timely request at this point. However, I think it is proper at this time to ask unanimous consent that the committee be discharged from further consideration of the House bill at this point.

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

Mr. ROBERT C. BYRD. Now the other will come, without debate, after the amendment by Mr. BEALL.

Mr. EAGLETON. May I ask unanimous consent to move to strike out all after the enacting clause?

Mr. ROBERT C. BYRD. Not at this point. Not until all amendments have been disposed of.

Am I correct, I ask the Chair?

The PRESIDING OFFICER. The Senator from West Virginia is correct, unless the Senate were to follow an unusual unanimous-consent procedure.

Mr. ROBERT C. BYRD. A very unusual one.

The PRESIDING OFFICER. A very unusual one.

Mr. EAGLETON. I thank the Senator.

Mr. BEALL. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 35, insert after line 8 the following:

"(d) The allotment of a State under this section for the fiscal year ending June 30, 1973, shall remain available until the close of the following fiscal year.

The PRESIDING OFFICER. The Chair must say to the Senator from Maryland that the amendment is not in order until the previous amendment is disposed of, unless the Senator from Maryland would want to ask unanimous consent that the previous amendment be laid aside.

Mr. BEALL. Mr. President, I ask unanimous censent that the pending amendment, upon which we have agreed to vote after the vote at 2 p.m., be temporarily laid aside, and that the Senate proceed to the consideration of the amendment I have just offered.

Mr. MANSFIELD. Mr. President, reserving the right to object, I believe the time on the cloture petition starts at 1 p.m.

Mr. EAGLETON. We will accept this amendment.

Mr. MANSFIELD. All right.

The PRESIDING OFFICER. Without objection, the Senator from Maryland will proceed.

Mr. BEALL. Mr. President, this is in the form of a technical amendment, and its purpose is to permit a carryover of funds from the fiscal year 1973 appropriation for planning, coordination, evaluation, and administration of State plans similar to the carry-over provision for area planning and service programs contained in section 303(d). Since the Older Americans Act amendments and the fiscal year 1973 Labor-HEW appropriations bill will be enacted after the first quarter of the year, this provision will protect the States from loss of formula funds.

I understand that there is no objection to the amendment.

Mr. EAGLETON. Mr. President, we have no objection, and we accept the Senator's amendment.

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

Mr. EAGLETON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Maryland.

The amendment was agreed to.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the Senate revert to the consideration of the amendment previously offered by the distinguished Senator from Maryland and that the vote thereon come as aforesaid under the unanimous-consent agreement.

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

Mr. EAGLETON. Mr. President, I ask unanimons consent that a later time this afternoon when the Senate reverts to the consideration of the Older Americans Act and amendments thereto, my aide. Mr. Murphy, have the privilege of the floor during that debate and the vote thereon.

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

Mr. BEALL. Mr. President, I ask unanimous consent that during the debate and the vote on the Older Americans Act and my amendment thereto, my assistant, Mr. David Rust, be permitted the privilege of the floor.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). Without objection, it is so ordered.

CONSUMER PROTECTION ORGANIZATION ACT OF 1972

The PRESIDING OFFICER. The Chair now lays before the Senate the unfinished business which the clerk will state.

The legislative clerk read as follows:

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

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. The hour between now and 2 p.m. is to be equally divided between the distinguished Senator from Connecticut (Mr. RIBICOFF) and the distinguished Senator from North Carolina (Mr. ERVIN).

Who yields time?

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Connecticut yield?

Mr. RIBICOFF. I yield.

ORDER FOR ADJOURNMENT TO 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 9 a.m. tomorrow.

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

ORDER FOR RECOGNITION OF SENATOR WEICKER TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, following the remarks of the two leaders under the standing order, the distinguished Senator from Connecticut (Mr. WEICKER) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. 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. RIBICOFF. Mr. President, we are in the midst of a filibuster against a most important measure, a bill to protect the interests of 210 million American consumers.

It has now been debated off and on for several days. It has been thoroughly considered in the subcommittee on Executive or reorganization and in the Government operations committee for the past 3 years.

The distinguished Senator from New York (Mr. JAVITS), the distinguished Senator from Illinois (Mr. PERCY), myself, and other members of the committee have been most thoughtful and careful to assure that we would have a fair bill, one which would treat every consumer and every business with fairness and justice. We believe we have achieved this purpose.

So I would hope that the Senate would have an opportunity to vote on the pending amendments and then to vote the bill up or down. That is the right thing to do. There is nothing to be gained by further dilatory tactics. The time has come to settle the issue which has been hanging over the Senate and the country for 3 years.

Mr. President, though this is a technical bill, the basic issue is simple—should the consumer interest be represented within the Federal regulatory process in the same manner as the interest of private business concerns and trade associations?

This is not a revolutionary idea. The bill seeks to establish a rough equality for the consumer with the businesses and trade associations which are now well represented. I believe that fundamental fairness to the consumer demands that his economic, health, and safety interests be represented, just as the interests of General Motors and the pharmaceutical manufacturers are.

Mr. President, throughout the debate on this bill, a number of straw men have been raised as arguments for opposing it. One of them was that CPA intervention would lead to guerrilla warfare between the agencies, but this was refuted by the American Bar Association memorandum and endorsement of just such interagency litigation.

Another hollow objection is that the definition of the "interests of consumers" contained in the bill is too broad. But the definition merely reflects a basic fact—the interests of consumers is a dynamic, growing concept. It should not be narrowly defined. Twenty-five years ago, the consumer interest was thought to extend only to the price and quality of the goods and services we buy. But now we realize that it includes the chemical ingredients in the food we eat and the safety of the automobiles we drive. Undoubtedly, this concept will continue to evolve in the years ahead.

Moreover, such broad definitions are not unique in the law. Section 1 of the Sherman Act outlaws "every contract, combination . . . or conspiracy in restraint of trade." Section 5 of the Federal Trade Commission Act prohibits "unfair methods of competition . . . and unfair or deceptive acts or practices." Section 7 of the Clayton Act forbids corporate mergers which "may substantially lessen competition or tend to create a monopoly." And many statutes are patterned after section 20 of the Interstate Commerce Act, which authorizes the ICC to issue certificates for rail service on "such terms and conditions as in its judgment the public convenience and necessity may require." This law has been on the books since 1887, and the Commission and the courts have had no difficulty applying it. These laws show it is common for Congress to legislate in broad terms, leaving the agencies and the courts to apply them in a rational manner. Accordingly, there is nothing unusual in the broad definition included in the bill.

Further, it is important to understand that unlike the substantive provisions quoted, which regulate individual and corporate conduct, the CPA's rights are procedural only. Its authority is limited to representing the consumer interest. Each agency will continue to decide every case before it on the applicable statutory law. S. 3970 does not change those rules in any way. Thus, this definition will have no regulatory impact. And if any person believes that the intervention or participation of the CPA resulted in prejudicial error to him, he may appeal the case—section 210(e)(1)(B).

Mr. President, this bill is broad in scope but it is moderate in application. It contains effective safeguards to protect legitimate business practices and assure that agency decisionmaking will not be disrupted. If cloture is invoked, we will have an opportunity to consider amendments which will further limit and refine the bill. Some of these amendments are agreeable to the sponsors of this legislation, and we will accept them.

But first cloture must be obtained. Mr. President, this is a bill which all those who believe in justice for the consumer can support. I urge a "Yes" vote on the cloture petition, and ask unanimous consent that several endorsements of the Consumer Protection Agency be printed at this point in the RECORD.

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

ENDORSEMENTS OF THE CONSUMER PROTECTION AGENCY

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 consumers' voice will be heard in the councils of 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.

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

Mr. JAVITS. Mr. President, will the Senator from Connecticut yield me 2 or 3 minutes?

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

Mr. JAVITS. Mr. President, the distinguished Senator from Connecticut (Mr. RIBICOFF) has clearly and eloquently—as is always the case with him—explained our situation. I would have only one other thing to add.

I hope that Senators will understand this is not some new agency to undertake a new function and graft it onto the Federal Government. The classic example used by the opponents of the bill is that every government agency is duty bound to protect the interests of the consumer. So it gets down to the old story of what is everyone's business is no one's business and, hence, the interests of the consumers have not been sharply and decisively—and with an eye single to their interests as such—represented in many Government agencies.

What we are doing, therefore, is not engrafting some new function onto government and establishing a bureaucracy, but we are extracting the responsibility which is in every government agency and department and are consolidating that responsibility in a single agency. Having done that, we are surrounding the agency with many safeguards and precautions against impositions on business, which is not now present in the consumer protection functions of every department and agency. The bill, therefore, becomes a material improvement over the present situation.

It is significant that one of the great merchandising companies in the country, Montgomery Ward, has endorsed the bill because they can see that it is an excellent buffer for them with respect to the consumer. Once this agency has dealt with a consumer problem, then that problem is settled and we do not go wandering around to a dozen other agencies to settle it, to get guidelines, or standards of ethics, or whatever else might be required in a given situation for the consumer, for business regulation and concentration in one place. The conditions, rules, and safeguards which we have worked into the bill are a splendid way out in respect of relations with the consumer.

I repeat what I have said before, that the consumers are sometimes wrong. They may often be wrong, as many merchandisers will tell us. This kind of agency would stand as a safeguard to business against imposition by consumers who may be unreasonable, or wrong, or have no conception of what it takes to run a corporation and make a reasonable profit.

For all these reasons, and because of the overwhelming majority of Senators who have demonstrated that they want this bill, I hope that the Senate will today vote cloture.

Mr. ERVIN. Mr. President, I yield myself such of the time allotted to the opposition as I may use.

There has been very little debate on this bill. Of 100 Members of the Senate, only eight have spoken in favor of the bill, and only eight against it.

The number of pages in the CONGRESSIONAL RECORD devoted to a bill which would shake the country to its economic foundations has been 9,139 lines or 34 pages in advocacy of the bill, and 10,974 lines, or 41 pages, in opposition to the bill. For a bill of this importance, that is very little debate.

Mr. President, so far as I am concerned, I am like my friend Wiltz Collett, who was a resident of my county when I was beginning the practice of law. He had the biggest feet of any human being I ever saw. On one occasion, he was testifying as a witness in a criminal prosecution which involved an affray between some youths near a country church one Sunday afternoon. One of the defendants was represented by an old lawyer, Mr. Isaac T. Chery, a famous barrister down in my section.

Wiltz Collett was on the witness stand. He had his legs crossed. He would raise his uppermost from time to time. When he did so he obstructed the view of the courtroom from himself, and the view of himself from those in the courtroom.

Wiltz had been giving answers that were quite favorable to Mr. Avery's client. But when Mr. Avery asked him the crucial question in the case, Wiltz gave him an answer which was disastrous to Mr. Avery's client. Mr. Avery was so surprised and so taken aback that he sat in silence a couple of minutes without asking any question. Then Wiltz raised his foot up and down saying, "Come on with the conversation, Mr. Avery. Come on with the conversation."

So I say to the Senate, this petition for cloture should be voted down so those Senators who think that this bill would establish a government of men in the economic life of this Nation can engage in enough conversation to bring enlightenment to those Senators who have not studied the bill with particularity.

The other day the Senate rejected the cloture motion. And since that time, the only opportunity we have had to debate the bill or to point out the innumerable legal inequities in it was a relatively short time on Saturday afternoon after a quorum of the Senate had departed the Capitol.

Mr. President, the Declaration of Independence, now almost two centuries old, gave us some precious advice about oppressive government when it said, in complaining of the acts of the King of Great Britain:

> He has erected a multitude of New Offices, and sent hither swarms of officers to harass our people, and eat out their substance.

And when it declared that all men:

> Are endowed by their creator with certain inalienable rights . . . That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed, that whenever any form of government becomes destructive of these ends it is the right of the people to alter or to abolish it, and to institute new government.

Mr. President, as we debate this bill we are warned by the words and wisdom of our own Founding Fathers that the people have an inalienable right to throw off a government which becomes oppressive and destructive and which creates a multitude of new offices and sends its minions to harass our people and eat out their substance. We will be creating such a cause for discontent if we adopt this bill in its present form.

I do not argue against the need for legislation which will protect the consumer. What I argue against is legislation which will create oppression, and that is what this bill does. The vice of this legis-

lation is not that it creates a Consumer Protection Agency to advocate the interests of consumers, but that it creates oppression by creating as of right a government double-whammy. It will give this new, untried agency equal rights with the Department of Justice, the Federal Trade Commission, the Federal Power Commission, the Food and Drug Administration, the Federal Communications Commission, and all the other agencies of the Government to which we have given particular duties to prosecute a citizen with all of the majestic power of an agency of the Federal Government.

It should be enough that the Department of Justice with its thousands of employees and hundreds upon hundreds of lawyers is entitled to represent the Government of the United States against someone charged with a violation of the antitrust laws. But this bill would give the new Consumer Protection Agency equal rights with the Department of Justice to hammer on the defendant or to force the Department of Justice to hammer where the Department had decided it had no case. Indeed, it would even give the new Consumer Protection Agency the right to ask the court to reverse the Department of Justice decision in an immigration case. Should those who enter our borders illegally be entitled to stay because their presence benefits the consumers through low labor costs? The Consumer Protection Agency might say so in a deportation case.

Should electric utility rates be reduced to consumers even though the Federal Power Commission has determined that it will mean inadequate revenues to supply necessary power to the people of this country? This bill would give the Consumer Protection Agency the right to take that position and even the right to ask a court to reverse the Federal Power Commission for protecting the long-term interests of all the people, of our children and their children, in the benefits of electric and other sources of power.

Should the goals of the Occupational Safety and Health Act be perverted by the new Consumer Protection Agency? The CONGRESSIONAL RECORD on September 14, 1972, contained the statement of Congressman WILEY MAYNE before the Select Labor Subcommittee on the impact of regulations which had been issued under that statute. He pointed out that the equipment repairman reporting to a farm for a 2½-hour repair job must before starting the job ascertain if toilet facilities are within 200 feet of the worksite, and gather information on telephone numbers of the nearest fire station, hospital, and ambulance service. If he has a crew of men, no work can begin until this is done. But the time of these men is valuable and must be paid for. Naturally, the consumer pays.

This is just one of the many examples cited by Congressman MAYNE, and I use it to show that almost every activity of the Federal Government can be construed as involving the interests of consumers. Thus, under this bill as it now stands, the Consumer Protection Agency would have a right either to seek to overturn the decision of any Government agency or department with which it did not agree and to subject all of those affected to the double-whammy of different Government agency decisions. Or, if the CPA agreed with the agency having the role by statute of dealing with such matters, the poor defendant could get the Government double-whammy from the same side instead of from the opposite side.

I am going to speak at length about this problem until this point is clear because the Federal Government should only have one voice as of right in such proceedings, particularly with all of the powers that go with such a right. The committee report, to which I filed minority views, spelled out these rights so that we are all on notice of what we will be doing to make Government oppression possible if we adopt the bill in its present form. These rights include giving regard to the convenience of the Consumer Protection Agency in the fixing of a time and place for hearing; the right of the new Agency to subpena for documents and individuals; its right to demand a hearing; its right to cross-examine witnesses; in short, its right to oppress with what I call a double-whammy because the same rights are already possessed by the very agency of the Federal Government which is conducting the proceeding.

Two prosecutors, that is what the bill creates. Two prosecutors which may have the same views or different views. It is not a fair fight. The majority views in the committee report fail to recognize this fact when they argue for two Government prosecutors on the ground that the courts have held that consumer groups have a right to party status in agency proceedings affecting consumers. Why, of course, individuals and groups of individuals who are affected by a Government agency proceeding should have a right to participate. That is people versus people with different viewpoints, and very different from the power to oppress held by two Federal agencies in the proceeding with the same rights.

I have long fought for the rights of the public against the oppression of government, for the rights of government employees against their government employer, for protections of individual privacy against intrusion by the Government, and I fight now for the protection of the people against two Government prosecutors.

There is a place, and a proper place, for the input of the Consumer Protection Agency in both administrative and court proceedings. It can and should present its views and its special knowledge in any proceeding which will substantially affect the interests of consumers, but it should stop there. After all, even the majority report states that the consumer agency will have neither the authority nor the responsibility of deciding what solutions are in the best interest of the public at large, nor will it have the authority and responsibility to balance the consumer interests against any other interests in order to reach a policy position. Because those are the functions of already duly established Federal agencies, we should not, in creating a Federal Government consumer voice, create an agency which has the right not only to express the consumer interest but to add its subpena demands to those of the duly delegated Federal agency, and even to seek to overturn the decision of that agency if it is not in accord with the narrow interests of consumers as envisioned by the Consumer Protection Agency. Those special interests may not be the total interest of the Government in the proceeding.

It is not likely that anyone would propose to pit such special interests against the already legislated public interest if they would take the time to read the replies which Senator ALLEN has received in his effort to determine the extent of the impact of this bill on Federal deliberations. I am going to list just some of the affected deliberations in which we are asked to unleash special interest watchdogs with unprecedented powers:

1. The allocation of imports based on importers' applications under the oil import program.
2. The modification, suspension or revocation of allocations for licenses under that program.
3. Determinations of the Bureau of Mines regarding mine health and safety requirements.
4. Decisions relating to public land and related resources, such as timber sales, transactions in environmental requirements relating to mineral leases and the adequacy of bonus bids on mineral, oil and gas lease offers.
5. Review of applications for oil imports.
6. Generation and sale of electric power.
7. Construction and operation of water resource projects for agricultural, industrial, and municipal purposes.
8. The processing of applications for foreign trade zones.
9. The processing of applications for adjustment systems under the Trade Expansion Act.
10. The processing of loans to fishermen for new vessel construction, old vessel repair or the acquisition of new fishing gear.
11. The materials set aside for programs under the Defense Production Act of 1950.
12. The invoking or implementing of the short supply provisions of the Export Administration Act of 1969.
13. The activities of the Department of Commerce in preparing for trade negotiations with foreign governments.
14. The activities of the Department of Commerce in preparing for the negotiation for international fishing conventions.
15. The action on applications to charter national banks and to relocate the offices of national banks.
16. Proceedings with respect to bank ownership and operation, including the results of detailed examinations of bank records.
17. The establishment of air quality control regions.
18. The standards for the registration of pesticides.
19. The pay raise proceedings of the cost of living council.
20. The proceeding to exempt foreign registration securities involving a pension, profit-sharing or annuity plan which covers employees.
21. Proceedings to define taking the trade and accounting terms in the regulation of securities.
22. Proceedings to permit unissued securities to be registered.
23. Proceedings to prescribe the form of notice of withdrawal of registered associations of brokers or dealers subject to regulation by the SEC.
24. Proceedings under the higher Education Facilities Act.
25. Proceedings for the determination of prototype cost limits for public housing.

26. Proceedings relating to food additive petitions and antibiotic regulations.
27. Proceedings regarding the procedure for establishing standards of quality and of testing imported tea.
28. Regulations establishing labor standards applicable to employees of National Park Service concessionnaires.
29. The appeal procedure for the revocation of a commercial fishing license.
30. Right of way applications for the use of federal park lands.
31. Receiverships and liquidations of banks insured by the Federal Deposit Insurance Corporation.
32. The application of a non-member insured bank to establish a new branch of change existing office location.
33. The issuing of agricultural marketing agreements and orders after notice of public hearing.
34. Proceedings before the Secretary of Agriculture to deny trade privileges on contract markets and to revoke or suspend registration of futures commission merchants and floor brokers.
35. Proceedings to suspend or exclude any person from practicing before the Plant Variety Protection Office.
36. Proceedings to determine the adequacy of accounts, records and memoranda of packers, live poultry dealers and handlers, stockyard owners, market agencies and dealers.
37. Appeals on decisions involving grazing permits and summer home site permits issued by the Forestry Service.
38. Proceedings for the suspension or revocation of accreditation of veterinarians.
39. Proceedings for a license to deposit waste radio active material.
40. Proceedings to determine reasonable royalty fees for patents affected by a public interest.
41. Government contractor selections.
42. The granting of certificates by the CAB.
43. The assignment of television stations.
44. TV programming for children.
45. The ownership of radio and television stations.
46. The mediation efforts of the Federal Mediation and Conciliation Service in labor disputes.
47. Operations of the Federal Reserve System.

I have selected only a very few of the thousands of instances confirmed in the responses of Federal departments and agencies to Senator ALLEN'S inquiry, where there would be two agencies of the Federal Government with full rights if we give this new agency the powers in the bill as reported.

These powers are both oppressive to the citizens involved and unnecessary to reach the desired result. We have reposed in the agencies conducting such proceedings a responsibility and the discretion necessary to make a decision which will be in the interest of all the people, rather than in the interest of some special group. There is no need to permit a government agency representing the interest of a particular group to seek to overturn the decision of another Government agency which has the statutory responsibility of making its decision on the basis of the broader public interest involved.

Similarly, there is no justification for considering a Government agency, even the Consumer Protection Agency, to be the same as a private party. It is not. It is an agency of the Federal Government and that is a big difference. Let me point out just how big a difference it is. If another car hits your car, you can sue the other driver unless he is on Federal Government business in a Government car. If he is, you can only sue him to the extent that Congress has permitted it by waiving the Government's immunity against suit. That is what used to be called the Doctrine of Sovereign Immunity. That is why we give private parties all kinds of rights in proceedings in which Government agencies are involved. But it is dangerous to make the argument that the Government's interest must be protected the same way, or to say that the Government will exercise our private rights for us.

When this bill was before the committee I thought that since the Consumer Protection Agency could agitate and litigate, those people who were in danger of having their businesses destroyed when the Consumer Protection Agency exceeded the authority to be given it by this bill, those private businessmen should have the right to sue the Consumer Agency to keep it from violating the very law it was to enforce.

My amendment was overwhelmingly voted down on the ground that if the law subjects the Consumer Protection Agency to lawsuits it might be handicapped in carrying out its functions. In other words, the proponents of the bill were unwilling to permit the courts to give justice to people who are damaged or threatened with damages by the exercise of an excess of power by the Consumer Protection Agency, they were willing, however, to give the Consumer Protection Agency the right to agitate and litigate until hell freezes over. That is the concept underlying this bill. No protection whatever for those people who are injured by an excess of the exercise of the vast powers which would be given to the Consumer Protection Agency by this bill.

The Federal Government and its departments and agencies are big enough to take care of themselves. We do not have to worry about whether they have enough rights. What we must be concerned about is whether the people have enough protection from oppression by too much Government, even if it is well-meaning.

And we must also consider the nature of this Government agency interest. The real consumer, the public, has a personal interest in having enough rights to protect its interest as consumers. The new Consumer Protection Agency which would be created by this bill is no consumer. It has lost nothing as a consumer. It is not wronged. It is the consumer who has been wronged. All the new Federal agency can contribute to any proceedings is its views on what it believes is best for consumers. Once it has done that, it has done all it is able to do. Its proper function and role should be advisory. I said in my views that we should not confuse private rights with congressionally mandated duties of Federal agencies to protect the rights of the public.

I mean just that. One Government agency may advise another, may support or disagree with another agency, but where the public is concerned, it should be the agency which has the statutory duty to make a decision in the broad public interest which makes the final decision without threat of being attacked from within by a sister agency.

So far as I am concerned, the amicus proposal is not just a friend of the court or friend of the agency proposal, but a friend of the public proposal to protect against Government oppression by too many agencies with too much power.

This amendment is consistent not only with a one-government approach to the administration of laws, it is consistent with the concept of increasing present Federal, State, and local consumer protection efforts.

Senator ALLEN has described the amicus amendment in more detail.

Some people have said that it will take the fangs out of this bill. What are we creating here, a rattlesnake to strike at ourselves?

Why do we need something with fangs? Why must we delegate a negative power to handle problems in our own creations?

If you hear a report that your children are misbehaving in school, what do you do? Do you hire a Pinkerton guard to stand over them all day, club them in the head when he thinks they misbehave, and, when that fails, march them to the principal when he—the oversight guard—disagrees with their behavior? Or are your children important enough for you to spend some time in defining the problem and coming up with an answer yourself?

A vote for the amicus amendment will show you still have an interest in the agencies you have voted to create. A vote against it will be an abandonment of them to the toothful wolves this bill will generate.

To be sure, the amicus measure in its original form was voted down by the Senate, but it has been substantially modified by the distinguished Senator from Alabama (Mr. ALLEN), by the distinguished Senator from Florida (Mr. GURNEY), and by myself and reproposed, and the Senate will have an opportunity at a later date to vote on that amendment.

Virtually all of the agencies which have been created to protect the public interest are opposed to this bill, and in the interest of time, I ask unanimous consent that a memorandum prepared by me, quoting statements concerning the Consumer Protection Agency bill from officials of some of these other agencies, be printed at this point in the body of the RECORD.

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

QUOTES IN OPPOSITION TO THE CONSUMER PROTECTION AGENCY BILL—S. 3970

Statement of Nixon Administration, September 14, 1972: "As reported by the Committee on Government Operations on September 8, S. 3970 still contains several major defects which render it unacceptable to the Administration."

National Council of Farmer Cooperatives: "(S. 3970), a seriously anti-agriculture bill threatens to become law. . . . Farmer cooperatives generally support legislation of benefit to consumers. However, the CPA bill would cause havoc with the effective opera-

tion of the U.S. Dept. of Agriculture and its varied agricultural programs."

Professor Ralph K. Winter, Yale Law School: "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."

Ralph E. Erickson, Deputy Attorney General, U.S. Department of Justice: "In the Department's view, the proposed Agency's powers of advocacy and intervention in Federal administrative agencies' decision-making are too broad, and pose a threat that the orderly and effective dispatch of the public business in the public interest might be significantly disrupted."

J. Curtis Counts, Director, Federal Mediation and Conciliation Service: "Since its inception in 1947, the Service has insisted on maintaining in the strictest confidence all case files and information disclosed in the course of its labor-management collective bargaining activities. . . . I have serious concern insofar as the proposed legislation may be interpreted in a way so as to grant the Consumer Protection Agency rights to intervene in these delicate negotiations. If this legislation were so interpreted, there is no doubt that S. 3970 would have an adverse impact on the mission of the Service."

John N. Nassikas, Chairman, Federal Power Commission: "The authority which the CPA bill would confer upon the Consumer Protection Agency, if improvidently exercised, could substantially hamper effective regulation by this Commission . . . by postponing finality of decision in matters of pressing public concern."

John W. Scott, Master, National Grange: "The National Grange for many years past has supported consumer protection legislation. . . . We are convinced, however, that S. 3970 goes too far and it would disrupt the orderly process of administration of Federal laws, result in damaging delays in necessary government regulation and on balance harm rather than help consumer interest."

U.S. Tariff Commission: "A final problem with CPA participation in Tariff Commission activities concerns the preservation of the Commission as an independent fact-finding body."

Aubrey J. Wagner, Chairman, Tennessee Valley Authority: "It would seem most undesirable for the proposed Consumer Protection Agency, whose interests would extend only to those of consumers, to become involved in the TVA Board's action . . . (it) could lead to public misunderstanding and dissatisfaction."

Miles W. Kirkpatrick, Chairman, Federal Trade Commission: We are somewhat reluctant to support the CPA's active intervention in the Commission's adjudicative proceedings."

William B. Camp, Comptroller of the Currency: "We believe that these two provisions (203(e) and 207(c)) present a potential serious problem. The banking agencies have virtually unlimited access to bank records for bank examination purposes. . . . The confidentiality of such records has in the past been carefully guarded by the Congress and the courts."

Frank Wille, Chairman, Federal Deposit Insurance Corporation: "Sections 203 and 204 seem sufficiently broad to encompass any action of the Corporation."

American Farm Bureau Federation: "We submit that the delegations of power granted to Consumer Protection Agency to intervene in agriculture alone are extraordinarily far-reaching and comprehensive. . . . We respectfully recommend your support of the Amicus Amendment and urge your opposition to the legislation if such amendment is not adopted."

John S. Zapp, Deputy Assistant, Secretary for Legislation, HEW: "Presence of a consumer representative could inhibit the free exchange in such informal hearings." (Referring to hearings to establish a possible criminal violation.)

Rogers C. B. Morton, Secretary of the Interior: "The term 'federal agency activity' as used in Section 203(b) of the committee print is indefinite enough to arguably embrace most functions of this Department and many such activities could be viewed as substantially affecting the interest(s) of consumers' as defined in Section 401(11)."

President John F. Kennedy, Message to Congress, April 13, 1961: "The Congress must see that the statutes under which the agencies are organized and under which they operate adequately set forth the goals that the Congress seeks to achieve. These statutes should neither place responsibilities upon agencies beyond the practical limits of administration, nor couch their objectives in such indecisive terms as to leave vast areas open for the free play of agency discretion."

Mr. ERVIN. Mr. President, in concluding these remarks, I want to commend the Senator from Alabama for the vast research he did in showing the vast powers which this bill would bestow on the Consumer Protection Agency with respect to other agencies of Federal Government. These are just a part of those powers, because the agency is given power to ride herd upon every business in the United States, and is given power to be a scandal-monger, if it wishes to, by publicizing the complaints it receives from consumers.

I sincerely hope the motion will be rejected.

Mr. RIBICOFF. Mr. President, I yield such time to the Senator from Utah (Mr. Moss) as he may require.

Mr. MOSS. Mr. President, I support S. 3970, as reported from the Committee on Government Operations. This is a stronger bill than the one passed by the House, H.R. 10835, but it is fair and well-balanced. Of course, some amending language is necessary to make this a better bill. If it were not necessary, we would not have Senate procedures which provide for debate, amendment, and votes for passage. We could just have committees report bills and forget about having the Senate act as a body in passing legislative measures.

But the prolonged and endless debate on the Consumer Protection Agency bill will only serve to do greater damage to the American public, both to us as consumers and to our system of commerce. Let us get on with the bill without these prolonged ramblings which are hardly germaine to the legislation. On Friday, the Senate's will was spoken when substantially more than half of those voting supported the termination of debate. Even among those who voted against cloture, a number have said they will vote for the legislation.

How many more years must we hold out a carrot to the American public, only to draw it in when the special interests start walking the halls of the Congress? How many more years can we keep the consuming public's voice out of administrative tribunals?

Mr. President, in order to expedite this legislation, the Senate Commerce Committee did not assert its right to take jurisdiction on this legislation. We felt that so few changes were necessary, it would be appropriate for committee members to offer amendments as they saw fit. The chairman of the Commerce Committee and I have offered seven amendments. Four of these amendments have already been accepted and I am confident the others three will be accepted if we can only get on with the bill and cut out these endless monologs.

This bill is the product of a great deal of thought and effort. The committee considered it in seven executive sessions covering more than 16 hours. The bill truly represents the distillation of a great deal of thought and effort. In 1970, the Senate passed a very similar bill by a vote of 74 to 4.

In 1971, the House passed a similar bill by a vote of 344 to 44. The committee had the opportuntiy to look at both those bills closely. In addition, the committee made over 50 amendments to the bill reported from its Subcommittee on Executive Reorganization and Government research. These amendments were arrived at after extensive discussion among all members of the committee, and nearly every Senator on the committee can point to several ideas in this bill that were specifically his. One of the results of this process was the committee vote of 15 to 2 to report S. 3970. Even the two Senators who opposed the bill, the distinguished chairman of the Government Operations Committee, Senator ERVIN, and the distinguished Senator from Alabama, Senator ALLEN, both supplied a number of important ideas that are already reflected in this bill and which greatly improve it.

After the extensive consideration given to this bill in committee, I am fully satisfied that S. 3970 represents an important balance and a fair piece of legislation that ought to be adopted. I urge its passage.

S. 3970 creates an agency to represent the interests of consumers before other Federal agencies and courts. Such an advocate is necessary because the interests of consumers have lacked the continuing effective representation that other interests have had before Federal agencies and courts. This imbalance in representation has resulted in a system of Federal regulation which has frequently given inadequate consideration to the interests of consumers.

Despite the existence of hundreds of regulatory programs and the passage of much new consumer protection legislation, consumers are not yet receiving the protection which they need and have been promised. Committees of Congress, Federal agencies, special commissions, consumer organizations, responsible business organizations, and newspapers every day document the failures of Federal programs to meet the needs of consumers. Repeated reports by the General Accounting Office, the investigative agency of Congress, have shown, for example, that deplorable sanitary conditions continue to exist in meat, poultry, and food processing plants; that tens of millions of doses of ineffective or subpotent vaccines have been administered;

that effective regulation of flammable fabrics does not yet exist, 5 years after Congress passed legislation requiring standards to be set and enforced.

Many Federal regulatory agencies were created to redress demonstrated imbalances of power between sellers and buyers in unregulated markets. When railroads were the Nation's most important and powerful industry, they were able to use the vast weight of their economic power to force farmers and other shippers to pay unreasonably high rates. Congress responded in 1887 by creating the Interstate Commerce Commission to regulate the rates which an interstate carrier could charge. When investigators discovered shocking conditions in food processing plants in 1906, Congress established an agency, now known as the Food and Drug Administration, to regulate the purity of food shipped in interstate commerce. When it was revealed that there had been widespread fraud in the sale and promotion of securities, Congress created the Securities and Exchange Commission in 1934 to regulate the securities market.

It has been widely argued that one reason for the failure of regulatory agencies to protect consumers adequately is that they have been too heavily influenced by the industries they are supposed to regulate. The committee recognizes that, to some degree, a close relationship between regulatory agencies and regulated industries is inevitable. This is true for many reasons.

First, industry often requires a close relationship with a regulatory agency. Regulatory policies can be a major factor in the success or failure of a business enterprise. Regulatory agencies may have the authority to provide pre-market clearance of a product, to set standards for the production, marketing, distribution, sale or labeling of a product, or to construe and enforce administrative standards.

Second, industry has the resources to maintain effective advocates. Many businesses are in a position to employ the best talent available in presenting their views to regulatory agencies.

Third, a regulatory agency may often need a close relationship with industry. In order to do its job well an agency must be familiar with the industry it is to regulate. This proximity usually results in daily contact between the agency and representatives of industry.

Fourth, the law mandates that the arguments of industry be heard. Constitutional and statutory requirements guarantee a regulated industry the right to seek to have its views heard in the agency's decisionmaking process and the right to appeal an adverse determination to the courts.

Fifth, many regulators are former businessmen, and vice versa. The value of an employee with Government experience to an industry and the corresponding value of an employee experienced in industry to an agency have worked to maximize mutual understanding and cooperation between regulatory agencies and regulated industries.

The committee does not regard the familiar close relationship between regulatory agencies and regulated industries as harmful per se to the public interest. Similar relationships exist in our judicial system between the bench and members of the bar without producing any systematic denial of justice. It is detrimental to the public interest, however, when the close relationship between a regulatory agency and a regulated industry is not balanced by effective representation of other affected interests.

It is this imbalance of representation which this bill seeks to redress.

Theoretically, access to an agency's decisionmaking process is open to consumers as well as to industry, but for many reasons consumers have not been able to have their interests adequately represented before decisionmakers.

First, the consumer interest is fragmented. Every consumer is exposed to thousands of different products and services. Government approved price increases may require a consumer to pay 2 or 3 percent more for a given product or service. That amount may not be significant to an individual consumer. Almost certainly, it will not be sufficient to justify his hiring an advocate to protest to a regulatory agency. For the seller, however, that 2 or 3 percent, multiplied by the number of products sold, may well be significant; it may represent millions of dollars. Consequently, it may be in the seller's interest to spend substantial resources to participate in regulatory decisions concerning that item, whereas it would not be economically feasible for any individual consumer to do so.

For each consumer, this process may be repeated with respect to thousands of products and services. In order to participate in the regulatory process in a way that will be of real economic benefit to himself, the consumer is faced with the impossible prospect of retaining an advocate for thousands of separate regulatory decisions involving many different Federal, State, and local agencies. On the other hand, the seller, whose interest is concentrated on the item he is selling, is not required to spread his resources so thin. If he sells cereal, he does not have to participate in the regulation of automobiles; if he sells automobiles, he does not have to participate in the regulation of drugs. Yet, a consumer who has cereal for breakfast, drives his car to work, and stops at the drug store to pick up a prescription would have to participate in the regulations of all three items in order to protect his interests. Thus, effective representation for the wide spectrum of consumer interests involves more fragmented and complex considerations than does effective representation for a producer of a limited range of consumer products.

Second, professional representation is expensive. Since most consumers have jobs unrelated to their roles as consumers they are unable to devote the necessary time to participating in regulatory processes in order to protect their interests as consumers. Competent full time advocates command high fees. Regulatory proceedings often take months or years to complete, and follow-up monitoring of regulatory decisions is a continuing necessity. A regulated industry is often the only party with sufficient resources to pay for an effective advocate.

Third, the tax laws facilitate the representation of business interests. No one produces his income as a consumer. If a consumer hires an advocate to represent his interests as a consumer, the expense is not related to the production of income and is therefore not tax deductible. When an industry hires an advocate to represent its interests, however, the cost is related to the production of income and is therefore deductible.

For these and other reasons, the interests of consumers have never been represented adequately in the regulatory process. Representative ROSENTHAL stated the problem graphically in his testimony on S. 1177.

There has been an empty chair for the consumer everywhere: The public utility companies have their hearings for rate increases, and they are supported by lawyers, economic investigators, and very skillful people, and the other seat for the consumer has obviously been empty. We have had an empty seat for some 30-odd years here in Washington.

In the FDA's lengthy proceeding to set standards for the content of orange juice, for example, many businesses were well represented by their advocates; but no one was an advocate for the interests of consumers. When the Department of Agriculture established the sanitation standards for meat and poultry plants, the industry is well represented by its advocates, but no one is an advocate for the interests of consumers. When the ICC set rates for the transportation of goods, shippers and carriers are well represented by their advocates; but no one is an advocate for the interests of consumers.

In addition, Federal departments often serve as advocates for particular interests. The Department of Agriculture commonly advocates the views of food producers and processors, the Department of Commerce advocates the views of industry, the Department of Labor advocates the workingman's interests. But no one is an advocate for the interests of consumers.

Yet, the interests of consumers are at least as important and as worthy of protection as those of regulated industries. The interests of consumers are not only monetary, but may involve the elimination of an automobile safety hazard which may endanger tens of thousands of lives, or the premarket clearance of a food additive which may cause cancer, birth defects, or genetic damage.

The vast majority of Federal regulators are honest and conscientious, and will respond to a reasonable argument on the merits, presented in an effective manner. The major purpose of this bill is to make possible that kind of representation for consumers. It is the view of the committee that the best way to achieve this purpose is the establishment of a Federal agency to advocate the interests of consumers.

The need for effective consumer advocacy cannot be satisfied merely by making improvements in existing Federal regulatory agencies. Congress has created many new regulatory agencies

and programs in response to a conspicuous catastrophe or to meet an aroused public demand. Too often, however, Congress has failed to provide the funds needed to carry out regulatory programs well and neglected its responsibility to see that the agencies it had created were doing an effective job. As public pressure subsided and congressional interest was drawn elsewhere, too many regulatory programs have become ineffective.

Congress should improve the regulatory agencies by providing the necessary new authority, resources, and organization, as well as by overseeing the manner in which they carry out their statutory responsibilities. But, improving the regulatory agencies, while an important task, is not an alternative to creating a consumer advocate to appear before these agencies. The adversary system—the keystone of American justice—requires that all affected interests have a fair opportunity to express their views. As long as one interest lacks an effective means of presenting its position, no agency decisionmaker, however honest and competent, can be expected to take full and accurate account of that interest.

It is highly unlikely that the private sector will provide and sustain the necessary consumer advocacy. In recent years, a number of consumer-oriented organizations have been formed. They are few in number, however, and it is unlikely—given the fragmentation of consumer interests—that such organizations can receive adequate funding from nongovernmental sources to become an effective counterweight to the vast amount of talent and resources at the disposal of regulated industries.

Nor is it likely that regulatory agencies themselves can supply this advocacy. In some cases agencies have appeared to be genuinely unaware that important consumer interests are affected by their decisions. For example, the Civil Aeronautics Board recently dissolved its Consumer Advisory Committee because the agency felt the committee was involving itself in too many policy matters which the agency felt did not concern consumers. Among these matters cited was CAB approval of international air travel rates.

The only way to assure an effective voice for consumers in the regulatory process is to create an advocate for this important interest. The consumer advocate will improve the performance of all regulatory agencies by making them more aware of the variety of affected interests before them.

Mr. President, S. 3970 is a technical and complex bill. As a result there has been some misunderstanding about its provisions. Accordingly, I want to emphasize that: it does not alter the regulatory authority of any government agency; it does not create any new regulatory standard; it does not reduce the procedural rights of any other persons or parties.

Basically, S. 3970 represents a vote of confidence in the fundamental concept of American jurisprudence: the adversary system. Its supporters recognize as all of us do—that there are problems with our regulatory system. But to solve those problems, the authors of this legislation are not proposing any radical reordering of the regulatory system. Rather, they have sought to find solutions through the adversary system itself. By creating an advocate for the interests of consumers, this legislation will, for the first time, allow consumers to become a part of that system. It has long been clear that regulatory decisions profoundly affect consumers; but until now consumers have had no effective spokesmen to participate in the making of those decisions. It is not fair to have an adversary system if there is advocacy on only one side of an issue. This bill will give the adversary system a real chance to work for the consumer in the regulatory process. The sponsors of this legislation have faith in the fundamental tenets of American jurisprudence. If the adversary system is given a chance to work, we believe it will work. And the result will improve the American system of government.

Therefore, Mr. President, I urge that the Senate today terminate the discussion of this matter, with only 1 hour left to each Senator, and get on with the bill; because we must have this bill. If we delay much longer, our session days will run out, and we will be left without this fundamental advance on which we have been working for several years.

Mr. RIBICOFF. I thank the distinguished Senator from Utah, who has done much in the field of consumer protection, for his most persuasive argument.

Mr. FANNIN. I shall vote against the motion to invoke cloture on S. 3970, the Consumer Protection Organization Act of 1972. I do so for a number of reasons.

First, this is a measure which deserves considerable attention as it marks a significant change in the operation and organization of our National Government. To invoke cloture on such a significant proposal after less than a week of debate is wrong.

Second, S. 3970 is a bill which ultimately signifies that the Congress no longer has the ability to represent the people, the consumers. It further signifies a belief that the Federal bureaucracy lacks the capacity to advocate consumer interests within its own structure.

I cannot imagine that the Congress, by its own hand, intends to diminish its ability to represent consumer interests and to advocate those interests to the Federal bureaucracy. I cannot imagine the Congress taking the position that the bureaucracy itself is incapable of responding to consumer interests. To advocate the need for an agency to represent consumer interests is to argue that our present institutions, Congress included, have failed in representation. I cannot agree with that assumption and I have yet to hear a firm case to the contrary. If a case does exist, I doubt if it warrants the steps that S. 3970 contemplates.

Nevertheless, Mr. President, there is still much to discuss and motion to invoke cloture is not in the best interests of this bill nor in the tradition of the democratic process.

Third, one of the more vocal supporters of this measure has termed the opponents of S. 3970 as representing a "massive determination by special interest groups to defeat consumer representation in the Federal Government." If this means representing the many small businessmen who have written me in opposition to S. 3970, and the countless citizens, again consumers all, who are troubled by this monumental effort to erect a new agency with a vast array of arbitrary powers, then so be it.

I conclude, Mr. President, by reiterating my determination to see that this bill is fully discussed for this is not something that can be taken lightly. It requires our complete attention.

I ask unanimous consent that an article written by Spencer Rich and published in this morning's Washington Post be printed in the RECORD.

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

NADER TAKES CASE TO NIXON IN-LAW

(By Spencer Rich)

Consumer advocate Ralph Nader yesterday called upon Edward Cox, President Nixon's son-in-law and a former Nader associate, to appeal to the President to save the consumer protection bill from death by a Senate filibuster.

The Nader plea, in a letter addressed to Cox at the White House, came on the eve of today's second attempt to break the filibuster that is throttling the bill. The legislation creates an agency with powers to act as a consumer spokesman in proceedings before courts and regulatory agencies.

An initial move last week to cut off the filibuster fell four votes short of the required two-thirds.

Accusing White House legislative liaison aides Tom Korologos and Wallace Johnson of working to undermine the legislation and enocuraging the filibuster, in cooperation with industry lobbyists, Nader wrote Cox, "I ask you to appeal directly to the President today to support the consumer protection bill, or at a minimum, that you urge him to order a relaxation of obstructive efforts by his assistants."

Korologos said, "I have no comment on an irresponsible charge like that."

Nader recalled that Cox, as a law student, had worked with him in the summer of 1968 on a probe of the Federal Trade Commission which "documented epidemic-scale abuses by hazardous products, deceptive advertisements, monopolistic practices and other sophisticated swindles prohibited by law but nevertheless allowed by agency abdication of responsibility."

Nader said the filibuster, being led by Sen. Sam J. Ervin Jr. (D-N.C.) and a number of Republicans, to "as massive determination by special-interest groups to defeat consumer representation in the federal government."

White House aides have said the administration prefers the House-passed version of the bill, which gives narrower legal powers to the agency than the Senate version.

Mr. BENNETT. Mr. President, past experience has indicated that when those living on a fixed income, either welfare or social security, have received increases in their low and limited incomes, certain unscrupulous parties who provide necessary services to these individuals seek to raise the existing price of the services and thus offset all effects of the income increase.

The President and the Cost of Living Council have been very concerned that

dishonest persons do not benefit at the cost of those whose limited incomes have been increased by the recent increase in social security. It is essential that these defenseless persons be protected from those who would take advantage of their increased incomes.

The Cost of Living Council has acted to prevent landlords from boosting rents to take advantage of tenants who have increased social security payments. The Council, through the Internal Revenue Service, has instituted a national "rent watch" to protect renters who are on social security from unwarranted rent practices and to insure that landlords comply with the stabilization regulations.

The national "rent watch" program went into effect on October 2, the day before checks with the 20-percent increase were mailed to 28 million Americans on social security.

The "rent watch" will consist of an IRS audit of older persons' housing to check on rent rates; second, special treatment for rent complaints involving social security recipients, and new authority for the Internal Revenue Service to administer rent control regulations and impose financial penalties on landlords who violate the regulations.

Elderly Americans and others who live on limited social security payments spend a much greater portion of their monthly income on housing than do most other Americans. People on fixed incomes are particularly vulnerable to inflation and it is necessary that steps be taken to protect their income position.

Most landlords, I am certain, will voluntarily comply with the rent stabilization program guidelines as the majority of American citizens have. But announcement of this "rent watch" program is notice to those who do not. The presence of Internal Revenue Service officers in rented housing across the Nation is to remind landlords that they are subject to official sanctions and penalties administered by IRS and to possible prosecution by the Justice Department if the regulations are violated.

As one who has been deeply involved in developing the legislation to provide for increased social security benefit payments I am very pleased that the administration has taken this action for the protection of social security recipients.

I ask unanimous consent that a portion of the Council's news release explaining the "rent watch" be included at this point in the RECORD.

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

1. RENT SWEEP

The Internal Revenue Service has begun to conduct a "rent sweep" from each of its 58 district offices. This compliance audit of rental units will concentrate on apartment buildings which house high percentages of older persons on Social Security. The IRS estimates that over 50,000 rental units will be involved in this investigation. Special emphasis will be exerted in areas which have large populations of older persons.

2. EXPEDITED RENT COMPLAINT SERVICE FOR SOCIAL SECURITY BENEFICIARIES

A rent watch program is in force in over 300 local Internal Revenue Service offices across the nation to expedite rent inquiries and complaints submitted by any Social Security beneficiary. The handling of walk-in and telephone calls, as well as mail inquiries, will be given top priority. Followup investigation in cases involving possible landlord violations also will be given quick action. Persons contacting the IRS with a rent inquiry or complaint should identify himself or herself, as a Social Security beneficiary.

3. ADMINISTRATIVE SANCTIONS AND PENALTIES OF LANDLORDS FOUND IN VIOLATION

The Internal Revenue Service has been granted for the first time new administrative sanction powers. This gives the IRS authority to administer sanctions and allocate penalties to landlords who have illegally overcharged rents. Landlords in violation of stabilization program rent regulations can be ordered to restore overpayments to tenants, rollback rents to legal limits, and pay a penalty of an amount double an overcharged rent.

Cases in which flagrant and willful violation of rent rules occur will be turned over to the Justice Department for litigation action and possible prosecution.

4. PUBLIC EDUCATION EFFORT

The Cost of Living Council and the Internal Revenue Service have prepared and will distribute materials designed to educate landlords and tenants about their rights and responsibilities under the Economic Stabilization Program. Some rent increases are permissible if they are consistent with the rent regulations. In addition, certain types of units are exempt from the controls. It is expected that the effort to hold down rent increases in those units subject to controls will encourage exempt landlords to exercise restraint.

Some Social Security recipients are subject to Department of Housing and Urban Development controls requiring rents to adjust with changes in income. Although some HUD-controlled rents will now increase, in no case will the percentage of income spent on rent by a Social Security beneficiary exceed the percentage presently paid for rent.

Mr. HANSEN. Mr. President, today we are considering S. 3970, the Consumer Protection Organization Act. Strong supporters of this legislation state that a well-armed, activist Consumer Protection Agency is needed to intervene on behalf of the American consumer, through attacking various processes of the bureaucracy and challenging Federal agencies' actions, not to its liking, in the courts.

The basic assumption seems to be that the Federal Government will not act responsibly without the scrutiny of this procedurally powerful Agency acting as a consumer adversarial advocate.

I do not agree with this position for several reasons.

The bill before us today empowers the Consumer Protection Agency to intervene—not merely in providing information—but on a full-fledged participatory basis in judicial proceedings.

The Department of Agriculture has been mentioned as a prime target for attack. The areas of price supports, meat inspection, marketing orders, and market quotas would all be closely scrutinized in the name of consumer interest.

The concept of consumer interest is a nebulous one, implying a necessary conformity in consumer likes and dislikes. The Agency would in fact determine what consumers want or should want by its actions. It would dominate the very agencies that are already functioning under the authority of Congress to regulate business in the interest of the public. Existing independent regulatory agencies would come under its scrutiny and the Consumer Protection Agency would be empowered to take for example, the FCC to court if it disagreed with any of the FCC's decisions. It could also subpena for germane information. The bill grants the Consumer Protection Agency with sweeping authority.

The expense of creating this additional layer of bureaucracy is also noteworthy. While some are saying that this new Agency would assist the consumer and perhaps curb some of his consumer expenditures, they fail to recognize the backbreaking costs to the Government this Agency would mean. It would also mean additional redtape and a blizzard of necessary paperwork.

The potential further overload for our judicial system is another adverse ramification which passage of this bill would promote. Our courts would be burdened by the Agency's initial challenge cases, as well as by the ensuing appellate cases.

In passing such legislation as this, we would be assuming that we represent a naive and quasi-gullible electorate, whose consumer interests must be closely guarded and protected.

I cannot agree that this bill is a viable alternative for assistance.

Mr. RIBICOFF. Mr. President, I yield the remainder of my time to the distinguished Senator from Illinois (Mr. PERCY).

Mr. PERCY. I thank the Senator. I commend the distinguished Senator from Connecticut and the distinguished Senator from New York for their leadership in this matter.

Mr. President, last week we had the makings of a filibuster on the pending Consumer Protection Agency legislation. Now we are muddied knee-deep in the middle of it, and it is becoming increasingly clear that the real victim is the Senate itself which is simply stuck in a morass of its own making.

The U.S. Senate is being prevented from working its will on the merits of legislation which for the first time in history will assure American consumers a consistent and effective voice in the deliberations of their government.

In 1970, when practically this same legislation was before us, 74 Senators cast their vote in favor of it and only four Senators voted disapproval. Since that time, and particularly during the last 8 months, Senators RIBICOFF, JAVITS, and myself have worked tirelessly within the Government Operations Committee to refine this legislation further, to perfect it, to improve it. We now have a better bill. We now have a bill which incorporates a number of amendments specifically designed to preserve the orderly processes of existing agencies and to protect the legitimate interests of responsible American businesses.

Yet for some reason, despite our efforts, certain segments of the business community have chosen to cry "wolf," and in response, like the harpies of old, well-paid lobbyists have descended in droves upon our doorsteps—literally tripping over one another—in a calculated effort

to kill or maim this legislation. From their lamentations, one would hardly know that the real intent and purpose of this legislation is to afford little more than a voice for harried and defrauded and injured consumers in the decisions of their own government that so vitally affect them.

What we are saying in this legislation is that if there are to be lobbyists for business interests—and there always will be—then why cannot the consumer have something of a lobbyist or an "advocate" of his own?

I use the word "lobbyist" in the best sense of that term. Many of them have useful and legitimate roles to play. Many times we have sought them out to get information that might not be available otherwise. But if we have them—and we do have them—why cannot the consumer have something of a lobbyist or an advocate of his own? Is that really so grossly unfair? Is that really so disruptive of the American system? Is that really going to lead to the downfall of the Republic or the full enterprise system as some of the apologists for special interests charge? I hardly think so, although I venture to say that a number of my colleagues appear to think so.

Fortunately, that number is few. On the two votes that have been taken thus far, the Senate has resoundingly turned down the so-called "amicus" amendment, which is a fraud if I ever saw one. And, too, the Senate just missed getting the necessary two-thirds margin for voting cloture last Friday. I say now that we have had enough of stall and delay and that the time is overdue for us to vote "up" or "down" on the pending amendments to this bill and on the bill itself. I have some amendments I would like to see considered, but the opposition—anxious over its defeat on the amicus amendment and concerned with respect to the imminent defeat of similar amendments which would cut the heart out of the bill—seems determined to prevent us from taking up this measure on its merits.

The administration is said to support this stall as a means for getting greater consideration for the five amendments that it has put forward. All I can say in that regard is that those amendments will get no consideration so long as this filibuster continues because those who are responsible for it have indicated as much by their actions. They refuse to permit a vote on any of their amendments or the amendments of other Senators. I hardly think this is fair play, and I call upon the administration, which supports the concept of an independent advocacy agency, to join in a bipartisan effort to halt this travesty now. Within recent months, both parties have voiced support in their platforms for an independent consumer agency. If the administration will take this first step, I will make sure that the amendments that it intends to offer will get every reasonable consideration with a view toward reconciling what differences we may have.

To continue in the vein in which we are going is to invite public ridicule. To continue to permit a small but highly vocal minority of Senators—very able Senators—to thwart the will of the full Senate is to engage in a kind of burlesque that the American people cannot and will not tolerate. It is an abdication of our responsibility to the public interest and to ourselves.

With so much vital legislation before us in these closing days of the 92d Congress, by engaging in legislative fun and games we do ourselves a real disservice. With so little time to deliberate on these other important measures, by filibustering the consumer protection bill we do the American society a real injustice.

The time to stop this nonsense is now. I urge support of cloture.

Mr. ERVIN. Mr. President, I yield my remaining time to the distinguished Senator from Alabama.

Mr. ALLEN. Mr. President, I hope the Senate will not vote to choke off debate on this subject. Last Friday, the Senate voted to allow the debate to continue, and I am hopeful that the vote will be the same today.

This is a bill to regulate the regulators. It imposes another layer, another echelon, of bureaucracy on top of the bureaucracy we already have. It is unwise, and it is not in the public interest, in my judgment. It will affect literally thousands of proceedings before the various agencies of Government. It is an agency that is appointed in the very same way that the existing agencies are appointed.

It is the judgment of the Senator from Alabama that if the agencies are not doing the job of regulation they are appointed to do, they should not be reappointed, and steps should be taken to see that they do their job and not impose another layer of bureaucracy on top of them.

This is a bad bill. I do not believe that the Senate should cut off debate on it. I submit, actually, from a practical point of view, there will be less time consumed by the Senate.

CLOTURE MOTION

The PRESIDING OFFICER (Mr. CHILES). The hour of 2 p.m. having arrived, under the unanimous-consent agreement, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the bill (S. 3970), a bill to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants in order to protect and serve the interest of consumers and for other purposes.

1. Abraham Ribicoff.
2. Mike Mansfield.
3. Walter F. Mondale.
4. Fred R. Harris.
5. Philip A. Hart.
6. Edmund S. Muskie.
7. John O. Pastore.
8. Gaylord Nelson.
9. Warren G. Magnuson.
10. Robert C. Byrd.
11. Jacob K. Javits.
12. Charles H. Percy.
13. Edward W. Brooke.
14. Clifford P. Case.
15. Richard S. Schweiker.
16. James B. Pearson.
17. J. Glenn Beall.
18. Charles McC. Mathias, Jr.

CALL OF THE ROLL

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

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

[No. 497 Leg.]

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

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

I further announce that the Senator from Wyoming (Mr. MCGEE), is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Ohio (Mr. TAFT) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The PRESIDING OFFICER (Mr. BUCKLEY). A quorum is present.

VOTE

The PRESIDING OFFICER (Mr. BUCKLEY). Pursuant to rule XXII, a roll-call has been had, and a quorum is present. The question before the Senate is, Is it the sense of the Senate that debate on 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, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will now call the roll.

Mr. COTTON. Mr. President, a point of order. May we have silence in the Chamber so that we can hear the responses?

The PRESIDING OFFICER. May we have quiet in the Chamber so that we may hear the responses?

The assistant legislative clerk called the roll.

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), and the Senator from Montana (Mr. METCALF), are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. (BAKER), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Ohio (Mr. TAFT) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

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

Mr. BIBLE (when his name was called). On this vote I have a pair with the Senator from Montana (Mr. METCALF) and the Senator from New Hampshire (Mr. MCINTYRE). If they were present and voting, they would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. CANNON (after having voted in the negative). On this vote I have a pair with the Senator from Wyoming (Mr. MCGEE) and the Senator from South Dakota (Mr. MCGOVERN). If they were present and voting, they would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

The yeas and nays resulted—yeas 55, nays 32, as follows:

[No. 498 Leg.]

YEAS—55

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

NAYS—32

Allen	Dominick	Jordan, Idaho
Bellmon	Eastland	Long
Bennett	Edwards	McClellan
Brock	Ervin	Sparkman
Buckley	Fannin	Spong
Byrd, Harry F., Jr.	Fong	Stennis
	Fulbright	Stevens
Cooper	Gurney	Talmadge
Cotton	Hansen	Thurmond
Curtis	Hruska	Weicker
Dole	Jordan, N.C.	Young

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Bible, against.
Cannon, against.

NOT VOTING—11

Allott	McGee	Mundt
Anderson	McGovern	Taft
Baker	McIntyre	Tower
Goldwater	Metcalf	

The PRESIDING OFFICER (Mr. BUCKLEY). On this vote there are 55 yeas and 32 nays. Two-thirds of the Senators present and voting not having voted in the affirmative, the cloture motion is not agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 2280) to amend sections 101 and 902 of the Federal Aviation Act of 1958, as amended to implement the Convention for the Suppression of Unlawful Seizure of Aircraft and to amend title XI of such act to authorize the President to suspend air service to any foreign nation which he determines is encouraging aircraft hijacking by acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft and to authorize the Secretary of Transportation to revoke the operating authority of foreign air carriers under certain circumstances, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the bill (S. 4018) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigaton, flood control, and for other purposes, with an amendment, in which it requested the concurrence of the Senate; that the House insisted upon its amendment to the bill, asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. ROBERTS, Mr. DORN, Mr. HENDERSON, Mr. DON H. CLAUSEN, and Mr. SNYDER were appointed managers on the part of the House at the conference.

The message further announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

H.R. 5838. An act to designate certain lands in the Lava Beds National Monument in California as wilderness;

H.R. 9294. An act to declare that the United States holds certain federally owned land in trust for the Devils Lake Sioux Tribe, North Dakota;

H.R. 10655. An act to designate certain lands in the Lassen Volcanic National Park, California, as wilderness;

H.R. 15276. An act to amend section 591(g) of title 18, United States Code, in order to exclude corporations and labor organizations from the scope of the prohibitions against Government contractors in section 611 of title 18;

H.R. 15859. An act to amend the Public Health Service Act to authorize assistance for planning, development and initial operation, research, and training projects for systems for the effective provision of health care services under emergency conditions; and

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

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills:

S. 166. An act to designate the Stratified Primitive Area as a part of the Washakie Wilderness heretofore known as the South Absaroka Wilderness, Shoshone National Forest, in the State of Wyoming, and for other purposes;

S. 722. An act to declare that certain federally owned lands shall be held by the United States in trust for the Stockbridge Munsee Indian Community, Wisconsin;

S. 2441. An act to authorize the Secretary of the Interior to conduct a study to determine the feasibility and desirability of protecting and preserving the Great Dismal Swamp and the Dismal Swamp Canal; and

S. 3129. An act to authorize the establishment of the Longfellow Historic Site in Cambridge, Massachusetts, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

HOUSE BILLS AND JOINT RESOLUTION REFERRED

The following bills and joint resolution were severally read twice by their titles and referred, as indicated:

H.R. 5838. An act to designate certain lands in the Lava Beds National Monument in California as wilderness; and

H.R. 9294. An act to declare that the United States holds certain federally owned land in trust for the Devils Lake Sioux Tribe, North Dakota; to the Committee on Interior and Insular Affairs.

H.R. 15276. An act to amend section 591(g) of title 18, United States Code, in order to exclude corporations and labor organizations from the scope of the prohibitions against Government contractors in section 611 of title 18; to the Committee on Rules and Administration.

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

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, October 3, 1972, he presented to the President of the United States the following enrolled bills:

S. 166. An act to designate the stratified primitive area as a part of the Washakie Wilderness heretofore known as the South Absaroka Wilderness, Shoshone National Forest, in the State of Wyoming, and for other purposes;

S. 722. An act to declare that certain federally owned lands shall be held by the United States in trust for the Stockbridge Munsee Indian Community, Wis.;

S. 2441. An act to authorize the Secretary of the Interior to conduct a study to determine the feasibility and desirability of protecting and preserving the Great Dismal Swamp and the Dismal Swamp Canal; and

S. 3129. An act to authorize the establishment of the Longfellow National Historic Site in Cambridge, Mass., and for other purposes.

EXECUTIVE SESSION

The PRESIDING OFFICER (Mr. BUCKLEY). Pursuant to the previous order, the Senate will now go into executive session to vote on the four treaties. The resolutions of ratification have already been reported and stated in the RECORD and the yeas and nays ordered on all four treaties.

PROTOCOL TO THE INTERNATIONAL CONVENTION FOR THE NORTHWEST ATLANTIC FISHERIES RELATING TO AMENDMENTS TO THE CONVENTION—AMENDMENTS TO THE CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1960—AGREEMENT WITH BRAZIL CONCERNING SHRIMP—CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF CIVIL AVIATION

Mr. MANSFIELD. Mr. President, for the information of the Senate, the Senate will now vote on four treaties at one time, but the single vote will be the equivalent of the four votes carried in the RECORD.

The PRESIDING OFFICER. The question is on agreeing to the respective resolutions of ratification.

PROTOCOL TO THE INTERNATIONAL CONVENTION FOR THE NORTHWEST ATLANTIC FISHERIES RELATING TO AMENDMENTS TO THE CONVENTION

The legislative clerk called the roll.

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), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

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

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Ohio (Mr. TAFT) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Ohio (Mr. TAFT) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The yeas and nays resulted—yeas 89, nays 0, as follows:

[No. 499 Ex.]

YEAS—89

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

NAYS—0

NOT VOTING—11

Allott	McGee	Mundt
Anderson	McGovern	Taft
Baker	McIntyre	Tower
Goldwater	Metcalf	

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

AMENDMENTS TO THE CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1960

The legislative clerk called the roll.

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), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

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

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Ohio (Mr. TAFT) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Ohio (Mr. TAFT) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The yeas and nays resulted—yeas 89, nays 0, as follows:

[No. 500 Ex.]

YEAS—89

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

NAYS—0

NOT VOTING—11

Allott	McGee	Mundt
Anderson	McGovern	Taft
Baker	McIntyre	Tower
Goldwater	Metcalf	

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

AGREEMENT WITH BRAZIL CONCERNING SHRIMP

The legislative clerk called the roll.

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), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

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

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Ohio (Mr. TAFT) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Ohio (Mr. TAFT) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The yeas and nays resulted—yeas 89, nays 0, as follows:

[No. 501 Ex.]

YEAS—89

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

NAYS—0

NOT VOTING—11

Allott	McGee	Mundt
Anderson	McGovern	Taft
Baker	McIntyre	Tower
Goldwater	Metcalf	

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF CIVIL AVIATION

The legislative clerk called the roll.

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), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE), is absent on official business.

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

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Ohio (Mr. TAFT) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Ohio (Mr. TAFT) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The yeas and nays resulted—yeas 89, nays 0, as follows:

[No. 502 Ex.]

YEAS—89

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

NAYS—0

NOT VOTING—11

Allott	McGee	Mundt
Anderson	McGovern	Taft
Baker	McIntyre	Tower
Goldwater	Metcalf	

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Pursuant to the previous order, the Senate will now return to legislative session and vote on final passage of H.R. 16754, the military construction appropriation bill. The yeas and nays have been ordered.

MILITARY CONSTRUCTION APPROPRIATIONS, 1973

Mr. MANSFIELD. Mr. President, is the Senate about to vote on the military construction appropriation bill?

The PRESIDING OFFICER. Yes.

Mr. MANSFIELD. I think this point should be brought home to the Senate, because this is what the Senate and the Congress have done: On the bill on which the Senate is about to vote, there has been a total reduction of $223,658,000, or 12.1 percent below the budget request. If we add that to what the Senate did yesterday, and what the Congress has done, we find that on the Department of Defense appropriation agreed to on yesterday there was a reduction of $4,989,518,000, so that on these two bills the total reduction will be $5,213,176,000, for which the Congress deserves some credit.

Mr. NELSON. Mr. President, may I ask a question? Is that amount below the request of the President?

Mr. MANSFIELD. That is correct.

The PRESIDING OFFICER. The question is on final passage of H.R. 16754. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

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

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Ohio (Mr. TAFT) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Florida (Mr. GURNEY) is detained on official business.

If present and voting, the Senator from Colorado (Mr. ALLOTT), the Senator from Florida (Mr. GURNEY), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 87, nays 0, as follows:

[No. 503 Leg.]

YEAS—87

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

NAYS—0

NOT VOTING—13

Allott	Gurney	Mundt
Anderson	McGee	Taft
Baker	McGovern	Tower
Fulbright	McIntyre	
Goldwater	Metcalf	

So the bill (H.R. 16754) was passed.

PUBLIC HEALTH SERVICE ACT; LASSEN VOLCANIC NATIONAL PARK—ORDER FOR BILLS TO BE HELD AT THE DESK

Mr. MANSFIELD. Mr. President, I ask unanimous consent that H.R. 15859 and H.R. 10655 be held at the desk.

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

OLDER AMERICANS COMPREHENSIVE SERVICES AMENDMENTS OF 1972

The PRESIDING OFFICER (Mr. BUCKLEY). Pursuant to the previous order, the Senate will resume consideration of S. 4044, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 4044) to strengthen and improve the Older American Act of 1965, and for other purposes.

Mr. BEALL. Mr. President, I ask unanimous consent that the names of Senators JAVITS, DOMINICK, PACKWOOD, TAFT, FONG, PERCY, and HRUSKA be added as cosponsors of the amendment we are about to consider, and that the text of the amendment be printed in the RECORD at this point.

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

The amendment is as follows:

On page 1, insert after line 4 the following:

TITLE I—DECLARATION OF FINDINGS AND PURPOSES

Beginning with line 19 on page 2, strike out all down through line 15 on page 7.

On page 16, strike out lines 10 and 11 and insert in lieu thereof the following: current fiscal year and one for the succeeding fiscal year.

"NATIONAL ADVISORY COUNCIL ON THE AGING

"SEC. 210. (a) There is established a National Advisory Council on the Aging to be composed of fifteen members appointed by the President with the advice and consent of the Senate for terms of three years without regard to the provisions of title 5, United States Code. Members shall be appointed so

as to be representative of older Americans, national organizations with an interest in aging, business, labor, and the general public. At least five of the members shall themselves be older persons.

"(b)(1) Of the members first appointed, five shall be appointed for a term of one year, five shall be appointed for a term of two years, and five shall be appointed for a term of three years, as designated by the President at the time of appointment.

"(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office.

"(3) Any vacancy in the Council shall not affect its powers, but shall be filled in the same manner by which the original appointment was made.

"(4) Members of the Council shall, while serving on business of the Council, be entitled to receive compensation at rates not to exceed the rate specified at the times of such service for grade GS–18 in section 5332 of title 5, United States Code, including traveltime, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

"(c) The President shall designate the Chairman from among the members appointed to the Council. The Council shall meet at the call of the Chairman but not less often than four times a year. The Secretary and the Commissioner on Aging shall be ex officio members of the Council.

"(d) The Council shall—

"(1) advise and assist the President as he may direct on matters relating to the special needs of older Americans;

"(2) assist the Commissioner in making the appraisal of needs required by section 402;

"(3) review and evaluate programs and activities conducted or assisted by departments and agencies of the Federal Government with particular emphasis upon identifying unsolved special problems of older Americans; and

"(4) make recommendations to the President, to the Secretary, the Commissioner, and the Congress for the establishment of new programs and activities for older Americans in view of the evaluation conducted by the Council.

"(e) The Secretary and the Commissioner shall make available to the Council such staff, information, and other assistance as it may require to carry out its activities.

"(f) Beginning with the year 1974, the Council shall make such interim reports as it deems advisable and an annual report of its findings and recommendations to the President not later than March 31 of each year. The President shall transmit each such report to the Congress together with his comments and recommendations.

"(g) The Council shall undertake a study of the interrelationships of benefit programs for the elderly operated by Federal, State, and local government agencies. Following the completion of this study, the President shall submit to Congress no later than eighteen months after the enactment of this Act recommendations for bringing about greater uniformity of eligibility standards, and for eliminating the negative impact that one program's standards may have on another.

"(h) The Council shall undertake a study of the combined impact of all taxes on the elderly—including but not limited to income, property, sales, social security. Upon completion of this study, but no later than eighteen months after enactment of this Act, the President shall submit to Congress, and to the Governors and legislatures of the States, the results thereof and such recommendations as he deems necessary."

SEC. 202. Title VIII of the Older Americans Act of 1965.

On page 13, strike out lines 3 and 4 and insert in lieu thereof the following:

(5) provide technical assistance to the National Advisory Council on the Aging.

On page 39, strike out lines 5 and 6 and insert in lieu thereof the following: "related information of the National Advisory Council on the Aging, the Department of Labor, the Veterans' Admin-".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maryland (Mr. BEALL). 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 South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Ohio (Mr. TAFT) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Kentucky (Mr. COOPER) is detained on official business.

If present and voting, the Senator from Ohio (Mr. TAFT) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 37, nays 51, as follows:

[No. 504 Leg.]

YEAS—37

Aiken	Dominick	Mathias
Allen	Edwards	Miller
Beall	Ervin	Packwood
Bellmon	Fannin	Percy
Bennett	Fong	Randolph
Boggs	Griffin	Roth
Brock	Gurney	Saxbe
Buckley	Hansen	Scott
Byrd, Harry F., Jr.	Hruska	Stennis
	Javits	Thurmond
Cotton	Jordan, N.C.	Weicker
Curtis	Jordan, Idaho	Young
Dole	Long	

NAYS—51

Bayh	Harris	Nelson
Bentsen	Hart	Pastore
Bible	Hartke	Pearson
Brooke	Hatfield	Pell
Burdick	Hollings	Proxmire
Byrd, Robert C.	Hughes	Ribicoff
Cannon	Humphrey	Schweiker
Case	Inouye	Smith
Chiles	Jackson	Sparkman
Church	Kennedy	Spong
Cook	Magnuson	Stafford
Cranston	Mansfield	Stevens
Eagleton	McClellan	Stevenson
Eastland	Mondale	Symington
Fulbright	Montoya	Talmadge
Gambrell	Moss	Tunney
Gravel	Muskie	Williams

NOT VOTING—12

Allott	Goldwater	Metcalf
Anderson	McGee	Mundt
Baker	McGovern	Taft
Cooper	McIntyre	Tower

So Mr. BEALL's amendment was rejected.

Mr. EAGLETON. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EAGLETON. Mr. President, I have two technical amendments which I send to the desk and ask that they be stated, and ask unanimous consent that they be considered en bloc.

Mr. MANSFIELD. Mr. President, I would like to suggest the absence of a quorum because a Senator wanted to be here when those amendments were offered.

Mr. EAGLETON. I could not hear the Senator.

Mr. MANSFIELD. I would like to suggest a brief quorum call because a Senator wanted to be here when these amendments were called up.

Mr. EAGLETON. These technical amendments?

Mr. MANSFIELD. Yes.

Mr. EAGLETON. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BUCKLEY). The clerk will state the amendments.

The legislative clerk proceeded to read the amendments.

Mr. MANSFIELD. Mr. President, the absence of a quorum was suggested.

The PRESIDING OFFICER. On whose time?

Mr. MANSFIELD. I ask unanimous consent that the call for the quorum not be charged against anyone's time.

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

The second assistant legislative clerk proceeded to call the roll.

Mr. 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.

Mr. EAGLETON. Mr. President, I renew my request and ask unanimous consent that the amendments pending at the desk which are technical in nature be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc, and will be stated by the clerk at this time.

The legislative clerk read as follows:

On page 14, strike our lines 1 through 7 and insert in lieu thereof the following:

"(b) The Commissioner may not make grants or contracts under section 308 or title IV of this Act until he has developed and published general standards to be used by him in evaluating the program and projects assisted under such section or title. Results of evaluations conducted pursuant to such standards shall be included in the reports required by section 207.

On page 58, strike out line 12 and insert in lieu thereof:

"SEC. 507. (a) To assist nonprofit

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. EAGLETON. Mr. President, these two amendments were suggested by the Administration as clarifying amendments and they meet with the approval

of the distinguished Senator from Maryland.

Mr. BEALL. Mr. President, I yield back my time.

Mr. EAGLETON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments were agreed to en bloc.

Mr. TUNNEY. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 5, following line 25, insert the following:

(7) work specifically toward formulating recommendations to the Congress and to the President which will help implement the goal of increasing the income of older Americans.

Mr. TUNNEY. Mr. President, this is a very simple amendment and one which everyone in the Senate can vote for. It is quite clear that one of the most pressing problems for our senior citizens in the country today is an adequate income. There does not seem to be any doubt that the Commission on Aging should give specific attention to this inadequacy, to the needs of the elderly for health, nutrition, housing, transportation, all flowing from an inadequate income.

It seems to me clear that the Commission should be directing its attention to this very important problem of finding ways in which our senior citizens can develop higher incomes.

Mr. President, I have discussed the amendment with the able floor manager of the bill. It is my understanding that he is prepared to accept the amendment.

Mr. EAGLETON. Mr. President, I am prepared to accept the amendment and to take it to conference.

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

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

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California (putting the question).

The amendment was agreed to.

Mr. TUNNEY. Mr. President, I want to take a moment to comment specifically about what I deem to be one of the most critical sections of this important legislation. That is section 201(b) of title II of this act. That section directs the Commissioner, in executing his duties and functions under this act and carrying out the program's activities provided for by this act, to encourage and permit voluntary groups to assist in meeting the important needs of senior citizens.

I am certain that the able Senator from Missouri is aware of the deep concern which I share with him for activities such as those which are set forth in that section of this bill. I have long believed that one of the most important methods of helping to bridge the so-called generation gap is to involve our younger citizens in addressing the concerns of our older citizens.

I have introduced S. 3926, the National Senior Service Corps Act, in an effort to assist senior citizens in meeting their needs and in a further effort to provide a vehicle through which younger Americans can help older Americans to realize some of their most important needs. That bill would create a National Senior Service Corps, through which volunteers of all ages, but especially younger volunteers, can work toward meeting the needs of our senior citizens.

I believe, Mr. President, that section 201(b) of title II of the pending legislation is an important step in the right direction. I shall support it. I would hope that the able subcommittee chairman, in an effort to go beyond this step, will continue to pursue this matter early in the next session and that, pursuant to that objective, will schedule hearings at the earliest possible moment on S. 3926 as it will be reintroduced early next year.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 4044) was ordered to be engrossed for a third reading and was read the third time.

Mr. CHURCH. Mr. President, I strongly urge the adoption of S. 4044, the comprehensive older Americans services amendment.

At the outset, I wish to congratulate the chairman of the Subcommittee on Aging for his leadership in developing a comprehensive and effective bill which is responsive to the many service needs of older Americans.

This bill, it seems to me, is landmark legislation in many respects.

It would, for the first time, provide the wherewithal to launch vital services for the elderly on a much more realistic scale.

And the model programs—in housing, transportation, continuing education, preretirement counseling, and special services for the handicapped—offer fresh new approaches for meeting some of the elderly's most pressing problems.

The Senate bill strengthened the House-passed bill in several important respects.

Particularly significant is the measure which would upgrade the Administration on Aging by transferring it out of the Social and Rehabilitation Service to the Office of the Secretary.

For far too long, AOA has been buried in the welfare-oriented SRS, down deep in the vast bureaucracy at HEW.

Clearly, this is not what the Congress intended when it enacted the Older Americans Act in 1965.

Instead, the Congress, the elderly, and leaders in the field of aging wanted a high-level and visible spokesman.

Today's bill, I believe, represents a step in the right direction.

Another major improvement is the provision for a new Older Americans Advocacy Commission to act as a forceful advocate on behalf of the elderly in the highest councils of Government.

This independent Commission is long overdue. Today there are nearly 20 Federal departments and agencies with some jurisdiction in the field of aging. The new Commission can help assure that the elderly's interests are appropriately considered and represented.

This concept, I might add, is an offshoot of a proposal developed by an Advisory Council for the Senate Committee on Aging, of which I am chairman.

Members of the Advisory Council—which included outstanding leaders in the field of aging—made it clear that they were no longer satisfied with a flawed and feeble commitment on behalf of older Americans.

A number of their proposals—I am pleased to say—have been adopted in modified form in S. 4044.

Now, I would like to turn to titles IX and X, which are designed to maximize employment opportunities for workers.

As a cosponsor of both these measures, I heartily urge their adoption.

Title IX—the Older American Community Service Employment Act—would provide a basis for converting the successful pilot projects under Operation Mainstream, such as Green Thumb, Senior Aides, and others, into permanent, ongoing national programs.

These programs have clearly shown their effectiveness for the elderly and the communities being served. What is needed now is a genuine national commitment. And S. 4044 provides that commitment.

Additionally, title X—the Middle-Aged and Older Workers Training Act—would authorize midcareer services for unemployed or underemployed persons 45 or older.

Moreover, this measure would provide placement and recruitment services in communities where there is large scale unemployment because of a plant shutdown or other permanent reduction in the labor force.

Mr. President, I again urge the enactment of S. 4044.

Mr. RANDOLPH. Mr. President, I strongly support the enactment of S. 4044, the comprehensive older Americans services amendments.

This measure, I strongly believe, represents a major victory for nearly 21 million older Americans.

However, as the sponsor of the Middle Aged and Older Workers Training Act—title X of the bill—I shall direct my remarks to these provisions.

A major purpose of this title is to develop a clearcut and effective policy to maximize employment opportunities for persons 45 and older. To achieve this goal, title X would establish a comprehensive midcareer development services program in the Department of Labor to assist middle-aged and older workers to find employment by providing training, counseling, and special supportive services.

This proposal would also authorize the Secretary of Labor to recruit personnel for the purpose of training and retraining persons 45 and over to develop skills which are needed in their communities. This is essential to provide full-time older worker specialists to focus, in fact and not in theory, on the unique and growing unemployment problems of the mature individual.

Particularly significant, in my judgment, is a provision to make placement, recruitment, and counseling services available in communities where there is substantial unemployment because of a plant shutdown or other permanent reduction in the work force. Moreover, this

proposal would authorize a number of special studies, including:

Means to eliminate the lack of coverage and other inadequacies in workmen's compensation and disability insurance programs, health insurance, and pension plans, particularly as they adversely affect middle-aged and older workers; and

The feasibility of establishing a program of extended unemployment compensation for workers 55 and older who have exhausted their benefits.

To carry out these purposes, this measure would authorize $100 million for fiscal year 1973 and $150 million for 1974. With this level of funding, it would be possible to assist 100,000 persons 45 and over locate new and more productive employment.

During fiscal 1971, by way of contrast, only about 46,000 persons in this age bracket participated in our Nation's manpower and training programs.

The need to act promptly on this legislation is particularly compelling. Today, 1 million persons 45 and older are unemployed, approximately 7 percent more than in January 1969.

Once unemployed, these mature workers face a substantially greater risk of being without work for a long period of time. Nearly 400,000 have been jobless for 15 weeks or longer, approximately 233 percent greater than 3 years ago. And their very long-term unemployment is even more serious. It has soared from 48,000 to 214,000 during the past 3 years.

Yet, the needs of mature workers have been largely overlooked or ignored under our present manpower efforts. By whatever barometer one would choose to use, they have been underrepresented.

Persons 45 and over, for instance, now account for less than 4 percent of all first-time enrollees in our Nation's work and training programs. Yet, they constitute 21 percent of all unemployment in the United States, 39 percent of all joblessness for 15 weeks or longer, and 40 percent of unemployment for 27 weeks or longer.

And this alarming trend seems to be moving steadily downward. According to Dr. Harold Sheppard, of the Upjohn Institute, the percentage enrollment of middle-aged and older workers in manpower programs hit an alltime low in 1971.

Without specific statutory authorization, the outlook for improvement for older persons is certainly not encouraging. But, my amendment can provide the legislative framework to establish a foundation for a new national policy to promote employment opportunities for older persons.

This measure represents a sound and sensible effort to help assure that persons 45 and older are fairly represented in our Nation's training programs.

And, it is urgently needed to respond to the widespread unemployment throughout our Nation. I again urge the adoption of this measure.

Mr. KENNEDY. Mr. President, I rise to speak in favor of the Older Americans Act extensions, S. 4044, of which I am pleased to be a cosponsor.

And at this time I want to commend the distinguished chairman of the Aging Subcommittee, Senator EAGLETON, for his leadership in developing this legislation to extend and expand the Older Americans Act of 1965 for 3 years.

And I am pleased as well that the committee has accepted my amendment to include S. 555, the Community Service Employment Act, which passed the Senate earlier this session, as a new title IX.

This title will provide $250 million over the next 2 years for community service employment for persons 55 and older. And we estimate that it will provide some 100,000 jobs during that period.

Unfortunately, it did not appear possible for action to occur in the House early enough to permit final passage of this program. Therefore, it has been accepted as part of the total Older Americans Act extension.

The urgency of action on this bill is clear. For during the past several years of rising unemployment, the impact on older workers has been particularly grim. From January 1969 to September 1971, unemployment for persons 45 and older jumped from 596,000 to 1,057,000, a 77-percent hike. And the large bulk of that increase fell on those individuals 55 and older.

What is perhaps even more of an indication of our failure to show a national sensitivity to the needs of these older workers is the recent reports from the Bureau of the Census. They show that some 6.8 million persons aged 55 and older are living in poverty, 25 percent of the Nation's 25.9 million poor. The impact of unemployed and poor older workers on the social service system of the Nation is increasing as a result with some 2.9 million Americans over 55 receiving public assistance. And the lack of income heightens the difficulties faced by older Americans in providing for their basic needs. The result of the lack of income and the absence of a meaningful role to play in society combine to propel older persons prematurely into custodial care institutions.

While the existing network of job opportunities for older workers in the private economy has been shrunk by the decline of our economy, the public service opportunities sponsored by Government have failed to fill the gap.

The Emergency Employment Act of 1971 was the major Federal effort to provide public employment opportunities to our citizens. Yet the older worker, despite representing 25 percent of the poor, has received only 6 percent of the available EEA job opportunities, according to the Department of Labor. The Labor Department's administration of this program unfortunately has continued the past pattern of neglect for these older workers.

The most successful Federal effort in providing job opportunities to older Americans has been the Economic Opportunity Act pilot program Operation Mainstream.

With Operation Mainstream support, the National Council of Senior Citizens has operated the senior aides project; the National Farmers Union has directed the Green Thumb and Green Light projects; the National Council on Aging has funded senior community service projects, and the AART/NRTA has administered the senior community service aides project.

All of these projects have met with enormous success, success documented in evaluations carried out under Labor Department contract and success documented in testimony before the Senate aging subcommittee.

And so I am pleased that this measure will now be part of the Older Americans Act extension and will be passed into law this session.

At the same time, I believe the other provisions in the measure, particularly the advocacy commission for the aging, represent new and impressive efforts to respond to the needs of the Nation's elderly citizens.

The measure also will provide for area-wide planning areas to seek a coordinated approach to the provision of social services. This provision uses the area-wide model project approach which has been operating on a demonstration basis for the past 3 years. This approach to the provision of social services is endorsed by the administration. This bill enables a first full-scale testing of the measure. Hopefully, it will result in greater coordination of existing services.

The bill also responds to the special needs of the elderly in housing and in transportation and in continuing education. And the measure establishes a national older Americans information clearinghouse which will seek to provide older Americans with information regarding programs of the Federal Government, consumer information, health care, as well as stimulating State and local clearinghouses as well.

The bill is another example of the conscious effort by the Congress to provide a Federal response to the needs of older Americans.

Mr. WILLIAMS. Mr. President, today the Congress has an opportunity to take a major step forward on behalf of the senior citizens of our Nation.

In 1965, we passed the Older Americans Act in hope that we had established a Federal agency on aging with enough power and visibility to shape coherent policy and programs of direct usefulness and assistance to the elderly.

Since then, however, it has become increasingly clear that Congress has additional work to do in this area.

For one thing, the Older Americans Act was not adequately funded in its earliest years.

For another, executive reorganizations had put it within the Social and Rehabilitation Service and had stripped it of some of its most challenging programs.

While I was chairman of the Senate Committee on Aging, I was keenly aware of the deterioration of the Administration on Aging.

I hoped that the White House Conference on Aging in 1971 would issue a clear call for a strengthened agency on aging, and this, indeed, was the case.

Now after meticulous and productive hearings before the Subcommittee on Aging in the Committee on Labor and Public Welfare, Subcommittee Chairman EAGLETON has succeeded in shaping a bill which would give the Older Americans Act new meaning, more adequate funding levels, and much more capacity to fulfill the mission assigned to it by Congress 7 years ago.

The Senator from Missouri is to be congratulated for placing this bill before

the Senate, and I pledge it to my full support as chairman of the full committee and as ranking majority member of the Committee on Aging.

I would also like to offer for the record this analysis of the provisions of the bill.

First, it establishes a six-member Older Americans Advocacy Commission. The Commission would act as an advocate on behalf of the aged concerning legislation, investigations, or other matters before the Congress relating to the problems and needs of older Americans. Additionally, the Commission would act as an advocate in formulating policies and the operation of programs conducted by Federal agencies. As approved by the House, H.R. 15657 creates a 15-member National Advisory Council on Aging to advise and assist the President on matters relating to the special needs of older Americans.

Second, AOA would be elevated under the Senate bill by transferring it out of the Social and Rehabilitation Service to the Office of the Secretary of HEW. The House-passed legislation would make the Commissioner on Aging directly responsible to the Secretary.

Third, allocation of funds in the House bill for the new title III grants for State and area programs would be based on the ratio of the 60-and-over populations in each State to the total elderly population in the United States. However, no State would be allotted less than $250,000. Under the Senate version, the funding allocation would be based on the 60-plus population in each State with a minimum of 1 percent of the authorization for each State. However, if full funding is not provided, the minimum would be reduced pro rata by the difference in the authorization and the appropriation.

Fourth, the eligibility age to participate in the foster grandparent program would be reduced from 60 to 55 under the Senate bill.

Fifth. Under the House-passed measure, there would be, first, special programs to develop area model projects to expand or improve social services for older Americans—title III— and second, special impact programs in the areas of housing assistance, transportation, employment, continuing education, and preretirement counseling—title VIII. The Senate version would simply authorize model projects—in housing, transportation, continuing education, preretirement counseling, and special services for the handicapped.

In addition, the Labor Committee bill incorporates two earlier proposals to maximize job opportunities for older workers:

The Middle-Aged and Older Workers Training Act to authorize training, counseling, and special supportive services for unemployed or underemployed individuals 45 or older.

The Older American Community Service Employment Act which would help convert the Mainstream pilot projects into permanent, on-going national programs.

Mr. DOLE. Mr. President, I rise in support of S. 4044, the comprehensive older Americans services amendments, which I feel will provide programs and services which complement the President's efforts to improve the lives of older Americans.

President Nixon has stated:

> Any action which enhances the dignity of older Americans enhances the dignity of all Americans, for unless the American dream comes true for the older generation, it cannot be complete for any generation.

In the terms of the President's analysis, I feel passage of S. 4044 will be significantly beneficial to all Americans.

The purpose of S. 4044 is to expand the authority of the Administration on Aging, so it can more effectively and extensively deliver social and nutritional services to older Americans, while, at the same time, developing programs which use the abilities and skills of older citizens to the best advantage in the community.

S. 4044 authorizes comprehensive programs to deal with the problems of our older citizens. In addition to expanding the Administration on Aging, the bill will create a national older American information clearinghouse designed to collect, analyze, prepare, and disseminate information regarding the needs and interest of older Americans.

For improved delivery of services to the elderly, S. 4044 authorizes grants for research and development projects in the field of aging, and the establishment and support of multidisciplined centers of gerontology. Additional programs make available loans for the acquisition or renovation of multipurpose senior citizen centers and grants for the staffing of such centers.

Improved services to the elderly are made available through the Administration on Aging which would coordinate with State aging agencies to develop a statewide plan for delivery of services to senior citizens. Additional provisions provide for improved nutritional services and a special library program and reading service for the aging.

In the President's message on programs for older Americans, he emphasized the need to stop treating older Americans as a burden and to start treating them as a resource. In this regard, S. 4044 extends and expands the authorization for volunteer programs for older Americans such as the foster grandparents program and other older American community service programs. A community service employment program for older Americans is established, which provides community service jobs for low-income persons 55 years of age or older, and creates job training programs to increase employment opportunities for middle-aged and older Americans.

The programs will provide useful employment for older Americans and encourage the efficient use of an American manpower resource which has yet gone untapped.

I support S. 4044 because of the assistance its programs offer the over 266,000 senior citizens residing in Kansas, and urge my colleagues to join in support of this important step toward meeting America's responsibility to its older citizens who have contributed so much to the greatness of our Nation.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare be discharged from further consideration of H.R. 15657, a companion bill, and that the Senate proceed to its immediate consideration.

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

The Senate proceeded to consider the bill (H.R. 15657) to strengthen and improve the Older Americans Act of 1965, and for other purposes.

Mr. EAGLETON. Mr. President, I move to strike out all after the enacting clause of H.R. 15657 and to substitute therefor the text of S. 4044, as reported and as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Missouri.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 15657) was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

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), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. McGEE) is absent on official business.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. McINTYRE) and the Senator from South Dakota (Mr. McGOVERN) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Ohio (Mr. TAFT) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) would each vote "yea".

The result was announced—yeas 89, nays 0, as follows:

[No. 505 Leg.]

YEAS—89

Aiken	Cannon	Fong
Allen	Case	Fulbright
Bayh	Chiles	Gambrell
Beall	Church	Gravel
Bellmon	Cook	Griffin
Bennett	Cooper	Gurney
Bentsen	Cotton	Hansen
Bible	Cranston	Harris
Boggs	Curtis	Hart
Brock	Dole	Hartke
Brooke	Dominick	Hatfield
Buckley	Eagleton	Hollings
Burdick	Eastland	Hruska
Byrd, Harry F., Jr.	Edwards	Hughes
Byrd, Robert C.	Ervin	Humphrey
	Fannin	Inouye

Jackson	Muskie	Smith
Javits	Nelson	Sparkman
Jordan, N.C.	Packwood	Spong
Jordan, Idaho	Pastore	Stafford
Kennedy	Pearson	Stennis
Long	Pell	Stevens
Magnuson	Percy	Stevenson
Mansfield	Proxmire	Symington
Mathias	Randolph	Talmadge
McClellan	Ribicoff	Thurmond
Miller	Roth	Tunney
Mondale	Saxbe	Weicker
Montoya	Schweiker	Williams
Moss	Scott	Young

NAYS—0

NOT VOTING—11

Allott	McGee	Mundt
Anderson	McGovern	Taft
Baker	McIntyre	Tower
Goldwater	Metcalf	

So the bill (H.R. 15657) was passed.

Mr. JAVITS. I move to reconsider the vote by which the bill was passed.

Mr. EAGLETON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the Senator from Florida (Mr. CHILES), the Senator from Maine (Mr. MUSKIE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from California (Mr. TUNNEY), and the Senator from Wisconsin (Mr. NELSON) be added as cosponsors.

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

Mr. EAGLETON. Mr. President, I ask unanimous consent to indefinitely postpone S. 4044.

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

SOCIAL SECURITY AMENDMENTS OF 1972

The PRESIDING OFFICER. Under the previous order the Chair lays before the Senate H.R. 1, which the Senate will proceed to consider for not to exceed 1 hour.

The bill will be stated by title.

The bill was read 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.

Mr. LONG. Mr. President, I believe the Senator from Alaska has an amendment he wants to offer. In due course I am going to make a motion to table the Ribicoff amendment, which is pending, so that we can have the Roth-Byrd amendment before us. I am not seeking to deny Senators the opportunity to debate the merits of the amendment. I simply think, if I am correct in my judgment, that the Senate is not going to be disposed to add to this bill one of the guaranteed income proposals.

Then, we would have the opportunity to consider other alternatives that could be suggested, such as the committee proposal or the Roth proposal, which would provide for a test, and keep some of the best provisions of the committee bill, or whatever else the Senate wanted to retain. But I am frank to say that some of us are convinced that any one of these guaranteed income for not working programs would destroy this country, and we propose to demonstrate why; and if the Senate is disposed to vote what I believe is the will of the majority and reject these guaranteed income for not working schemes, I believe we can go ahead and act on the bill.

If we cannot do that, I suppose again we will have to have a situation where all of these things that can be agreed on by unanimous vote, such as aid for the disabled, the sick, the aged, and the blind, as well as provisions we could agree on unanimously for the benefit of little children, would be held hostage, as happened 2 years ago, when the House refused to go to conference on benefits for the poor, the aged, the sick, and the needy, the whole bill being held hostage to a scheme to put millions of people on welfare for doing nothing.

We think there is grave danger to this Republic in doing that because we believe the only way in the world the country could get out of that trap would be for the Nation to find itself bankrupt, and our whole form of government would come down like a house of cards, because when you get started down that path and get 40 or 50 million Americans on the dole for doing nothing, you cannot vote against paying them more. We would have demonstrations here that would make the march on Washington look like a Sunday school picnic in comparison. You would have 25 to 50 percent of all the population descending on Washington for increased benefits.

To show Senators the kinds of things we could avoid, which the Ribicoff amendment would multiply, I refer to the chart in the back of the Chamber entitled "Bonus for Not Marrying under Amendment 1669 in New York," which is the Ribicoff amendment.

Mr. RIBICOFF. Mr. President, will the Senator yield at that point?

Mr. LONG. I yield for a question.

Mr. RIBICOFF. I do not have the slightest idea where the distinguished Senator got those figures because they have no basis. Under the Ribicoff amendment, a person phases out at earnings of $5,055. So if there is a father involved who is earning $7,000 he would not be eligible for any payments under my bill.

Mr. LONG. If the Senator will just read the red print on the chart, maybe that is not as clear to him as it is to some of us. There are two lines. One is where the father is married, and the Senator is correct that he would not get any welfare money where he is married to the mother. But if he is not married to the mother, that is where he gets the big benefit. If he is making $7,000 a year, all he has to do is make himself unavailable. Then the mother with three children would get $4,000. That is the welfare payment in New York. The Senator's amendment would guarantee to continue that they would get it without working, and in addition they could get a public housing benefit of $1,100 and medicaid coverage worth $900.

So as long as they remain outside of marriage and bring the children up outside of marriage, their income and benefits total $13,000 a year.

Mr. RIBICOFF. If the Senator will yield, he is assuming you are able to find the father of these children. In the case of the unmarried mother with children based on illegitimacy, it is almost impossible to determine who the father is. It will be just as difficult to find the father under the Senator's proposal as under mine. My bill also has penalties for the deserting father when he is found.

Mr. LONG. Mr. President, I had yielded to the Senator for a question but I decline to yield for a speech on my time. I would be happy to yield so the Senator can explain his views later on.

Mr. RIBICOFF. What bothers me about the charts——

Mr. LONG. Mr. President, I decline to yield further. I do not mind yielding for a question, and I shall be happy to yield time to the Senator later, but I would like to explain my position.

Mr. RIBICOFF. May I ask a question, then?

Mr. LONG. I will yield for a question, but not for a statement or a speech.

Mr. RIBICOFF. On the Senator's chart, why has he failed to include the figures in the pending Ribicoff proposal of $2,600?

Mr. LONG. We did not have the numbers on that, but we have the numbers for proposals guaranteeing $2,400, $3,000, $4,000, and $6,500, this last one being the McGovern proposal.

Mr. RIBICOFF. The McGovern proposal is not before us, but the $2,600 figure is, and with the resources of the staff of the Finance Committee, I do not see why they do not have the figures before us.

Why has not the chairman included the figures of how many people are involved in the committee bill? If we are going to be fair with this body, let us have all the figures.

Mr. LONG. Because at this particular time we are not talking about the committee bill; we are talking about the Ribicoff amendment.

Mr. RIBICOFF. The Senator is in the process of comparing the costs. He is running down a comparison of all the proposals. In all fairness, the committee proposal should be before the Senate at the same time, so we know what we are talking about. The truth is that the committee proposal involves more people than the Ribicoff proposal.

Mr. LONG. Under the committee bill, the number of people in families eligible to get their basic income from welfare would be about 8 million, because we reduce the number rather than increase the number.

Mr. RIBICOFF. No——

Mr. LONG. Mr. President, I do not yield further. I am going to insist on my right to the floor.

The committee amendment would include finding the father and making the father do what he should do for his children. It is frustrating to try to go to the father if a mother is unwilling to cooperate, and when she finds it to her cash advantage not to have him identified. So we change those incentives in the committee bill.

Mr. President, I ask unanimous consent that a chart on this matter be inserted at this point in the RECORD.

There being no objection, the chart

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

FAMILY INCOME AND MARITAL STATUS UNDER THE RIBICOFF AMENDMENT IN NEW YORK

Father not married to mother:	
Father's earnings	$7,000
Welfare payment to mother and three children	4,000
Public housing bonus	1,100
Value of medicaid benefits	900
Total	13,000
Father married to mother:	
Father's earnings	7,000
Welfare payment to mother and three children	0
Value of medicaid benefits	0
Total	7,000
Bonus for not marrying	6,000

Mr. LONG. Mr. President, one of the problems in what we regard as the "welfare mess" is that in some areas in this Nation, including Washington, D.C., more than 50 percent of the children are being born out of wedlock. This is not too surprising, since families can get almost twice as much income by having the children outside of wedlock. Why do we want to have a program that places an enormous advantage, that pays people almost as much money to have children without a father, and to teach children, "This is your papa, but don't tell anybody"? Why should we have a program that pays as much as a man earns in a middle-income bracket, and which encourages women not to marry, and which pays people not to have a father accept his paternal responsibility for children? It is absolutely idiotic. In doing so, it is encouraging corruption. It is teaching children to deceive and misrepresent.

It is teaching people who are making a few honest dollars to decline reporting that income by telling an employer, "I am willing to work for you provided you pay me in cash without records kept," so that people can get income without having their income reduced by taxes.

Take another example. Here is one family in which the father makes $7,000 in income and there are $6,000 in additional benefits. The father spends the night at that house month after month, sometimes every day of the month, in the same house as the mother of the children. The children look exactly like him. But, taking full advantage of the welfare situation, they have $6,000 of income plus the $7,000 he earns.

The family next door is doing what we would like them to do. The man is married. He accepts his responsibilities. He brings his paycheck home, and he claims those children as his dependents. What reward do we give him? We give him a small tax deduction, whereby he can claim those children as his dependents. As far as welfare benefits are concerned, no reward is his if he does the honorable, decent thing.

We should not spend any more money on programs which encourage people to do all the wrong things, which encourage fathers not to admit the paternity of their children, which encourage children to deny their father, if they know who he is, and which encourage people, when they go to work, not to admit they earn anything because if they did, something would be deducted from their welfare income.

For example, under that situation, if a mother went to work and earned something, 60 cents out of every dollar she earned would be deducted from her welfare check. Therefore, it is to her advantage not to report her earnings, since she can keep more that way than she can make by telling the truth. So it is to her advantage to get employment under an assumed name or to earn money with the understanding that no record will be kept and no social security tax will be paid.

When we do that, we are encouraging employers to become a party to this mischief, where they avoid paying the social security tax, and to engage employees who ordinarily would like to be honest, in order to obtain help, let us say, in their homes or for housewives. We encourage such persons to enter into an arrangement whereby they do not pay a social security tax and do not report, for withholding purposes, income paid to an employee.

We can do something to put this situation back in order, to stop encouraging the spending of billions of dollars in ways that encourage people to do all the wrong things. At a minimum we should not put more money in such programs. If we are going to spend money to help the poor, we ought to spend it to encourage people to be honest. We ought to do what we agreed to do, by a vote of 49 to 5, where, instead of encouraging someone to deny his children, he ought to be encouraged to admit they are his children, and claim them as dependents. So if he is working and getting $4,000 a year, which is about $2 an hour, we would pay him 10 percent of the 12 percent which is collected in social security taxes, so as to pay him up to $400 to help increase the income of that family, where a man would report that he has children to support, that he does have a family, that he does have a family responsibility. So we pay what amounts to a tax refund to this family of the social security money collected so as to increase the income of those people and encourage people to work.

When the average American citizen has heard talk about welfare reform, he has been led to believe that people who were deserving, were going to get some help, and the people who were not deserving would be removed from the rolls, or else they would get less. Instead, we find that the so-called welfare reform proposal puts more people on the rolls who are not deserving and adds more for those who are not deserving and creates discrimination against people of this Nation who are doing the honorable, decent thing. That is not what we want.

This proposal doubles the number of people who are on the welfare rolls. Just look at how the number works in some cases.

Louisiana, on some occasions, has been described as the welfare State, because we had some of the most liberal welfare programs. I guess, as an employee of the State government, I helped to get the welfare program into effect in Louisiana. I was proud that in our State the old age program resulted in more people drawing welfare checks than New York State, which had five times the population we had.

Mr. RIBICOFF. Mr. President, will the Senator yield for a question?

Mr. LONG. I yield.

Mr. RIBICOFF. Would the Senator tell us what a family of four receives from public assistance in Louisiana?

Mr. LONG. It is a lot less than it ought to be, for a lot of good reasons. For example, court decisions and HEW decisions have loaded the rolls with so many people that should not be on the rolls that the only way we could find money to pay them was by reducing the overall level by 50 percent.

In 1960, there were 3 million people in this country under this AFDC program. Between 1960 and 1970, it went to 10 million. And how did it do it? Well, the No. 1 achievement was the victory of these so-called poverty lawyers in striking down the-man-in-the-house rule.

Suppose there would be a man living in the house, the children looked exactly like him, and he had a job, well able to support the family. The case workers would say, "In view of the fact that you are living in the home, and the children look just like you, we would assume, even if you are not married to mama, that the income you are making must be available to help that family." So it would be felt that that family should not be on the rolls, because this was something similar to a common law marriage, and the availability of that father's income ought to be attributed to that family's support. They would say, "We do not think that family belongs on the rolls."

But a Supreme Court decision—which was a great victory for the poverty lawyers—said, "You cannot hold that man responsible for the support of that family unless you can prove they are getting that money."

Who would know that, except papa and mama? And both of them would have a cash advantage not to reveal it.

That decision was one of the principal causes, that plus the decision to eliminate duration of residency requirements, that moved that figure from 3 million up to 10 million on the welfare rolls.

Mr. RIBICOFF. Mr. President, first, the Senator has not answered the question as to what a family of four gets in Louisiana.

Mr. LONG. I will tell the Senator. About $1,200.

Mr. RIBICOFF. It is $1,248.

Mr. LONG. And that is about two-thirds of what they were getting prior to the time we got our rolls loaded down with all those people who did not belong on there.

Mr. RIBICOFF. Will the Senator give us his opinion as to whether he thinks four people in the State of Louisiana can live on $1,248 a year?

Mr. LONG. I can tell the Senator they are not starving, and perhaps a number of them have other income that they are not reporting. That is a part of the mess that we have, and that is why, as far as this Senator is concerned, I

would be tickled pink to provide them the $2,400, or more than that, provided that we were paying that money in ways that encouraged them to do the right thing instead of encouraging them to do the wrong thing.

I will tell the Senator one thing: I am not willing to put any more money into the kind of things of which I could give examples, where people are on the rolls more times than one. If you are on there five times, like one of these ladies in Baton Rouge, for example, it is not too difficult to get by.

Mr. RIBICOFF. Let me ask the Senator from Louisiana another question. In Louisiana, in January 1972, 241,250 people were on AFDC. Does the Senator contend that 241,250 people in Louisiana were crooks who were cheating the Federal and State governments?

Mr. LONG. In the family category, according to our figures—this is an HEW estimate—we will have an average of 323,000 on the welfare rolls in the family category in 1973.

Mr. RIBICOFF. Well, it may be more than that.

Mr. LONG. I would be first to agree that there are a great number of them. If you look at that chart there, when we had 3 million on those rolls before they started doubling and redoubling these numbers and loading the rolls down with people the State did not think ought to be on there, I would be willing to concede, for the sake of argument, that every last one of them belonged on those rolls; but when they start providing that you cannot attribute that income of that father to that family, even though the children look exactly like him, because he is not married to the mother, and start striking down every effort of the State to make the father do something for the support of the children, and to require the mothers to pursue the fathers to try to make them contribute to the support of their children, and they start calling it harassment when you try to find out about people who are on the rolls five times when they are only supposed to be on there one time, I would have to say definitely there are people on those rolls who do not belong there.

Most of them, I am sure, are on there legally. As far as I am concerned, it is as bad——

Mr. RIBICOFF. I wonder whether the distinguished Senator——

Mr. LONG. Why do you not let me make my speech? I let you make yours.

Mr. RIBICOFF. I thought I would ask the Senator some questions on the figures he quoted. He talked about a number of people cheating.

Mr. LONG. Mr. President, I decline to yield to the Senator from Connecticut any further. I just want to make my speech. I let the Senator make his speech, and now I am ready to make mine.

Mr. President, there in the rear of this Chamber is a chart showing what we can expect if we pursue that plan of a guaranteed income for not working. Pat Moynihan said about the plan, as quoted several times by the Senator from Virginia, that this is a plan to put people on the rolls whether they are deserving or not. And under this plan, Mr. President, these people have every excuse the mind of man can conceive to enjoy the full benefits of the welfare payroll and decline employment or avoid taking employment all at the same time.

So what do we have? We found that while we had about 3 million recipients in 1960, when John Kennedy became President, by the time the welfare lawyers and poverty lawyers got through running their cases and HEW got through promulgating regulations to say we would put people on the rolls just on their own applications through the mail or by telephone, they built those rolls up to 10 million people.

Should all those people be on those rolls? All you have to do is go into the areas where we have large rolls and talk with their neighbors, and the neighbors are utterly outraged about it, because they say they are aware of the fact that many of these people should not be receiving welfare payments.

Here will be a father who knows just exactly when the next welfare check will show up, so he shows up the same day as the check, helps mama spend the money, and then he is gone until the next welfare check shows up.

The next door neighbors know about it, and they are resentful about it.

The expansion of the welfare program in New York State elected a mayor of New York City and helped elect a Governor of New York State, until they got a taxpayer revolt on their hands that just will not quit. The result is that they are trying to put some of those people to work up there to earn some of the money they are getting.

What happens? Again, the same people who are trying to get the Ribicoff amendment through are trying to keep them from putting people to work, when Governor Rockefeller tries to see to it that they have to do a little something to help justify the welfare payments they are receiving.

What happens if we put into effect the family assistance plan? I do not have the figures of the specific amounts set forth by the Senator from Connecticut, but I do have figures available on what the family assistance plan would do. It would not cost as much as the Ribicoff amendment, but where we in Louisiana have a total of about 400,000 people on the welfare rolls today, with a very generous set of eligibility rules, this family assistance plan alone would increase that number to 823,000 people on the welfare rolls.

If one were to ask the people of Louisiana, "What do you need least in Louisiana," they would say, "The last thing on earth we need is 400,000 more people on the welfare rolls. It is hard enough to get people to work the way it is now."

I have had the experience, and so has everyone else, of trying to find someone to do some work, willing to pay the minimum wage or whatever it takes to get somebody to come and do some work. So have my neighbors.

What happens? You drive down the road, and there is a man sitting there on a porch, with little children running around.

You ask him, "Do you want to go to work?"

"Nothing doing."

That man was once a good worker, but since the day that family was added to the welfare rolls, he just has not been able to turn to, and those big muscles are going to waste.

You drive on down the road, and you see another fellow sitting on the porch, and ask him to do some work.

"Sorry, can't be bothered." You try to get somebody to work—"Thanks just the same. I think I can find something better to do with my time." They have plenty of time to go fishing and do everything except work. Why? Because work has so little reward left to these people when you are going to reduce their welfare check by the amount they earn—at least, until their earnings exceed a certain amount.

We in Louisiana, a little State of 3,700,000 people, would have 825,000 people on the welfare rolls, about twice the number we think we should have on the welfare rolls—at least, twice the number that could be justified by any standard at all, and that figure includes the aged, blind, and disabled.

In the family category, it would be more than twice the number we think should be on the welfare rolls.

But do not think you can stop there. Read the press releases when the administration proposed a family assistance plan. It sounded great to me at that time. As Governor Hearnes of Missouri said:

> If you read the press releases, you would vote for it. If you read the bill, you would vote against it.

That was my experience. I read the press release, and it seemed to me that it was wonderful. The President was going to guarantee very poor family of four $2,400, and they were apologetic that they could not guarantee them $4,000 to put them up to the poverty level, but the Government did not have that much money. It would progress to the $4,000 level. So even the initial proposal contemplated going up to the poverty level, so much so that others suggested the same thing.

The Senator from Connecticut (Mr. RIBICOFF) suggested that we ought to guarantee going up to $5,150 by the fifth year under the program. Under the amendment of the Senator from Oklahoma (Mr. HARRIS) the proposal was for the poverty level of $4,000. If you advance this to the poverty level, how many do you have on the welfare rolls? You then have 67 million Americans on the welfare rolls.

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

Mr. LONG. I yield.

Mr. SYMINGTON. Would the Senator tell his colleagues what the estimated difference in cost is to the American people as between his proposal and the proposal in the Ribicoff amendment?

Mr. LONG. According to our estimate, what we would suggest would cost $2.5 billion less. That is not counting the value you get for the work somebody does. When you put a million people to

work, society should be getting some benefits from it. But even without putting any value at all on what society gets from the work people do, such as hospital aides, working in day-care centers, helping to keep a place clean, it is our estimate—this is the estimate of Mr. Robert Myers, who was formerly chief actuary in the social security setup—that this would cost approximately $2.5 billion less than the Ribicoff proposal.

Mr. RIBICOFF. Mr. President, will the Senator——

Mr. LONG. Please understand this: I would not be exercised about the $2.5 billion difference if I thought the Ribicoff amendment was proceeding on the right basis. What concerns me and makes me tremble in fear for the fate of this Republic is to see a proposal receive the kind of support this matter has received from the press, when nobody on earth can stop at the $2,400 or the $2,600 proposed by the Ribicoff amendment.

Mr. RIBICOFF. Mr. President——

Mr. LONG. How could anybody here buy the argument that we ought to guarantee every family a certain minimum level of income whether they work or not, reserving to them the right not to work, which is implicit in every one of these proposals? How could anyone buy that argument and then proceed to argue that you ought to hold it below the poverty level? You would have to go to the poverty level, in logic and conscience; and everybody who has proposed it, so far as I know, has conceded that sooner or later you ought to at least advance it to the poverty level. When you do, you then have 67 million people on the welfare rolls. I do not think you can stop there; because when you have 67 million Americans drawing those payments, it is my contention that anybody who knows the first thing about politics would know that so far as those people are concerned, they are going to ask one question when they go to vote next time: "How did you vote on our increase?"

Every Congress will see those who speak for these people—probably the National Welfare Rights Organization, a very effective group—leading demonstrations. We have had some of it. The demonstrations we have had are nothing compared with what we can expect when they have 67 million people to organize, coming before us, conducting sitdown strikes, conducting demonstrations, holding marches on Washington, and saying, "We want our check increased to the poverty level."

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

Mr. LONG. At the Democratic National Convention, the Senator from Missouri had a chance to see how easily some of these programs can be sold. At that convention, one-third of the delegates, knowing no more about it than they did, voted to say that it ought to be $6,500. When you come to the $6,500 figure, which is advocated by the National Welfare Rights Organization, that gives you 97 million Americans on the welfare rolls; and if you include in the generality of that program the aged and disabled, that will give you more than half of all Americans on the welfare rolls, which means at that point you then have more people on the taking down end in America than you have on the putting up end.

Mr. RIBICOFF. Mr. President, the Senator from Missouri asked a question. I think he ought to be able to get an answer on the other side.

Mr. LONG. I thought that in due course——

Mr. RIBICOFF. No——

Mr. LONG. I am willing to yield later for a question.

Mr. RIBICOFF. The distinguished Senator from Missouri, for whom I have the highest——

Mr. LONG. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The Senator declines to yield.

Mr. LONG. Mr. President, from time to time I have sat in my seat and heard a speech with which I did not agree, and I wish the Senator from Connecticut would accord me that courtesy, or if he prefers, simply not bother to listen to the speech. I want to tell my side of the argument for a change.

Mr. RIBICOFF. The Senator from Louisiana answered the distinguished Senator from Missouri in comparing figures of his proposal and mine.

The PRESIDING OFFICER. The Senator has declined to yield.

Mr. LONG. Mr. President, the Senator can answer on his time, and in due course I will be happy to yield for further questions.

Just take a look at how far you are down the road when you buy the $2,400 figure. I do not have the figures on the $2,600 proposed by the Ribicoff amendment, but Senators will have a chance to vote on the $2,400, too.

In the State of Mississippi, 13 percent of the population is on the welfare rolls. At the $2,400 figure, 29 percent would be on the welfare rolls. Move that up to $3,000, and it becomes 44 percent on the welfare rolls. Move it up to the poverty level, and more than half the population of Mississippi would be on the welfare rolls.

One would think that Mississippi would be in here beseeching us to pass this. You are not going to get any votes out of Mississippi for this proposal, for the simple reason that they would not be able to get anybody to go to work. All their industry would have to shut down. Welfare would provide so much payment and work would have so little reward left that people would rather go fishing than work at a shipyard, a cotton gin, a shoe factory, a hosiery mill, or any place else there that would provide an opportunity for earning a living.

In the State of Alabama, approximately 12 percent of the population is on welfare. The family assistance plan would put 22 percent on welfare, and the Ribicoff amendment would move it up to 24 or 25 percent. Move it up to the $3,000 figure, and 35 percent would be on the welfare rolls. Move it up to the poverty level, and 45 percent of the population of that State would be on the welfare rolls.

Look at how it would work in State after State. In Louisiana, it is about 13 percent. The family assistance plan would move it up to 22 percent. The Ribicoff amendment would probably double it, to about 24 percent. Move it up to the $3,000 level, and it would be 32 percent.

Mr. President, when we put these people on the rolls we have so many on the rolls as when we find someone like this lady who showed up the other day on the welfare rolls four times and was trying to go on a fifth time, or like the delegate that went to the Democratic National Convention under an indictment for being on the rolls twice—we would have so many people on the rolls that did not belong there that when we tried to investigate, they would all rise up with a hue and cry that they were being harassed; and to prosecute them for being on the rolls twice or getting more money than they were entitled to, we would have to have a trial by jury of their peers, but with half the population on the rolls, heaven knows how difficult that would be to get a jury to be convinced of their wrongdoing, so that the whole thing would get into a total impossibility. This means the only way on earth we can hope to help vast numbers of people and hope to benefit our country at the same time would be to pay people in a way where we would look at what they can earn and increase the reward for going to work.

Another point which has been subject to some criticism—and it is a good idea and all the ladies' organizations support it—we would then propose that we do everything the Federal Government and the State government can do to provide a mother with all the assistance that can be provided for her to pursue the father who departs from that community or that State, leaving his family destitute so that they must apply for welfare, and provide her with a lawyer at State expense to pursue the father and make him contribute to the support of his children.

Following that approach, we would have some hope of getting the genie back in the bottle, but if we double the money we pay people to do the wrong things, or we are going to double it again and move up from 10 million of those now on the welfare rolls, to 12 million in 1973, and then we move it on up to 21 million, which the family assistance program would do, and then move it up to 25 million, which the RIBICOFF amendment would do, we will not be able to stop going to the $3,000 level and eventually we will go up to 67 million, and then to 97 million, and taking into account the other categories like the welfare caseload, we would have more than half the population of the United States on the welfare rolls.

That, Mr. President, is something that must not be permitted to happen in this country.

I am persuaded that if that does happen, there will be a taxpayers' revolt, or there will not be enough votes coming from the taxpayers who will have to pay to support the beneficiaries who would be getting it, with a probability that the Government would come to an end in one fashion or another.

Goodness knows what would happen

to our country then. I do not want to be around to find out.

I propose that we start instead to move this thing in the right direction.

Senators should be concerned about the increase in births out of wedlock, particularly teenage mothers. The number of families headed by women increased by 15 percent between 1970 and 1971—1 year, where the number of families of both father and mother has declined. Mr. President, can you imagine that? The number of families with a mother and father declined while the number of families headed by the mother increased 15 percent—in a single year, between 1970 and 1971.

And why not? We pay these billions of dollars to bring that result about and we are now being asked to spend additional billions of dollars.

That is not what I call reform.

That perhaps explains why the family assistance plan did not muster one single Republican vote in the Committee on Finance, where the President has some of his best friends, after they had studied the implications and the problems involved here.

That would also explain why there was no support from the supporters of the New Deal like Senator ANDERSON, the man who helped Harry Hopkins put over a program to help people back in the days of the Depression, a program that now looks mightly good nowadays compared to the program for a guaranteed wage for doing nothing. Also along with the oldtimers who were in favor of share the wealth programs, have found that they simply could not support the kind of thing that encouraged people to do all the wrong things, and pay them more and more for doing less and less, and encouraging people to engage in the sort of corruption and immorality that this Nation seeks very much to avoid.

There are people who talk about how much they are against corruption and then they come forward with proposals which will create corruption in numbers running beyond the millions, and would proceed to put more money into something that will achieve that result while declining to support what should be put into it.

It is for that reason that we should not proceed with the family assistance plan, or with the Ribicoff amendment, or with any of these other things that will take us in the wrong direction.

I am frank to say that, in the spirit of compromise, I would be willing to support, if it is the will of the Senate, the suggestion of the Senator from Delaware (Mr. ROTH) and the Senator from Virginia (Mr. HARRY F. BYRD, JR.) that we give the Ribicoff plan a try and give them whatever resources they need to give it a fair try, and that we give even the workfare proposal that the committee made, the guaranteed work program, a test and see how it works out, and give the family assistance plan an adequate try to see how it works out.

Two years ago, I was willing to try the family assistance plan proposal, but the Secretary of HEW did not want it. They wanted to hold all the benefits for the aged, the blind, and the sick. It is a program which could very well destroy this form of government. HEW has not been willing to have a fair test of it. Why not, it is hard to say, but I would be willing to propose it and to vote for it and to try it, all for the opportunity to prove me wrong, if I am wrong. But I would also like the opportunity to prove them wrong if they are wrong.

But again, as long as I have any influence in this body, I intend to speak out against going along with any kind of arrangement that would make for the dissolution of our form of government by paying to encourage people to do all the wrong things that in the end the Government could no longer sustain the burden of paying.

Mr. NELSON. Mr. President, will the Senator from Louisiana yield?

Mr. LONG. I yield for a question.

Mr. NELSON. I wonder whether we could clarify a point or two here. It is correct that the Senator from Connecticut strongly advocated the concept of a pilot program to test out the administration's proposal 2 years ago, is it not?

Mr. LONG. The Senator from Connecticut has suggested that several times, and he has made that statement on the floor, so that I do not believe I am violating any confidence when I state that the Senator is correct and has many times said he thought the administration was foolish that it did not accept the proposition made by them to put their family assistance plan to a fair test to show what would happen. He has indicated to some of us that if he had that same opportunity, he would have jumped at it, had he been the Secretary of HEW, as, indeed, once he was.

Mr. NELSON. The administration would not agree to the pilot project?

Mr. LONG. That is right, the administration would not agree to it. They cooperated and encouraged the House not to go to conference with us on a proposal that would have provided benefits for the aged and the sick.

Mr. NELSON. Is it not correct that if we had followed the suggestion made by the Senator from Connecticut we would now have a good 2 years of experience to look at and use as a basis for legislation at this time?

Mr. LONG. I suggested to him that we try it in the District of Columbia, where every Senator and Representative could take a look and see how it works and judge whether we wanted to make that momentous a decision, to embark down that road.

I say to the Senator now that if he can persuade me that I am wrong about it, more power to him and I will support his position, but it will take a lot to persuading to do it. If they would try that in the District of Columbia where we could go and see and be convinced it was working, I would support it. I have been told by the Department that this is the last place we would test it. I admit that this would be a tough testing ground, in the District of Columbia. I would be willing to afford them that right.

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

Mr. NELSON. Mr. President, I was not through.

Mr. BENNETT. I am sorry.

Mr. NELSON. Is it on the same point?

Mr. BENNETT. It is on the point of a pilot test 2 years ago.

Mr. NELSON. The Senator may go right ahead.

Mr. BENNETT. Does the Senator remember that 2 years ago the administration wanted to run a test and then automatically put it into effect and not come back to the Congress and tell us what the results of that test were? They were not willing to give us a chance to look at the results after the test. That was the reason I was against their testing proposal of 2 years ago.

Mr. LONG. That was the problem. Those in the majority on the committee were willing to go along and have a real test. But the Department insisted, and they were dogged in their determination, that if there was to be a test, the program would go into effect automatically. And this ties in with the remark of the Senator from Virginia when he said, "Suppose the test is not a failure. We still would like to see the results before the program goes into effect. Why shouldn't you bring it back and show it to us and let us decide whether it is a success?"

If we value the independence of the legislative branch, we would have to say, "Why should we buy a pig in a poke? If they are to run a test, why can they not bring the results back and then let us make up our own minds?"

Mr. NELSON. Mr. President, I agree with that. I intend to vote for a pilot project if such an amendment is offered, and I understand that it will be.

Mr. President, I do not happen to think that anyone has discovered the solution to this problem. I think that the chairman of the Finance Committee and the members of that committee who have worked on the bill, have put in a tremendous amount of thought and energy in an attempt to come up with something that is better than the administration offered. I happen to prefer the proposal of the Senator from Connecticut a bit more than the committee proposal, but I am not really happy with either one. I do not think we have the answer, and I do not think we will have it until we have job opportunities and can get the unemployment rate down to about 2 percent. We have to have real jobs for people.

Mr. LONG. Mr. President, the Senator's proposal was a step in the right direction. He wanted to provide about 400,000 good jobs for people. It is not a bad idea, of course.

The House had something that was somewhat similar in their bill. We will be in conference, if we ever get that far.

I voted for the tax reduction concept. So did a majority of the Senate, as the Senator knows. While we may differ with respect to what jobs ought to pay and what kind of jobs they should be, there is no doubt in my mind that the Senator from Wisconsin agrees with a majority of the committee that a job comes nearer to being the answer than to offer someone a guaranteed income for loafing for his lifetime. That just does not make too much sense, certainly not to the majority of the committee, and I do not think it does to the Senator from Wisconsin.

Mr. NELSON. It does not. I will vote for the pilot project. I am not happy with anything else that is pending. However, just to conclude this and for the clarification of the RECORD, that proposal of the administration for a $2,400 guaranteed annual income means—if the statistics are correct—under the President's proposal, almost one-third of the people in the State of Mississippi, for example, would go on the dole—29 or 30 percent.

Mr. NELSON. I think that is correct. And that is a large percentage of the population.

What I would like to have clarified in my mind is whether the distinguished chairman of the Finance Committee knows where the President now stands on this whole welfare business, because as the Senator knows, it is a guaranteed annual income. Mr. Moynihan—a fine Democrat and a good friend—came in to see me a year ago. He made it clear then that it was a guaranteed annual income.

He was an influential force in getting administration approval of this plan for a guaranteed annual income. The President has never wanted to use that phrase, but that is what it is. However, what puzzles me is that the President sent the House of Representatives his proposal for an annual income of $2,400 for everyone and now talks as though he has repudiated his own plan. In fact, Pat Moynihan, in explaining it, said:

> Now, Gaylord, you and your wife and your three children can go up here—

And he pointed to the St. Croix River in a picture on the wall—

> get a cabin there and move in. And if I came out there and offered you the job of President of Harvard at $50,000 a year, and you say, "No, I don't want that job," you can still draw your guaranteed annual income minus a certain amount for your refusal to work.

There simply is no doubt that the President's proposal is for a guaranteed income.

I now refer to the Republican platform. The President sent to Miami a group of his representatives so that he would be sure they did not put something in the platform that he did not approve.

As the political reporters pointed out in their articles, the President's people were there dictating the platform. I do not question that. The President wants the best platform he can get.

So the history is that he sent a bill to the House of Representatives that provided for a guaranteed income and several times criticized Congress for not passing it. Yet in San Clemente he said in effect: "They are sitting on my legislation and will not give me my guaranteed annual income legislation," although he did not use that phrase. The platform, dictated by the President's representatives said:

> We flatly oppose programs or policies which embrace the principle of a government guaranteed income.

On which proposition does the President stand? Can the distinguished Senator explain that to me?

Mr. LONG. Mr. President, the best I can tell the Senator is that the President favors H.R. 1 and does not favor the committee amendment.

Mr. NELSON. Would that not be a repudiation of the platform plank?

Mr. LONG. I do not doubt the Senator's word. The Senator read it out of the platform. I do not doubt that is correct. I do not doubt that Mr. Moynihan told the Senator what the Senator said he told him. He told me things that persuaded me not to vote for the program but to vote against it.

I must say that every time I talk to the President, he sounds as though he agrees with me 100 percent on this proposal. But I regret to say that when one reads the bill and gets down to the specifics, it does not work out the way that the press releases say.

The President said in a speech at Williamsburg that everyone should take a job, that no job should be too menial. And he was quoted in the press as saying that. He said that everyone should take a job and no one should be on welfare that would not work. However, I would be the first to say that either he does not understand this bill or he is recommending something on the one hand and favoring something else on the other.

It is obvious that anyone on the committee who has studied this bill—as I think it is obvious that anyone who has studied the matter as much as the Senator has—will find implicit in this bill his guarantee of $2,400 to a person for doing absolutely nothing. And we see all the dangers that go along with it. That is what the program was as it came from the House. We recognize these dangers and we agree with what the President says in all of these declarations, that people should work, that he believes in the work ethic, that people should take jobs and people should not be on welfare if they do not take a job. Those problems are there, but the President is not supporting the Ribicoff amendment. He is standing on the $2,400, under the terms and conditions in H.R. 1, as it passed the House.

The best I can make of it is I do not think the President would be unhappy, from talking to him, if we passed a bill to make work more attractive than welfare or to make welfare less attractive than working.

Mr. NELSON. If the Senator will bear with me for 1 additional minute, I do not suggest that I, out of hand, reject the proposition there should be some kind of guaranteed support. In fact, I think there should be for those who are unable to support themselves; and I am going to vote for the Ribicoff amendment.

I want to clarify the record on the kind of propaganda that has been spread around the country by the President, his supporters, and the administration that the President does not support guaranteed annual income. I have the highest regard for Professor Moynihan, who is one of the ablest, most delightful, and thoughtful men I know. When he was in my office he was honestly explaining the bill. I had just gone on the Committee on Finance and I did not know anything about it. He gave me an explanation of the bill and said that it is guaranteed annual income. When I got around to studying the bill, I discovered I had been given an accurate, concise explanation of what the bill did in fact provide.

I think the record should be clear that the President has been supporting a guaranteed annual income, and yet that is what he has been attacking through the Republican platform and in speeches around the country. I do not think the country should be misled on the position the President has taken in support of his own bill. Yet, in his own recent rhetoric he is repudiating what he has criticized us for not passing.

I thank the Senator.

Mr. LONG. Mr. President, I regret to say that the hour that was allotted I have consumed. I would like to ask unanimous consent that the time be extended by an additional half hour, that the Senator from Connecticut be recognized, and that at the conclusion of that 1½ hour I be recognized so that I might make a motion to table the pending amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and it is so ordered.

Mr. RIBICOFF. Mr. President, first, I would like to answer a few questions that have been raised by some of my colleagues. The distinguished Senator from Wisconsin asked why the President's position is as it is today. Secretary Richardson happened to be in Bridgeport, Conn., on September 23, 1972, when the Bridgeport Post stated:

> Asked why Mr. Nixon had not bought Senator Ribicoff's compromise on the matter, Richardson candidly admitted the President owed more politically to some of the Finance Committee conservatives who might have felt he was going over their heads in supporting Mr. Ribicoff.

So much for Presidential principle.

The distinguished Senator from Missouri (Mr. SYMINGTON) asked a question regarding cost. I regret he is not here.

Mr. President, so many misstatements have been made—I am sure not deliberately—that the true figures and costs are hard to find. If one subtracts payments to adults who have been otherwise provided for in the committee bill, the following data applies to the various welfare proposals:

The family assistance program under H.R. 1 would cover 10 million people. The family assistance program under the Ribicoff amendment would cover 10 million people. The Finance Committee bill on AFDC would cover 10 million people. Basically there are the same 10 million people and they are all unemployable.

May I point out that the committee bill does not alter the present AFDC system, which is inefficient and ineffective.

Under H.R. 1's OFF proposal, which means Opportunities for Families and applies to the working poor and those employable, the number of people covered would be 9 million people. Added to the unemployables, this gives you a total of 19 million people. Under the $2,600 proposed by the Ribicoff-administration program, OFF would involve 14 million people for a total of 24 million people.

But I think all of us would be most interested, since the distinguished Senator from Louisiana talks about the fan-

tastic rise in the welfare rolls, in the fact that under the committee's "workforce" proposal, 20 million people would be added to the 10 million for a total of 30 million people covered by their program.

Mr. LONG. Is the Senator from Connecticut including in that figure the 20 million persons who would benefit from the refund of the social security tax?

Mr. RIBICOFF. That is so. The working poor would be covered by the proposal.

Mr. LONG. I do not regard a person as being on the welfare rolls if he is getting a refund of social security taxes. Maybe the Senator does.

Mr. RIBICOFF. No; but those on the OFF program are not "on welfare" either. They are working men and women who receive income supplements. Let us dispel a basic myth. We have two types of people in America today who are poor—those people who are unemployable and those who work. The unemployable include the sick, the disabled, the incapacitated, and mothers with young children. Ten million people are included in this category and are unemployable under anybody's definition—mine, Senator LONG's and President Nixon's.

It is one of the great tragedies of the President's term that, having developed a sound proposal, he did not have the courage of his own convictions to support it. He ran away from it. The President said to America, "We have serious problems here. We are putting people on welfare who do not work and we do nothing to encourage people to work who should be working. We want to be sure someone who works gets more than someone who does not work."

So, he proposed a floor under income of $2,400 and he developed an income supplement for those who can work.

Let me give an example of what the President and I are talking about. Assume a family of four earns $1,000. Under my proposal he could receive supplemental benefits. To compute his payment the Ribicoff bill would disregard a part of his earnings—namely $720 plus 40 percent of additional income. Thus, from $1,000 would be deducted $720, leaving $280. Then deduct 40 percent of the remaining income, the countable income of the recipient would be $168. The difference between $168 and the $2,600 benefit is the OFF payment—$2,432. This family's income would be $1,000 of earnings plus $2,432 in OFF payments—a total of $3,432.

If the family had been under the program for unemployables its payments would have been $2,600. Clearly, then, it is better to work than to remain solely on public assistance.

In the few minutes remaining, I have a very concise explanation explaining what the Ribicoff-administration program is all about. I shall be pleased to answer any questions or be interrupted at any time.

The Ribicoff-administration agreement consists of two facets: Aid to those unable to work; and aid to the working poor including a preliminary pilot program of this concept.

Under my proposal, the family assistance plan—FAP—for those unable to work would go into effect on January 1, 1974.

For the opportunities for families program—OFF—pilot programs would be established by the Secretaries of Health, Education, and Welfare and Labor. The report of findings would be submitted to Congress and the President by December 31, 1973. If either House of Congress passed a resolution within 90 days thereafter expressing disapproval of the OFF program, it would not go into effect. But if Congress did not take any action, the OFF program would trigger into effect on July 1, 1974.

A. ASSISTANCE FOR THOSE WHO CANNOT WORK

This category includes children under 16, mothers with children under age 6, the elderly, ill or incapacitated, or their caretakers, caretakers of a child where the father or other adult relative in the home is working or registered for training, the caretaker of a child where suitable day care is unavailable, and unemployed, male-headed families for whom jobs are unavailable. The Finance Committee's definition of who is unemployable is virtually identical to that in my bill.

1. PAYMENT LEVEL

Those unable to work will be assured a basic Federal payment to a family of four of $2,600. The payment will increase as the cost of living rises.

2. MAINTENANCE OF BENEFITS

In those States where payment levels exceed $2,600, States would be required to make supplemental payments to assure that no recipient receives a smaller payment than he or she receives under the present law. To alleviate the harmful effects of State welfare cutbacks of the last few years, the States would be required to supplement up to the higher of their January 1971 level or any higher previous or subsequent level.

3. STATE FISCAL RELIEF

Under the provisions of my amendment, every State would receive substantial fiscal relief. Under present law States receive matching funds from the Federal Government ranging from 50 to 83 percent of a State's costs. Under my proposal the Federal Government will pay 100 percent of the first $2,600 of cost.

In addition, while my amendment requires a State with a higher payment level to make supplements, the States would be "held harmless" from additional costs once their payments reached the levels for calendar year 1971.

Total savings to State and local governments in the first fiscal year will amount to $2.8 billion compared to $2.4 billion under H.R. 1 and $2.3 billion under the committee proposal. Fiscal relief would also be provided on an emergency interim basis. The States would receive $1 billion in fiscal relief in the interval before the new welfare program takes effect.

4. UNIFORM STANDARDS AND PROCEDURES

National uniform benefit levels, eligibility rules, and Federal administration would be established by the Ribicoff-administration agreement.

Procedures of the original Ribicoff amendment to assure fairness, including right to counsel, written opinions in welfare adjudication, elimination of punitive and cumbersome reporting and checking procedures are also included as are protection of employee rights, elimination of State residency requirements and determination of eligibility based on current need.

5. CHILD CARE

My proposal provides $1.5 billion for the creation of child-care services and $100 million for the construction of child-care facilities to assist working mothers.

Mothers with children under age 6 are exempt from the work requirements. Mothers with children over age 6 would register for work only if adequate day care were available and close to their place of residence or employment. Adequate day care is defined to mean child-care services no less comprehensive than those provided for by the 1968 Federal Interagency Day Care Requirements.

B. ASSISTANCE TO THOSE ABLE TO WORK: A PILOT PROGRAM

The most innovative portion of our welfare reform proposal is the opportunities for families—OFF—program. It would provide income supplements to those people who work, but still have low incomes to insure that it is always financially more profitable to work than simply receive welfare. Such a proposal would also remove the incentive for fathers to leave their families.

In addition, one of the basic tenets of this proposal is that all those who are able to work should be required to do so. Every able-bodied applicant who applies for welfare, including those already on welfare, would have to register for employment or training with the Department of Labor. The only exemption from this requirement would be for those responsible for the care of aged, ill, or incapacitated family members or children under age 6. Failure to report for work or training would result in a loss of benefits unless the recipient could show that jobs or day care were unavailable.

Those deemed employable would immediately be referred to suitable employment paying at least the Federal minimum wage. If no jobs were available the Department of Labor would develop employability plans and provide the necessary job training. In addition, in recognition of the fact that the private job market does not have sufficient jobs available for all those able to work, my proposal creates 300,000 meaningful public service jobs in the first year of the program.

Because of the innovative nature of the OFF program, my amendment would require that aid to the working poor be tried out on a limited basis to test out its structure and theories. It is time to try out on a pilot basis any new major social program before committing the resources of the Federal Government to total implementation.

The pilots of OFF will test the following:

First, the work experience of participants—the types of jobs they have, their hours and earnings;

Second, the effect of the program on the composition and structure of families;

Third, the types of services that are needed for the working poor;

Fourth, the extent to which families who are eligible for the program actually participate; and

Fifth, the administrative provisions of the program.

FISCAL RELIEF UNDER RIBICOFF-ADMINISTRATION AGREEMENT

There are two types of fiscal relief under the Ribicoff-administration agreement:

First. The first is emergency fiscal relief for the States. This is the so-called Percy amendment. Under this provision States would receive retrospective relief for fiscal 1972 and fiscal 1973. Once a State's costs rise above its calendar 1971 AFDC cost levels, the Federal Government will assume all cost rises up to 20 percent above that level. Above a 20-percent rise in costs the regular matching formula for the State would again be in effect. Such a provision will save the States $515 million for fiscal 1972 costs and $704 million for fiscal 1973—a total savings of $1.2 billion.

Second. The second and most important element of fiscal relief takes place once the FAP–OFF program goes into effect. Under this program the Federal Government assumes 100 percent of the costs for the first $2,600. Under present law, costs are shared between State and Federal Government on a matching basis—usually a 50–50 matching.

The 27 States whose payments exceed $2,600 would have to make supplemental payments to bring payments up to January 1971, levels. These States would be assured, however, that their costs would not have to rise above calendar 1971. In other words, a State would be "held harmless" from additional costs once it reached 1971 levels. This program for families alone would save the States almost $1.9 billion.

While the Ribicoff bill does not legislate for the adult categories, it does have a "hold harmless" clause in its miscellaneous provisions to provide fiscal relief to the States for their costs above 1971 levels for the aged, blind, and disabled.

I ask unanimous consent to have printed in the RECORD certain charts, an editorial and a news release.

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

STATE FISCAL RELIEF UNDER THE RIBICOFF-ADMINISTRATION AGREEMENT FISCAL YEAR 1974

[In millions of dollars]

	Family program savings	Administrative savings	Total savings
Alabama	12.9	6.6	19.5
Alaska	2.6	.6	3.2
Arizona	38.9	3.5	42.4
Arkansas	7.5	2.7	10.2
California	148.7	96.9	245.6
Colorado	12.6	1.8	14.4
Connecticut	14.3	12.6	26.9
Delaware	6.3	.7	7.0
District of Columbia	45.4	.5	45.9
Florida	110.2	6.0	116.2
Georgia	40.5	9.8	50.3
Hawaii	8.1	1.1	9.2
Idaho	1.6	.5	2.1
Illinois	145.3	18.7	164.0
Indiana	25.2	3.5	28.7
Iowa	8.9	3.2	12.1
Kansas	9.6	3.6	13.2
Kentucky	6.0	5.6	11.6
Louisiana	39.5	11.7	51.2
Maine	2.3	1.2	3.5
Maryland	53.1	5.7	58.8
Massachusetts	52.4	12.8	65.2
Michigan	90.0	17.0	107.0
Minnesota	16.5	3.8	20.3
Mississippi	5.5	6.5	12.0
Missouri	8.8	9.1	17.9
Montana	.7	1.1	1.8
Nebraska	5.9	1.7	7.6
Nevada	2.2	.9	3.1
New Hampshire	1.5	.4	1.9
New Jersey	43.0	12.2	55.2
New Mexico	.9	1.6	2.5
New York	102.7	114.0	216.7
North Carolina	10.3	4.8	15.1
North Dakota	2.0	.7	2.7
Ohio	73.3	7.3	80.6
Oklahoma	22.5	6.6	29.1
Oregon	12.5	3.0	15.5
Pennsylvania	66.0	13.2	79.2
Rhode Island	8.6	2.8	11.4
South Carolina	7.0	4.5	11.5
South Dakota	1.4	1.1	2.5
Tennessee	19.7	3.0	22.7
Texas	22.2	11.4	33.6
Utah	4.0	.7	4.7
Vermont	3.1	.4	3.5
Virginia	17.2	3.3	20.5
Washington	9.7	2.8	12.5
West Virginia	8.4	1.8	10.2
Wisconsin	35.0	9.7	44.7
Wyoming	.7	.7	1.4
Guam	.5	.02	.5
Puerto Rico	18.2	4.6	22.8
Virgin Islands	.7	.2	.9
Total	1,412.6	460.2	1,872.8

EMERGENCY FISCAL RELIEF UNDER THE RIBICOFF-PILOT FISCAL RELIEF PLAN

This provision provides that once a state reaches its calendar 1971 AFDC cost levels, the federal government will assume all cost rises up to 20% above fiscal 1971 levels. States would receive regular matching funds for cost rises above that level. As a condition of fiscal relief states would have to maintain payment levels at the January 1971 level.

This program is an interim measure pending the effective date of FAP. Retrospective fiscal relief in fiscal 1972 and 1973 would amount to $1.2 billion as follows:

[In millions of dollars]

	1972	1973
Alabama	5.9	5.9
Alaska	1.5	1.7
Arizona	1.7	2.3
Arkansas	2.6	3.0
California	98.6	167.4
Colorado	4.1	8.0
Connecticut	9.7	9.7
Delaware	1.3	1.3
District of Columbia	5.3	5.3
Florida	6.6	6.6
Georgia	8.2	8.2
Hawaii	2.9	2.9
Idaho	.6	1.0
Illinois	40.7	40.7
Indiana	5.3	5.3
Iowa	1.7	4.9
Kansas	2.4	5.2
Kentucky	2.9	5.3
Louisiana	0	8.7
Maine	2.5	2.5
Maryland	9.8	9.8
Massachusetts	33.1	33.1
Michigan	34.7	34.7
Minnesota	8.5	10.3
Mississippi	2.9	2.9
Missouri	6.1	10.2
Montana	.2	.5
Nebraska	2.2	2.2
Nevada	.2	.6
New Hampshire	1.3	1.7
New Jersey	24.0	30.6
New Mexico	.4	1.0
New York	78.3	127.4
North Carolina	6.0	6.0
North Dakota	.6	.9
Ohio	21.1	21.1
Oklahoma	8.0	8.0
Oregon	2.6	4.8
Pennsylvania	38.1	47.5
Rhode Island	3.8	3.8
South Carolina	1.5	1.5
South Dakota	1.0	1.0
Tennessee	2.0	3.9
Texas	2.7	15.0
Utah	1.7	1.7
Vermont	1.3	1.3
Virginia	6.0	6.0
Washington	1.1	7.3
West Virginia	2.6	2.6
Wisconsin	8.7	8.7
Guam	.4	.4
Puerto Rico	.1	.1
Virgin Islands	0	1.6
Total	515.6	704.5

Note: Figures may not add due to rounding.

Source: Senate Finance Committee.

FULL-YEAR COSTS, PAYMENTS, AND SERVICES: 1ST FISCAL YEAR

[In billions of dollars]

	Current law	H.R. 1	Ribicoff-administration agreement	Finance Committee bill
Payments to families	5.3	6.2	7.2	[1] 6.7
Payments to adults	2.4	4.6	4.6	4.2
Payments for food stamps	2.9	.2	.1	1.8
Hold-harmless; fiscal relief		1.1	.8	
Subtotal: Payments	10.6	12.1	12.7	12.7
Child care	.6	.9	.9	.8
Training	.3	.5	.5	
Public jobs		.8	1.2	4.1
New employment service		.1	.1	
Administration	.6	1.1	1.1	1.3
Support services				.7
Subtotal: Related and support activities	1.5	3.4	3.8	6.9
Impact on other programs		—.1	—.1	—.1
Grand total	12.1	15.4	16.4	19.5

[1] Includes: Wage subsidy, 1.9; 10-percent rebate, 1.1; residual AFDC, 3.7; total, 6.7.

[From the Washington Post, Oct. 3, 1972]

MR. NIXON, WELFARE, AND THE SENATE

So long as there was no danger of enacting it, President Nixon was 1,000 per cent behind welfare reform. His speeches a short while back would make exquisite reading on the Senate floor today, hailing (as they invariably did) Mr. Nixon's own contribution to the cause of welfare reform, immodestly suggesting (as they invariably did, too) that the President's own proposal was the most important legislation to come before the Congress in nearly four decades. Important to whom, one now must ask? To those welfare recipients whose plight under our present inhumane system he seemed to describe with such conviction? To the left-out working poor who were—and are—victimized by laws Mr. Nixon professed to find so inequitable and so urgently in need of change? To the put-upon taxpayer who was footing the bill for this basically unfair and ineffective system of public aid? The answer seems to be that is wasn't important at all in Mr. Nixon's opinion. For the President, faced with a choice between passage of a good version of the bill (worked out by his top aides) and no bill at all, has opted for no bill. And the best explanation you can get for this from those in the know around him is that politically a decent version of his welfare reform bill wouldn't be helpful in this campaign year. Better to have the "issue," whatever that may mean—better to pretend you tried and failed.

That is the background to the vote that will probably be taken today on the Ribicoff-Administration welfare bill. We hyphenate the name of the bill and decline to drop the word "administration," because, despite the political decision in the White House to reject this proposal after a good deal of work on it by administration agents, it remains the fruit of that joint effort and the measure most deserving bipartisan support. In testimony to this fact, some 19 Republican senators not long ago urged just such an effort. In the absence of the President's approval, however, they are not expected to vote for the measure today, or at least most of them are not expected to. So Mr. Nixon held the key to reform of this nation's scandalous, costly and self-defeating welfare system—and he has tossed it away.

Only a miracle—or a sudden access of independence on the part of those Republicans who know the bill's merits—could possibly save it today. At the same time, the Senate is likely to vote as well on a so-called "pilot" measure, which is the work of Senator Byrd of Virginia and Senator Roth of Delaware. This is a mischievous bill and it should be defeated. For under the guise of merely "trying out" different versions of welfare reform for the next several years, it would leave intact some of the most objectionable features of the Senate Finance Committee "welfare" bill including its dangerous child care provisions and its blood-testing, fingerprinting, sleuthing features. It is not a mere exercise in experimentation and program testing: it is an attempt to enact far-reaching law.

Today, of course, would have been a good time to enact far-reaching law of another kind—to enact the genuine reforms of the genuinely terrible system of which Mr. Nixon has spoken so often and so eloquently in the past three years. We were among those who took him at his word. And, having gone so long and so far on faith, it does not seem to us that this is a particularly apt moment to abandon all faith. In that spirit we express the frail and probably doomed hope that the Senate will pass the Ribicoff-Administration welfare bill today—with or without the administration's help.

THE LEAGUE OF WOMEN VOTERS OF THE UNITED STATES NEWS RELEASE

WASHINGTON, D.C.—The League of Women Voters of the United States today charged that the Administration had pulled the skids out from under efforts to pass welfare reform legislation this year.

League President Lucy Wilson Benson stated, "The Administration's lack of support for the compromise Ribicoff package—which they helped shape—is a shocking example of duplicity. It looks as though the only recourse for those who support progressive reform will be to actively campaign in this Congress to defeat welfare reform provisions affecting families."

The League stated that both the House passed version of Title IV and the Senate Finance Committee version now before the Senate are blatantly inadequate and would only compound the nation's existing welfare mess.

Mrs. Benson said, "The legislation under consideration by the Senate would neither provide for the legitimate needs of welfare recipients or provide employment for those who could work. The best thing that the Senate can do is to delete Title IV from the bill entirely."

Mrs. Benson said, "Election year politics have completely distorted the welfare issue. Now that the Administration has repudiated Senator Ribicoff's compromise package, which the League supports, the chances for meaningful reform are pretty slim. The enactment of either the Long or House provisions would be a disaster and the League will work for their defeat."

Contact: Carl Ericson, Assistant Public Relations Director, 296-1770.

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

Mr. RIBICOFF. I yield.

Mr. NELSON. The Senator referred to the Ribicoff-administration position. Is this the proposal the Senator worked out with the Secretary of Health, Education, and Welfare?

Mr. RIBICOFF. For 3 years we were in constant communication with the Department of Health, Education, and Welfare. Two of my staff were assigned full time for 3 years to work on this issue. We finally came to agreement on the $2,600 proposal now before the Senate. We thought we had reached an agreement at that time. The Secretary of Health, Education, and Welfare and the Secretary of Labor sent down a recommendation to the President to accept it.

If Senators want to know about the sad and sorry state of Government in America today, the Secretaries at all departments are figureheads. The staff in the White House runs the show. It has been practically the same in every administration. I experienced it myself, under President Kennedy. I found myself advocating programs I did not believe in, and being against programs that I did believe in. I found that everything has to be cleared through the staff of the White House.

Under the present administration, all domestic decisions in the White House are made by Mr. Ehrlichman, and every Secretary of every department is an errand boy often for some kid on the staff of the White House who has had no experience, and who tells experienced people what to do.

So the President of the United States ran away from the agreement we worked out with the staffs of HEW and the Labor Department.

Now, I would like to remind my colleagues that we have two parts under my proposal. One is the family assistance plan for people who are not able to work, and which goes into effect on January 1, 1974. For the opportunities for families program—these are people who can work—I have a pilot program until January 1, 1973.

I am not going to stand on this floor and say I have all the answers and my program is the only program. I do not know whether my program will work. So I have said, "Look, if we are going to fold some 14 million people into the welfare program, let us try it out and see if it works. And let us have a program that improves the lot of people on welfare now."

As to the costs, the proposal of $2,400, which was originally proposed by the President, would cost $8.4 billion. My proposal would cost $11.8 billion. The proposal of the Finance Committee, under the chairmanship of the Senator from Louisiana (Mr. LONG), would cost $15.8 billion. These are HEW figures.

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

Mr. RIBICOFF. I yield.

Mr. TUNNEY. I dislike to interrupt the eloquent exposition being made by the Senator from Connecticut. I had a question to ask the Senator, and I know time is running out. I understand that under the parliamentary situation it is impossible to offer an amendment to the amendment that the distinguished Senator from Connecticut has offered. However, I am very deeply concerned about the question of people who are able-bodied, women who do not have children 6 and under, working for the money they are receiving from the Government. I for one believe that every able-bodied person should have a minimum income, but that minimum income should be a result of work.

I recognize it is difficult, in one fell swoop, to create sufficient jobs to employ all able-bodied people who are presently on welfare.

Would the Senator from Connecticut be amenable to a proposal that would require all able-bodied people presently on welfare and with children not under 6 to be phased into a public service work program, say over a period of 3 years, one-third, one-third, and one-third?

I realize I cannot offer this proposal as an amendment to the Senator's amendment, but it could be offered as an amendment to the Roth-Byrd amendment.

Mr. RIBICOFF. May I comment? First, the proposal that I have makes provision for 300,000 public service jobs. My proposal is more expensive than the House bill, because the House bill provides for 200,000 public service jobs, and I have proposed 300,000 public service jobs. That is about all the Department can handle in the first year.

But I know the Senator's concern, and eventually, if we are going to pay people to work, we are going to have to create sufficient public service jobs. The weakness of the Senator from Louisiana's proposal is that under his "work fare" proposal people would be forced to go to work for $1.20 an hour.

Mr. TUNNEY. I could not think any proposal would be better for the first year. I was wondering if the Senator would be agreeable, after that first year, to having a phased-in program, for instance, one-third 1 year, then the second third the following year, and eventually all able-bodied people on welfare would be required to work at a public service job.

Mr. RIBICOFF. Without question, but in order to do that we would have to create the public service jobs. The Senator is absolutely correct. As a matter of fact, in America today we could provide 3 to 4 million public service jobs in needed employment for the public benefit.

The Senator is on the right track. I know his concern, and commend him. But once we get into the second year or the third year, the type of program that he suggests would certainly have my support.

Mr. TUNNEY. I appreciate the Senator's comment. I was just wondering, if the Senator from California could find the parliamentary machinery to offer such an amendment after the amendment of the Senator from Connecticut is passed, would the Senator from Connecticut be willing to support it?

Mr. RIBICOFF. Well, I would say thanks for the optimism, but if my program passed I would be more than will-

ing to support almost any amendment the Senator might propose.

I would like to point out that the amendment specifically provides that every able-bodied person who applies for welfare would have to register for work or training with the Department of Labor. The only exceptions would be those responsible for the care of an ill or aged family member, or mothers with children under the age of 6. Failure to report for work or training would result in loss of benefits unless the person could show that a job or day-care services were unavailable.

Mr. TUNNEY. Mr. President, the crux of the enormous welfare problem which this country now faces is embarrassingly simple. The basic cause and the only genuine solution to the welfare mess lie in jobs—meaningful jobs, jobs with enough pay to keep a family going, jobs to make a contribution to society and at the same time provide the means for the individual self-support and self-reliance on which our country depends.

Lack of jobs is the prime cause of the welfare mess.

And providing jobs is the only solution to that mess.

In 1971, 14.8 million people received some form of welfare payments. Of that number, 4.2 million received aid under programs for the elderly, blind, and disabled. The balance, 10.6 million, received AFDC payments: 7.7 million children and 2.9 million parents. By 1974, it is estimated that there will be at least 3.3 million families receiving AFDC payments. Of these, approximately 40 percent will be headed by employable adults who could hold down a job. Under the Finance Committee bill, all of these people about 1.3 million, will be required to register for work.

I have no quarrel with that requirement. I believe that those who can work should work, and what is more, I believe that most of them want to work.

But the fundamental question we face is how we get from here to there—requiring a man to take a job is one thing when there is a job to be had, and another thing when there are no jobs because 5.6 percent of our work force is unemployed.

The Ribicoff amendment in its revised form is a beginning of a solution to this problem. It does so both by requiring all able-bodied welfare recipients to work and by establishing a system to provide that work.

It calls for the establishment of the system in 1974, with a 2-year period in the meantime for pilot projects to test its effectiveness. After those 2 years, the full program would go into effect unless the House or Senate elects to exercise the veto power provided by the amendment.

Unfortunately, however, the amendment is deficient because it provides for only 300,000 public service jobs for persons who have registered for work but cannot find a job.

Mr. President, this provision is a crucial one in my mind. If we really want people to get off the dole and back to work, then we have got to provide the jobs. And to provide those jobs it is going to take a substantial commitment of public funds for public jobs, because they are not going to be found in the private sector by itself.

Let is not kid ourselves on this—if we invest only a token amount in public service jobs, then only a token number of jobs are going to be available—and we will still pay the rest of the cost through the same old welfare mess.

And let us get another thing straight—a public service job is just that—a job. It is a man or woman working with dignity; it is not a dole, and it is not welfare. And, at least, society will get some return for the money it invests.

Mr. President, I believe that what the taxpayers of this country—what all our people—are demanding from us is not that we somehow punish welfare recipients but that we provide a means so that men and women work to support their families. If they are able-bodied, they should work, and I believe they want to work. Most of the intolerable pressure on the present welfare system comes from people who need jobs, who want jobs, who are willing to work hard to support themselves and their families, who want to be rid of welfare every bit as much as the rest of us.

Some of them are given training to meet the demands of the modern labor market. Yet when they finish training, they face the demoralizing reality that there is still no job for them to go to.

Unless we make the effort to provide these jobs, we are perpetrating a hoax on the taxpayers who foot the bill for a bloated welfare system.

If welfare reform is going to have any meaning at all, if it is going to offer any hope of solving the welfare mess, we cannot avoid the ultimate issue—a job for every able-bodied American. We must provide those jobs, and where needed, we must pay for them.

We are not going to solve the welfare problem unless we are prepared to accept the fact that once more, as in past times of economic hardship, the Federal Government must be the employer of last resort.

The Ribicoff amendment attempts to deal with this problem in a limited fashion by providing some jobs—jobs which would benefit the community in fields like health, education, urban and rural development, recreation, environment, public safety, and other forms of needed public services.

Unfortunately, the number of jobs it provides is small in proportion to the need, only 300,000 by 1974, of the estimated 1.3 million jobs which must be found. And therefore, I do not see how I could support it unless it is altered to provide a more realistic and longer term commitment to public service jobs.

I recognize that this number was selected on that assumption that a greater number of useful and meaningful public jobs would be difficult to create in the first year. But the amendment in its present form makes no commitment beyond the initial year, and it is therefore inadequate.

I believe we should strengthen substantially the public service job section to provide public jobs for at least one-third of all those required to register for work by 1975, for two-thirds by 1976, and for all such persons by 1977.

And frankly, unless a provision of this kind is included, I cannot see how the present version of this amendment would do the job adequately.

The fact that the Ribicoff amendment contains a 2-year period for pilot projects confirms this belief.

Given that period for testing the system which is contained in the amendment, it is my belief that the next 2 years should be used to test a system in which every person in the test area is guaranteed a public job as a last resort. In that way, we can learn in very practical terms the relative costs and benefits of those jobs.

If it turns out that such an extensive public job program is not workable, we can vote to change it or abolish it at the end of the test period, using the veto provision contained in the Ribicoff amendment.

One thing we do know—the need for improved public services has never been greater. No one who has seen the deterioration of services in our major cities can dispute the work that needs to be done—roads go without patching, buildings go without painting, parks go without cleaning. Our police and firemen lack adequate support. And needed new facilities languish on the drawing boards.

And the irony is that we know from direct and recent experience that public service jobs can be created and implemented swiftly and effectively. After only a few months' experience with the meagerly funded Emergency Employment Act which created only 150,000 jobs—the Nation's mayors asked for a million more. And a recent survey of the program by a Senate committee shows that there were five applicants for every one job, and that the cities and States could have created twice as many jobs immediately if more money were available.

My own belief is that we will find that the cost to the American taxpayer of such a system is far, far less than continuation of the present hoax which tells a man he must work but denies him a job. Furthermore, the dividend to a better life for all of us through the public services provided by those workers is vastly more valuable than the continued drain in money and personal dignity from the present mess.

The cost of such a program is not going to be cheap. The best estimates are that it costs approximately $400 million for every 100,000 public service jobs to be created. Thus if we were to guarantee a job for each of the 1.3 million able-bodied welfare recipients required to work, the cost could run as high as $5.2 billion.

But by using the time for testing provided in the Ribicoff amendment, we could learn on a limited basis whether the cost is one which we should be prepared to pay.

And frankly, Mr. President, that is my quarrel with the Nixon administration. We are here today trying to make decisions about reforming a welfare system which has cost us billions upon billions of dollars, with only the barest of guess-

work about the effect of what we are doing. Three years ago we had the chance to try out some of these proposals on a pilot basis. Such was the proposal put to President Nixon, and back came his answer: All or nothing—enact my proposal in its entirety, with only guesses as to what its effect will be, but do not try it out in advance. And so here we are, 3 years later still trying to guess what is best for the country. We could have completed the 2-year test which was proposed by Senator RIBICOFF and others and been ready now to pass a law based upon hard data and experience. But instead, we are confronted with three camps, equally divided, and each as uncertain of the long-term effects as the others.

I cannot and will not support the President's proposal, because it is fundamentally a fraud upon both taxpayer and welfare recipient. It purports to put people to work yet does nothing to provide the jobs for them to work at. Nor can I support the present Finance Committee version, because it is fundamentally a cruel and punitive measure which would create a vast new category of subpoverty employment.

And so I am left with the Ribicoff proposal. My own position is that it must give greater emphasis to public jobs if it is to have any hope of succeeding in practice and if it is to get my vote.

But I will vote against tabling it today if I believe, after asking the Senator from Connecticut a few questions, that he would support an adequate number of public service jobs phased over a period of 4 years to provide a job for able-bodied welfare recipients.

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

Mr. RIBICOFF. I yield.

Mr. NELSON. This is predicated on the proposition, however, that there is a job available to be supplied either in public service employment or in the private sector, is that correct?

Mr. RIBICOFF. That is absolutely correct. I cannot imagine anything worse than to say someone has to work and then not have a job for him, or to train him for a job that does not exist.

Mr. NELSON. So that, in the circumstances where someone registers for work who needs welfare in order to feed the children and pay the rent, and no job is available, then he will still receive welfare support for the family, is that correct?

Mr. RIBICOFF. Yes, without question. I cannot follow the reasoning of the distinguished chairman. I hope the day never comes when I am willing to say that $1,248 is enough to support a family of 4 anywhere in America. I do not think that anyone in this body could make it any place in America on the sum of $1,248.

Mr. NELSON. Will the Senator yield further?

Mr. RIBICOFF. I am pleased to yield.

Mr. NELSON. In the Senator's amendment, was he dealing solely with the question of public service jobs, or are prospective recipients to be registered with the employment service as available for other jobs in the private sector?

Mr. RIBICOFF. Everyone who is on welfare, unless incapacitated by blindness, ill health, or caring for children under the age of 6, must register. Anyone who applies for welfare with the Welfare Department and says he is available for a job, the Labor Department lists and classifies him. The job should provide the minimum wage——

Mr. NELSON. That is not required, though?

Mr. RIBICOFF. My amendment requires that the minimum wage be paid. I would certainly hope that we do not take people on welfare and put them to work at less than the minimum wage. This would destroy the wage structure in America.

In other words, what we would be doing under the committee bill is subsidizing the sweat shop, subsidizing the individuals who want to get cheap labor, and destroying the structure of the American labor market.

Mr. NELSON. Does the Senator mind yielding further?

Mr. RIBICOFF. No, I am pleased to yield to any Senator on the floor who has any question.

Mr. NELSON. In distinguishing between the private employment field and the public service, is it clear in the Senator's amendment that of the 300,000 public service jobs—is it 300,000?

Mr. RIBICOFF. That is correct.

Mr. NELSON. That anyone who accepts a public employment job or service in public employment must be paid the same wage as anyone else in that municipal or State jurisdiction is paid for the same job?

Mr. RIBICOFF. Let me respond to the Senator by saying that he or she must be paid the prevailing wage or the minimum wage, whichever is higher. In other words, if the prevailing wage in an area is $2 an hour——

Mr. NELSON. No, I am talking about public service, first.

Mr. RIBICOFF. Public service jobs would also provide prevailing wage or the minimum wage, whichever is higher.

Mr. NELSON. That puzzles me a little bit. Does the Senator mean the prevailing wage within municipal employment in that area for that kind of a job?

Mr. RIBICOFF. For that kind of a job.

Mr. NELSON. He would not say that if the prevailing rate for a stenographer or a truck driver was higher outside the governmental sector——

Mr. RIBICOFF. No, within that category.

Mr. NELSON. Within the governmental sector?

Mr. RIBICOFF. The Senator is absolutely correct. That is what the amendment provides.

Mr. NELSON. Within the private sector, are there any limitations on the kind of job?

Let me give an example. Suppose the head of a family, let us in this case a mother with no spouse and with children 6 or over, is offered a job at the minimum wage; does she have to take it, regardless of what the job is?

Mr. RIBICOFF. No; she does not. If there is a job offered to go across town, without any public transportation, and she does not have means of transportation and adequate day care then she does not have to take that particular job.

Mr. NELSON. This is one of the points frequently raised, as the Senator from Connecticut knows. It has been mentioned on a number of occasions, I believe, by witnesses at the hearings as well as in discussions in executive sessions: Here is a mother with three children 6 or older; she now cleans house, now does all the cooking, now supervises her children, she is there to get them off to school, she is there to receive them when they come back from school, but she is offered a job at the minimum wage to do housekeeping for someone else across town. Is she required to take it? Will they provide the transportation to get her there?

Mr. RIBICOFF. If there is no transportation to her job or no day care facilities for her children, then she does not have to take that job.

Mr. NELSON. I know it is very difficult, as the Senator from Connecticut and everyone here does, to draft a general section in a statute without it appearing to authorize certain requirements that no one would intend.

Would it make any sense at all to the Senator, in any event, if, say, it was summertime and the children were not in school, so the mother has to leave her three children at a day care center, which is available, and then go someplace across town to work at the minimum wage, doing housekeeping, when, in fact, it would cost more to have the children in the day-care center than the mother could earn working at housekeeping across town? Certainly, it is not the intent of the Senator's proposal to write that kind of requirement into the bill; is it?

Mr. RIBICOFF. You are correct that it would be self-defeating to require someone to work when it would be more expensive to provide day care than to pay public assistance.

The expenses of day care are excluded from the benefits that the person receives.

Mr. PASTORE. Mr. President, will the Senator yield so that I may ask a question on that point?

Mr. RIBICOFF. I yield.

Mr. PASTORE. Is it not going to be cheaper and better to keep that home intact by keeping the mother home with the children, rather than putting the children in a day-care center, which is going to be much more expensive, and have the mother go to work? That was the whole principle of aid to dependent children. The only trouble is that this program became expanded and expanded. I think what we are trying to do here is to get after the rascals. I hope we are not getting after the legitimate mothers.

Mr. RIBICOFF. Not at all. In our proposal, we have been very careful to make sure that there are penalties for desertion. If the father can be found, he will be brought to either civil or criminal justice and made to pay his share.

The weakness of the proposal and the arguments of the distinguished chair-

man is the assumption that you can find the father.

If a father can be found and it can be proved that he is the father, we make provision that under those circumstances the person who so avoids his responsibility is subject to criminal prosecution and is required to make payments for the support of his children.

Mr. PASTORE. Is that a Federal offense?

Mr. RIBICOFF. That is a Federal offense.

The PRESIDING OFFICER. The hour of 4:53 p.m. having arrived, under the previous order the Senator from Louisiana (Mr. LONG) is recognized for the purpose of moving to table the pending amendment of the Senator from Connecticut.

Mr. LONG. Mr. President, I move that the pending amendment of the Senator from Connecticut be laid on the table.

I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MAGNUSON (when his name was called). On this vote I have a pair with the Senator from Mississippi (Mr. EASTLAND). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I therefore withhold my vote.

Mr. INOUYE (when his name was called). On this vote I have a pair with the Senator from Colorado (Mr. ALLOTT). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I therefore withhold my vote.

Mr. GRAVEL (after having voted in the negative). On this vote I have a pair with the Senator from Tennessee (Mr. BAKER). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I therefore withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), and the Senator from Mississippi (Mr. EASTLAND) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Ohio (Mr. TAFT) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Texas (Mr. TOWER) would vote "yea."

The respective pairs of the Senator from Colorado (Mr. ALLOTT) and that of the Senator from Tennessee (Mr. BAKER) have been previously announced.

The result was announced—yeas 52, nays 34, as follows:

[No. 506 Leg.]

YEAS—52

Allen	Dole	McClellan
Anderson	Dominick	Miller
Bellmon	Edwards	Montoya
Bennett	Ervin	Packwood
Bentsen	Fannin	Pearson
Bible	Fong	Proxmire
Brock	Fulbright	Randolph
Buckley	Gambrell	Roth
Burdick	Griffin	Saxbe
Byrd, Harry F., Jr.	Gurney	Sparkman
	Hansen	Spong
Byrd, Robert C.	Harris	Stennis
Cannon	Hollings	Stevens
Chiles	Hruska	Symington
Church	Jordan, N.C.	Talmadge
Cook	Jordan, Idaho	Thurmond
Cotton	Long	Young
Curtis	Mansfield	

NAYS—34

Aiken	Hughes	Percy
Bayh	Humphrey	Ribicoff
Beall	Jackson	Schweiker
Boggs	Javits	Scott
Brooke	Kennedy	Smith
Case	Mathias	Stafford
Cooper	Mondale	Stevenson
Cranston	Moss	Tunney
Eagleton	Muskie	Weicker
Hart	Nelson	Williams
Hartke	Pastore	
Hatfield	Pell	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—3

Magnuson, against.
Inouye, against.
Gravel, against.

NOT VOTING—11

Allott	McGee	Mundt
Baker	McGovern	Taft
Eastland	McIntyre	Tower
Goldwater	Metcalf	

So Mr. LONG's motion to lay Mr. RIBICOFF's amendment on the table was agreed to.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS, 1973

The PRESIDING OFFICER (Mr. KENNEDY). Under the previous order, the unfinished business will now be laid aside temporarily until close of business today, and the Senate will now proceed to the consideration of Calendar No. 1189, H.R. 16654, which the clerk will state.

The legislative clerk read as follows:

H.R. 16654, making appropriations for the Departments of Labor, Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1973, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with an amendment, to strike out all after the enacting clause and insert:

That the following sums are appropriated out of any money in the Treasury not otherwise appropriated, 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, namely:

TITLE I—DEPARTMENT OF LABOR

MANPOWER ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Manpower Administration, $37,704,000; together with not to exceed $26,989,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which $2,640,000 shall be for carrying into effect the provisions of title IV (except section 602) of the Servicemen's Readjustment Act of 1944 (38 U.S.C. 2001–2002).

MANPOWER TRAINING SERVICES

For expenses necessary to carry into effect the Manpower Development and Training Act of 1962, as amended, and sections 326 and 328 of the Trade Expansion Act of 1962 (19 U.S.C. 1951 and 1961) $719,554,000, to remain available until June 30, 1974: *Provided*, That the amounts appropriated herein for title II, parts A and B of the Manpower Development and Training Act of 1962, as amended, for expenses of the Private Sector On-the-Job Training and the Special Targeting programs authorized under that title shall not be subject to the apportionment of benefits provisions of section 301 of the Manpower Development and Training Act.

EMERGENCY EMPLOYMENT ASSISTANCE

For expenses necessary to carry into effect the Emergency Employment Act of 1971, $1,250,000,000, of which not to exceed $91,766,000 shall be available for program direction and support, administration of the program at the local level, and for agent assistance and statistics, to remain available until June 30, 1974.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and allowances to unemployed Federal employees and exservicemen, as authorized by title 5, chapter 85 of the United States Code, and for trade adjustment benefit payments and allowances, as provided by law (19 U.S.C. 1941–1944 and 1952), $475,000,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of benefits for any period subsequent to June 15 of the current year.

ADVANCES TO THE EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT

For making repayable advances to the extended unemployment compensation account in the Unemployment Trust Fund, as authorized by section 905(d) of the Social Security Act, as amended, $120,000,000 to enable the Secretary of the Treasury to make such advances: *Provided*, That the Secretary of the Treasury shall make such repayable advances at such time as he may determine, in consultation with the Secretary of Labor, that the amount in the extended unemployment compensation account is insufficient for the payments required by law to be paid therefrom to States.

FEDERAL GRANTS TO STATES FOR EMPLOYMENT SERVICES

For grants as authorized by section 5(a) of the Act of June 6, 1933, as amended (29 U.S.C. 49–49n), including, upon the request of any State, the purchase of equipment, and the payment of rental for space made available to such State in lieu of grants for such purpose, $66,700,000: *Provided*, That any funds granted to a State in the current fiscal year from this appropriation and not obligated by the State in that year shall be returned to the Treasury.

LIMITATION ON GRANTS TO STATES FOR UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICES

For grants in accordance with the Act of June 6, 1933, as amended (29 U.S.C. 49–49n, 39 U.S.C. 3202(a)(1)(E)), and for carrying into effect section 602 of the Servicemen's Readjustment Act of 1944, for grants to the States as authorized in title III of the Social Security Act, as amended (42 U.S.C. 501–503), including, upon the request of any State, the purchase of equipment, and the payment of rental for space made available to such

State in lieu of grants for such purpose, and necessary expenses for carrying out 5 U.S.C. 8501–8523 and 38 U.S.C. 2003, $800,300,000 may be expended from the Employment Security Administration account in the Unemployment Trust Fund, of which $24,000,000 shall be available only to the extent necessary to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic grant (or the allocation for the District of Columbia) was based, which increased costs of administration cannot be provided for by normal budgetary adjustments: *Provided*, That any portion of the funds granted to a State in the current fiscal year and not obligated by the State in that year shall be returned to the Treasury and credited to the account from which derived.

LABOR-MANAGEMENT SERVICES ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Labor-Management Service Administration, $25,202,000.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $49,139,000, of which not to exceed $32,000 shall be transferred to the fund created by section 44 of the Longshoremen's and Harbor Workers' Compensation Act, as amended.

FEDERAL WORKMEN'S COMPENSATION BENEFITS

For the payment of compensation and other benefits and expenses (except administrative expenses) authorized by law and accruing during the current or any prior fiscal year, including payments to other Federal agencies for medical and hospital services pursuant to agreement approved by the Department of Labor; a continuation of payment of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the advancement of costs for enforcement of recoveries in third-party cases; the furnishing of medical and hospital services and supplies, treatment, and funeral and burial expenses, including transportation and other expenses incidental to such services, treatment, and burial, for such enrollees of the Civilian Conservation Corps as were certified by the Director of such Corps as receiving hospital services and treatment at Government expense on June 30, 1943, and who are not otherwise entitled thereto as civilian employees of the United States, and the limitations and authority formerly provided by the Act of September 7, 1916 (48 Stat. 351), as amended, shall apply in providing such services, treatment, and expenses in such cases and for payments pursuant to sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012), $81,992,000, together with such amount as may be necessary, to be charged to the subsequent year appropriation, for the payment of compensation and other benefits for any period subsequent to June 15 of the current year.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $72,207,000.

None of the funds appropriated by this Act shall be expended to pay the salaries of any employees of the Federal Government who inspect firms employing fifteen persons or less for compliance with the Occupational Safety and Health Act of 1970.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursement to State, Federal, and local agencies and their employees for services rendered, $45,240,000, of which $10,216,000 shall be for expenses of revising the Consumer Price Index, including salaries of temporary personnel assigned to this project without regard to competitive civil service requirements.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for departmental management and $890,000 for the President's Committee on Employment of the Handicapped, $24,196,000, together with not to exceed $797,000 to be derived from Employment Security Administration account, Unemployment Trust Fund.

SPECIAL FOREIGN CURRENCY PROGRAM

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for necessary expenses of the Department of Labor, as authorized by law, $100,000, to remain available until expended: *Provided*, That this appropriation shall be available, in addition to other appropriations to such agency for payments in the foregoing currencies.

GENERAL PROVISIONS

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

This title may be cited as the "Department of Labor Appropriation Act, 1973".

TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

MENTAL HEALTH

For carrying out the Public Health Service Act with respect to mental health, and except as otherwise provided, the Community Mental Health Centers Act (42 U.S.C. 2681, et seq.), the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (Public Law 91–616), and the Narcotic Addict Rehabilitation Act of 1966 (Public Law 89–793), (80 Stat. 1438), and the Drug Abuse Office and Treatment Act of 1972 (Public Law 92–255), $783,323,000, of which $75,000,000 shall remain available until June 30, 1974, for grants pursuant to parts A, C, and D of the Community Mental Health Centers Act.

SAINT ELIZABETHS HOSPITAL

For expenses necessary for the maintenance and operation of the hospital, including clothing for patients, and cooperation with organizations or individuals in the scientific research into the nature, causes, prevention, and treatment of mental illness, $30,664,000, or such amount as may be necessary to provide a total appropriation equal to the difference between the amount of the reimbursements received during the current fiscal year on account of patient care provided by the hospital during such year and $58,307,000.

HEALTH SERVICES PLANNING AND DEVELOPMENT

To carry out titles VI and IX, sections 314(a) through 314(c), and except as otherwise provided, sections 301, 304, 311, 402(g), 403(a)(1) and 433(a) of the Public Health Service Act; $489,573,000, of which $197,200,000 shall be available until June 30, 1975 for grants pursuant to section 601 of the Public Health Service Act for the construction or modernization of medical facilities, and $2,500,000 shall remain available without fiscal year limitation for payment of interest on guaranteed loans as authorized by section 626 of the Act.

HEALTH SERVICES DELIVERY

For carrying out, except, as otherwise provided, sections 301, 310, 311, 314(d), 314(e), 317, 321, 322, 324, 326, 328, 329, 331, 332, 502, 504, title X of the Public Health Service Act, the Act of August 8, 1946 (5 U.S.C. 7901), section 1010 of the Act of July 1, 1944 (33 U.S.C. 763c), section 1 of the Act of July 19, 1963 (42 U.S.C. 253a), and title V of the Social Security Act, $798,046,000, of which $1,200,000 shall be available only for payments to the State of Hawaii for care and treatment of persons afflicted with leprosy: *Provided*, That any allotment to a State pursuant to section 503(2) or 504(2) of the Social Security Act shall not be included in computing for the purposes of subsections (a) and (b) of section 506 of such Act an amount expended or estimated to be expended by the State: *Provided further*, That when the Health Services and Mental Health Administration operates an employee health program for any Federal department or agency, payment for the estimated cost shall be made by way of reimbursement or in advance to this appropriation: *Provided further*, That in addition, $4,719,000 may be transferred to this appropriation as authorized by section 201(g)(1) of the Social Security Act, from any one or all the trust funds referred to therein: *Provided further*, That amounts received for services rendered under section 329 of such Act shall be credited to this appropriation.

PREVENTIVE HEALTH SERVICES

To carry out, to the extent not otherwise provided, sections 301, 308, 311, 314(e), 315, 317, 318, 322(e), 325, 328, 353, and 361 to 369 of the Public Health Service Act, the functions of the Secretary under the Federal Coal Mine Health and Safety Act of 1969, as amended; the Lead-Based Paint Poisoning Prevention Act (Public Law 91–695) except section 301; and sections 6–8 and 18–27 of the Occupational Safety and Health Act of 1970; insurance of official motor vehicles in foreign countries; and purchase, hire, maintenance, and operation of aircraft; $209,372,000.

NATIONAL HEALTH STATISTICS

For carrying out, except as otherwise provided, sections 301, 305, 311, 312(a), 313, and 315 of the Public Health Service Act; $18,514,000.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retired pay of commissioned officers, as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and payments for medical care of dependants and retired personnel under the Dependents' Medical Care Act (10 U.S.C., Ch. 55), such amount as may be required during the current fiscal year.

BUILDINGS AND FACILITIES

For construction, alterations, major repair, improvement, extension, and equipment, of facilities of or used by the Health Services and Mental Health Administration, not otherwise provided, $19,457,000 to remain available until expended.

OFFICE OF THE ADMINISTRATOR

For expenses necessary for the Office of the Administrator, $13,126,000.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

There are hereby authorized to be deposited in the "Medical facilities guarantee and loan fund" amounts received by the Secretary from operations under part B of title

VI of the Public Health Service Act and such amounts shall be available to the Secretary without fiscal year limitation for carrying out his functions under section 626(a)(1) of the Act: *Provided*, That sums received from the sale of loans made pursuant to section 627 of the Act shall be available to carry out the purposes of that section.

NATIONAL INSTITUTES OF HEALTH

BIOLOGICS STANDARDS

To carry out sections 351 and 352 of the Public Health Service Act pertaining to regulation and preparation of biological products, and conduct of research related thereto, $9,528,000.

NATIONAL CANCER INSTITUTE

For expenses necessary to carry out title IV, part A, of the Public Health Service Act, including construction under grants and contracts and direct construction; $492,205,000 to remain available until June 30, 1974.

NATIONAL HEART AND LUNG INSTITUTE

For expenses, not otherwise provided for, necessary to carry out title IV, part B, and title XI of the Public Health Service Act, $320,000,000.

NATIONAL INSTITUTE OF DENTAL RESEARCH

For expenses, not otherwise provided for, to carry out title IV, part C, of the Public Health Service Act, $49,795,000.

NATIONAL INSTITUTE OF ARTHRITIS, METABOLISM, AND DIGESTIVE DISEASES

For expenses necessary to carry out title IV, part D, of the Public Health Service Act with respect to arthritis, rheumatism, and metabolic diseases, and digestive diseases, $173,190,000.

NATIONAL INSTITUTE OF NEUROLOGICAL DISEASES AND STROKE

For expenses necessary to carry out, to the extent not otherwise provided, title IV, part D, of the Public Health Service Act with respect to neurology and stroke, $136,403,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For expenses, not otherwise provided for, to carry out title IV, part D, of the Public Health Service Act with respect to allergy and infectious diseases, $122,048,000.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For expenses, not otherwise provided for, necessary to carry out title IV, part E, of the Public Health Service Act with respect to general medical sciences, including grants of therapeutic and chemical substances for demonstrations and research, $192,302,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

To carry out, except as otherwise provided, title IV, part E, and title X of the Public Health Service Act with respect to child health and human development, $142,257,000.

NATIONAL EYE INSTITUTE

For expenses necessary to carry out title IV, part F, of the Public Health Service Act, with respect to eye diseases and visual disorders, $41,137,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

To carry out, except as otherwise provided, sections 301 and 311 of the Public Health Service Act, with respect to environmental health sciences, $31,374,000.

RESEARCH RESOURCES

To carry out, except as otherwise provided, section 301 of the Public Health Service Act with respect to the support of clinical research centers, laboratory animal facilities and other research resources, $78,244,000.

JOHN E. FOGARTY INTERNATIONAL CENTER FOR ADVANCED STUDY IN THE HEALTH SCIENCES

For the John E. Fogarty International Center for Advanced Study in the Health Sciences, $5,200,000, of which not to exceed $500,000 shall be available for payment to the Gorgas Memorial Institute for maintenance and operation of the Gorgas Memorial Laboratory.

HEALTH MANPOWER

To carry out, to the extent not otherwise provided, sections 301, 306, 309, 311, and 422 with respect to training grants, title VII, and title VIII of the Public Health Service Act, $846,428,000; of which $2,000,000 shall be available for loan guarantees and interest subsidies under part B of title VII and part A of title VIII, $140,000,000 shall be for grants for construction of facilities (including $28,000,000 for dental teaching facilities) under part B of title VII, and $30,000,000 shall be for grants for construction of facilities under part A of title VIII: *Provided*, That the funds appropriated under part B of title VII and part A of title VIII shall remain available until expended.

Loans, grants, and payments for the next succeeding fiscal year: For making, after December 31 of the current fiscal year, loans, grants, and payments under section 306, parts C, D, F, and G of title VII, and parts B and D of title VIII of the Public Health Service Act for the first quarter of the next succeeding fiscal year, such sums as may be necessary, and obligations incurred and expenditures made hereunder shall be charged to the appropriation for that purpose for such fiscal year: *Provided*, That such loans, grants, and payments pursuant to this paragraph may not exceed 50 per centum of the amounts authorized in section 306, parts C, D, and G of title VII, and in part B of title VIII for these purposes for the next succeeding fiscal year.

NATIONAL LIBRARY OF MEDICINE

To carry out, to the extent not otherwise provided for, section 301 with respect to health information communications and parts I and J of title III of the Public Health Service Act, $28,818,000, of which $2,902,000 shall remain available until June 30, 1974.

BUILDINGS AND FACILITIES

For construction, major repair, improvement, extension, alteration, and equipment, including acquisition of sites, of facilities of or used by the National Institutes of Health, where not otherwise provided, $12,580,000, to remain available until expended.

OFFICE OF THE DIRECTOR

For expenses necessary for the Office of the Director, National Institutes of Health, $12,542,000.

Appropriations in this Act available for the salaries and expenses of the National Institutes of Health shall be available for entertainment of visiting scientists when specifically approved by the Surgeon General: *Provided*, That not to exceed $5,000 shall be used for this purpose.

Funds advanced to the National Institutes of Health management fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 328 of the Public Health Service Act and for the purchase of not to exceed twelve passenger motor vehicles for replacement only.

SCIENTIFIC ACTIVITIES OVERSEAS (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for necessary expenses for conducting scientific activities overseas, as authorized by law, $25,619,000, to remain available until expended: *Provided*, That this appropriation shall be available in addition to other appropriations for such activities, for payments in the foregoing currencies.

PAYMENT OF SALES INSUFFICIENCIES AND INTEREST LOSSES

For the payment of such insufficiencies as may be required by the trustee on account of outstanding beneficial interest or participation in the Health Professions Education Fund assets or Nurse Training Fund assets, authorized by the Department of Health, Education, and Welfare Appropriation Act, 1968, to be issued pursuant to section 302(c) of the Federal National Mortgage Association Charter Act, $170,000, and for payment of amounts pursuant to section 744(b) or 827(b) of the Public Health Service Act to schools which borrow any sums from the Health Professions Education Fund or Nurse Training Fund, $3,830,000: *Provided*, That the amounts appropriated herein shall remain available until expended.

HEALTH PROFESSIONS EDUCATION FUND

The Secretary is hereby authorized to make such expenditures, within the limits of funds available in the Health Professions Education Fund and the Nurse Training Fund, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year.

GENERAL RESEARCH SUPPORT GRANTS

For general research support grants, as authorized in section 301(d) of the Public Health Service Act, there shall be available from appropriations available to the National Institutes of Health and the National Institute of Mental Health for operating expenses, the sum of $60,700,000: *Provided*, That none of these funds shall be used to pay a recipient of such a grant any amount for indirect expenses in connection with such project.

OFFICE OF EDUCATION

ELEMENTARY AND SECONDARY EDUCATION

For carrying out, to the extent not otherwise provided, title I ($1,810,000,000), title III ($171,393,000), and title V, parts A and C ($53,000,000), of the Elementary and Secondary Education Act, $2,034,393,000: Provided, That the aggregate amounts made available to each State under title I–A for grants to local education agencies within that State shall not be less than such amounts as were made available for that purpose for fiscal year 1972: *Provided further*, That the requirements of section 307(e) of Public Law 89–10 as amended shall be satisfied when the combined fiscal effort of the local education agency and the State for the preceding fiscal year was not less than such combined fiscal effort in the second preceding fiscal year.

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C., ch. 13), and the Act of September 23, 1950, as amended (20 U.S.C., ch. 19), $681,405,000 of which $645,495,000, including $41,450,000 for amounts payable under section 6 and $10,000,000 for complying with section 403(1)(C) shall be for the maintenance and operation of schools as authorized by said title I of the Act of September 3, 1950, as amended, and $35,910,000, which shall remain available until expended, shall be only for providing school facilities as authorized by section 5 and subsections 14(a) and 14(b) of said Act of September 23, 1950: *Provided*, That none of the funds contained herein shall be avail-

able to pay any local educational agency in excess of 77 per centum of the amounts to which such agency would otherwise be entitled pursuant to section 3(b) of title I: *Provided further*, That none of the funds contained herein shall be available to pay any local educational agency in excess of 90 per centum of the amounts to which such agency would otherwise be entitled pursuant to section 3(a) of said title I if the number of children in average daily attendance in schools of that agency eligible under said section 3(a) is less than 25 per centum of the total number of children in such schools.

EDUCATION FOR THE HANDICAPPED

For carrying out, to the extent not otherwise provided, the Education of the Handicapped Act, and section 5 of Public Law 85–905, $162,359,000.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, section 102(b) ($29,898,000), parts B and C ($449,682,000), D, F ($8,388,000), G ($24,500,000), H ($10,524,000), and I of the Vocational Education Act of 1963, as amended (20 U.S.C. 1241–1391), and the Adult Education Act of 1966 (20 U.S.C. ch. 30) ($75,000,000), $659,162,000, including $20,000,000 for exemplary programs under part D of said 1963 Act of which 50 per centum shall remain available until expended and 50 per centum shall remain available through June 30, 1974, and not to exceed $23,000,000 for research and training under part C of said 1963 Act: *Provided*, That grants to each State under the Adult Education Act shall not be less than grants made to such State agencies in fiscal year 1971: *Provided further*, That grants to each State under the Vocational Education Act shall not be less than grants made to such States in fiscal year 1972.

LIBRARY RESOURCES

For carrying out, to the extent not otherwise provided, titles I ($62,000,000), II, and III ($7,500,000) of the Library Services and Construction Act (20 U.S.C. ch. 16); title II ($100,000,000) of the Elementary and Secondary Education Act; title III–A ($50,000,000) of the National Defense Education Act of 1958; and title VI ($12,500,000) of the Higher Education Act; $247,000,000, of which $15,000,000, to remain available through June 30, 1974, shall be for grants for public library construction under title II of the Library Services and Construction Act.

EDUCATIONAL RENEWAL

For carrying out, to the extent not otherwise provided, titles VII and VIII of the Elementary and Secondary Education Act, part B–1 of the Education Professions Development Act, section 309 of the Adult Education Act, as amended, part IV of title III of the Communications Act of 1934, the Cooperative Research Act (except section 4), the Drug Abuse Education Act of 1970, the Environmental Education Act, and sections 402 and 412 of the General Education Provisions Act, $238,315,000, of which $15,000,000 shall be for educational broadcasting facilities and shall remain available until expended.

EDUCATIONAL ACTIVITIES OVERSEAS (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for necessary expenses of the Office of Education, as authorized by law, $3,000,000, to remain available until expended: *Provided*, That this appropriation shall be available, in addition to other appropriations to such office, for payments in the foregoing currencies.

SALARIES AND EXPENSES

For the necessary expenses of the Office of Education, not otherwise provided, including rental of conference rooms in the District of Columbia; and not to exceed $1,000 for official reception and representation expenses; $68,360,000.

STUDENT LOAN INSURANCE FUND

For the Student Loan Insurance Fund created by the Higher Education Act of 1965, as amended, $29,047,000, to remain available until expended.

PAYMENT OF PARTICIPATION SALES INSUFFICIENCIES

For the payment of such insufficiencies may be required by the trustee on account of outstanding beneficial interests or participations in assets of the Office of Education authorized by the Department of Health, Education, and Welfare Appropriation Act, 1968, to be issued pursuant to section 302(c) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(c)) $2,921,000, to remain available until expended.

SOCIAL AND REHABILITATION SERVICE

GRANTS TO STATES FOR PUBLIC ASSISTANCE

For carrying out, except as otherwise provided, titles I, IV, X, XI, XIV, XVI, and XIX of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C. ch. 9), $13,344,704,000, of which $46,000,000 shall be for child welfare services under part B of title IV.

For making, after June 15 of the current fiscal year, payments to States under titles I, IV, X, XIV, XVI, and XIX, respectively, of the Social Security Act, for any period during the last fifteen days of the current fiscal year (except with respect to activities included in the appropriation for "Work incentives"); and for making, after April 30 of the current fiscal year, payments for the first quarter of the next succeeding fiscal year; such sums as may be necessary, the obligations incurred and the expenditures made thereunder for payments under each of such titles to be charged to the subsequent appropriations therefor for the current or succeeding fiscal year.

In the administration of titles I, IV (other than part C thereof), X, XIV, XVI, and XIX, respectively, of the Social Security Act, payments to a State under any such titles for any quarter in the period beginning April 1 of the prior year, and ending June 30 of the current year, may be made with respect to a State plan approved under such title prior to or during such period, but no such payment shall be made with respect to any plan for any quarter prior to the quarter in which such plan was submitted for approval.

Such amounts as may be necessary from this appropriation shall be available for grants to States for any period in the prior fiscal year subsequent to March 31 of that year.

WORK INCENTIVES

For carrying out a work incentive program, as authorized by part C of title IV of the Social Security Act, including registration of individuals for such program, and for related child care and other supportive services, as authorized by section 402(a)(19)(G) of the Act, including transfer to the Secretary of Labor, as authorized by section 431 of the Act, and $150,000 for transfer to the appropriation for "Departmental management", $455,133,000, which shall be the maximum amount available for transfer to the Secretary of Labor and to which the States may become entitled pursuant to section 403(d) of such Act, for these purposes for the current fiscal year.

GRANTS FOR THE DEVELOPMENTALLY DISABLED

For carrying out, except as otherwise provided, sections 301 and 303 of the Public Health Service Act, and parts B, C, and D of the Developmental Disabilities Services and Facilities Construction Act, $51,250,000, of which $32,500,000 shall be for grants under part C of the Developmental Disabilities Services and Facilities Construction Act, to remain available until June 30, 1975, and $9,250,000 shall be for grants under part B of the Developmental Disabilities Services and Facilities Construction Act, to remain available until expended: Provided, That grants made under part C of the Developmental Disabilities Services and Facilities Construction Act after June 30, 1973, shall be for construction only as specified in section 132(a)(2) of such Act: Provided further, That there may be transferred to this appropriation from the appropriation "Mental Health" an amount not to exceed the sum of the allotment adjustment, made by the Secretary pursuant to section 202(c) of the Community Mental Health Centers Act.

NUTRITION PROGRAM FOR THE ELDERLY

For carrying out title VII of the Older Americans Act of 1965, $100,000,000.

RESEARCH AND TRAINING ACTIVITIES OVERSEAS (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for necessary expenses of the Social and Rehabilitation Service, and the Social Security Administration, as authorized by law, $8,000,000, to remain available until expended: Provided, That this appropriation shall be available, in addition to other appropriations to such Service and Administration for payments in the foregoing currencies.

SALARIES AND EXPENSES

For expenses, not otherwise provided, necessary for the Social and Rehabilitation Service, $60,215,000, together with not to exceed $600,000 to be transferred from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as provided in section 201(g)(1) of the Social Security Act.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance, the Federal Disability Insurance, the Federal Hospital Insurance, and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g), 228(g), 229(b), and 1844 of the Social Security Act, and sections 103(c) and 111(d) of the Social Security Amendments of 1965, $2,475,485,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended, including necessary travel incident to medical examinations, reconsideration interviews, or hearings for verifying disabilities or for review of disability determinations, $1,526,500,000, to remain available until expended: *Provided*, That such amounts as may be agreed upon by the Department of Health, Education, and Welfare, and the Postal Service shall be used for payment, in such manner as said parties may jointly determine, of postage for the transmission of official mail matter by States in connection with the administration of said Act.

Benefit payments after April 30: For making, after April 30 of the current fiscal year, payments to entitled beneficiaries under title IV of the Federal Coal Mine Health and Safety Act of 1969, for the last two months of the current fiscal year, such sums as may be necessary, the obligations and expenditures therefor to be charged to the appropriation for the succeeding fiscal year.

Whenever the Commissioner of Social Security finds it will promote the achievement of the provisions of title IV of the Federal Coal Mine Health and Safety Act of 1969, qualified persons may be appointed to conduct hearings thereunder without meeting the requirements for hearing examiners appointed under 5 U.S.C. 3105, but such appointments shall terminate not later than December 31, 1973: *Provided further*, That no person shall hold a hearing in any case with which he has been concerned previously in the administration of such title.

LIMITATION ON SALARIES AND EXPENSES

For necessary expenses, not more than $1,256,498,000 may be expended as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That such amounts as are required shall be available to pay the cost of necessary travel incident to medical examinations, reconsideration interviews or hearings for verifying disabilities or for review of disability determinations, of individuals who file applications for disability determinations under title II of the Social Security Act, as amended: *Provided further*, That $25,000,000 of the foregoing amount shall be apportioned for use pursuant to section 3679 of the Revised Statutes, as amended (31 U.S.C. 665), only to the extent necessary to process workloads not anticipated in the budget estimates and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII and section 221 of title II of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That such amounts as may be agreed upon by the Department of Health, Education, and Welfare and the United States Postal Service shall be used for payment, in such manner as said organizations may jointly determine, of postage for the transmission of official mail matter in connection with the administration of the social security program by States participating in the program.

LIMITATION ON CONSTRUCTION

For construction, alterations, and equipment of facilities, including acquisition of sites, and planning, architectural, and engineering services, and for provision of necessary off-site parking facilities during construction, $1,000,000, to be expended as authorized by section 201(g)(1) of the Social Security Act, as amended, from any one or all of the trust funds referred to therein, and to remain available until expended.

SPECIAL INSTITUTIONS

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101–105), $1,696,500.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For carrying out the National Technical Institute for the Deaf Act (20 U.S.C. 681, et seq.), $4,694,000.

MODEL SECONDARY SCHOOL FOR THE DEAF

For carrying out the Model Secondary School for the Deaf Act (80 Stat. 1027), $4,625,000, of which $1,000,000 shall be for construction and shall remain available until expended.

GALLAUDET COLLEGE

For the partial support of Gallaudet College, including repairs and improvements as authorized by the Act of June 18, 1954 (68 Stat. 265), $15,082,000, of which $5,460,000 shall be for construction and shall remain available until expended: *Provided*, That if so requested by the college, such construction shall be supervised by the General Services Administration.

HOWARD UNIVERSITY

For the partial support of Howard University, $58,881,000, including $8,408,000 to remain available until expended for planning and site development of buildings and facilities: *Provided*, That if requested by the University, such planning, site development, and construction of buildings and facilities shall be supervised by the General Services Administration.

OFFICE OF THE SECRETARY

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $13,587,000, together with not to exceed $1,180,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

DEPARTMENTAL MANAGEMENT

For expenses, not otherwise provided, necessary for departmental management, $56,893,000, together with not to exceed $6,846,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein; and not to exceed $29,000 to be transferred from "Revolving fund for certification and other services," Food and Drug Administration: *Provided*, That the period of availability of funds under this title for the Commission on Medical Malpractice shall be extended from June 30, 1972, to June 30, 1973.

GENERAL PROVISIONS

SEC. 201. None of the funds appropriated by this title to the Social and Rehabilitation Service for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any States which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 202. The Secretary is authorized to make such transfers of motor vehicles, between bureaus and officers, without transfer of funds, as may be required in carrying out the operation of the Department.

SEC. 203. None of the funds provided herein shall be used to pay any recipient of a grant for the conduct of a research project an amount equal to as much as the entire cost of such project.

SEC. 204. None of the funds contained in this Act shall be used for any activity the purpose of which is to require any recipient of any project grant for research, training, or demonstration made by any officer or employee of the Department of Health, Education, and Welfare to pay to the United States any portion of any interest or other income earned on payments of such grant made before July 1, 1964; nor shall any of the funds contained in this Act be used for any activity the purpose of which is to require payment to the United States of any portion of any interest or other income earned on payments made before July 1, 1964, to the American Printing House for the blind.

SEC. 205. Expenditures from funds appropriated under this title to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, the Model Secondary School for the Deaf and Gallaudet College shall be awarded to these institutions in the form of lumpsum grants and expenditures made therefrom shall be subject to audit by the Secretary of Health, Education, and Welfare.

SEC. 206. None of the funds contained in this title shall be available for additional permanent Federal positions in the Washington area if the proportion of additional positions in the Washington area in relation to the total new positions is allowed to exceed the proportion existing at the close of fiscal year 1966.

SEC. 207. Appropriations in this Act for the Health Services and Mental Health Administration, the National Institutes of Health, and Office of the Secretary shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed two thousand eight hundred commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; rental or lease of living quarters (for periods not exceeding five years), and provision of heat, fuel, and light, and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; not to exceed $2,500 for entertainment of visiting scientists when specifically approved by the Surgeon General; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Surgeon General, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the rate for GS–18.

SEC. 208. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to force on account of race, creed, or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

SEC. 209. No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed, or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

This title may be cited as the "Department of Health, Education, and Welfare Appropriation Act, 1973".

TITLE III—RELATED AGENCIES

CABINET COMMITTEE ON OPPORTUNITIES FOR SPANISH-SPEAKING PEOPLE

SALARIES AND EXPENSES

For expenses necessary for the Cabinet Committee on Opportunities for Spanish-Speaking People, and the Advisory Council on Spanish-Speaking Americans, $1,000,000.

COMMISSION ON RAILROAD RETIREMENT

SALARIES AND EXPENSES

For necessary expenses of the Commission on Railroad Retirement, established by the Act of August 12, 1970 (Public Law 91–337), $101,000: *Provided*, That the unobligated balance of the appropriation granted under this heading for the fiscal year 1972 shall remain available during the current fiscal year.

FEDREAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171–180, 182), including expenses of the Labor-Management Panel and boards of inquiry appointed by the President; hire of passenger motor vehicles; not to exceed $500 for official reception and representation expenses; and rental of conference rooms in the District of Columbia; $10,650,000.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses of the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91–345) $406,000.

NATIONAL COMMISSION ON MARIHUANA AND DRUG ABUSE

SALARIES AND EXPENSES

For necessary expenses of the National Commission on Marihuana and Drug Abuse, authorized by section 601 of the Act of October 27, 1970 (Public Law 91–513), as amended by the Act of May 24, 1971 (Public Law 92–13), $1,440,000 to remain available until expended.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141–167), and other laws, $50,456,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary for carrying out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151–188), including emergency boards appointed by the President, $2,888,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Occupational Safety and Health Review Commission, $5,979,000.

RAILROAD RETIREMENT BOARD

PAYMENT FOR MILITARY SERVICE CREDITS

For payments to the railroad retirement account for military service credits under the Railroad Retirement Act, as amended (45 U.S.C. 228c–1), $21,645,000.

LIMITATION ON SALARIES AND EXPENSES

For expenses necessary for the Railroad Retirement Board, $19,822,000 to be derived from the railroad retirement accounts.

UNITED STATES SOLDIERS' HOME

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' Home, to be paid from the Soldiers' Home permanent fund, $12,591,000: *Provided*, That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army, upon recommendations of the Board of Commissioners of the Home and the Surgeon General of the Army.

CAPITAL OUTLAY

For construction of buildings and facilities, including plans and specifications, and furnishings, to be paid for the Soldiers' Home permanent fund, $2,114,000, to remain available until expended.

CORPORATION FOR PUBLIC BROADCASTING

PAYMENT TO THE CORPORATION FOR PUBLIC BROADCASTING

To enable the Department of Health, Education, and Welfare to make payment to the Corporation for Public Broadcasting, as authorized by section 396(k)(1) of the Communications Act of 1934, as amended, for expenses of the Corporation, $40,000,000, to remain available until expended: *Provided*, That, in addition, there is appropriated in accordance with the authorization contained in section 396(k)(2) of such Act, to remain available until expended, amounts equal to the amount of total grants, donations, bequests or other contributions (including money and the fair market value of any property) from non-Federal sources received by the Corporation during the current fiscal year, but not to exceed a total of $5,000,000.

TITLE IV—GENERAL PROVISIONS

SEC. 401. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18.

SEC. 402. Appropriations contained in this Act available for salaries and expenses shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902).

SEC. 403. Appropriations contained in this Act available for salaries and expenses shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

SEC. 404. The Secretary of Labor and the Secretary of Health, Education, and Welfare are each authorized to make available not to exceed $7,500 from funds available for salaries and expenses under titles I and II, respectively, for official reception and representation expenses.

SEC. 405. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 406. No part of any appropriation contained in this Act shall be used to finance any Civil Service Interagency Board of Examiners.

SEC. 407. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curriculum, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 408. The Secretary of Labor and Secretary of Health, Education, and Welfare are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 409. Notwithstanding any other provision of law, the President is authorized to withhold from obligation and expenditure from the amounts contained in this Act, such sums as he may deem necessary; however, the amounts withheld shall not cause the total available for obligation to be less than $29,603,448,500 in the aggregate for the appropriations made herein: *Provided*, That no amount specified in any appropriation provision contained in this Act or any activity within such appropriation may be reduced by more than 10 per centum: *Provided further*, That the amount available for obligation for any appropriation provision determined pursuant to this section shall be substituted for the amount of such appropriation provision contained in this Act and for the application of any formula for the distribution of funds.

This Act may be cited as the "Departments of Labor, and Health, Education, and Welfare Appropriation Act, 1973".

The PRESIDING OFFICER (Mr. KENNEDY). Debate on this measure is limited——

Mr. MANSFIELD. Mr. President——

Mr. MONTOYA. Mr. President, let me take this opportunity to congratulate all the members of the Finance Committee on the completion of this monumental legislative task. While the Senate has already spent many hours on this legislation, our job is not yet complete.

As the Members of the Senate are well aware, there are differences between the House and Senate versions. I particularly want to address myself to the treatment accorded members of the chiropractic profession under the House version.

Under the House-passed bill, the Secretary of HEW is directed to conduct further study concerning the inclusion of chiropractic services under medicare.

The Senate, realizing that further study was not necessary, wisely included chiropractic services that comply with HEW standards under medicare.

This inclusion of chiropractic services is essential if we are to maintain freedom of choice in the area of health care for all Americans. The right of a patient to choose his or her health care method is a cherished one, and must be retained. To exclude chiropractic services from a growing Government health program such as medicare is to deprive millions of Americans of their right to select the health care they prefer.

The crisis of health care in America requires that all branches of the health profession join in the common effort. To exclude chiropractic practitioners from this battle is to cripple our efforts on this front. We have a duty to assure adequate health care for all our citizens, and we cannot meet this responsibility if we continue to exclude recognized health care professionals from participation in federally assisted health programs.

If we continue to refuse to include certain classes of health care professionals, we will continue to fail our citizens, especially the elderly whose fixed incomes often preclude their receiving adequate health care without assistance. The availability of other avenues of care is not enough when we fully consider the important role that confidence and fa-

miliarity play in successful health treatment.

It is because I believe in the right of free choice, and I know that Senators share this belief, that I strongly urge the Senate conferees to continue firm in their support of this section of H.R. 1. The will of the Senate on this matter is clear, and meets a critical need for America's elderly. As this matter goes to conference, I again urge that the inclusion provision of the Senate bill be retained.

Mr. HARRIS. Mr. President, as a member of the Senate Finance Committee, I have long been of the opinion—as I have stated publicly several times—that it is totally impossible to get real welfare reform during this session of the Congress. The Senate Finance Committee has adopted a "Workfare" program which discriminates against poor people who are out of jobs and those who cannot work. It would, in virtually every aspect, make worse the present failures in the welfare system.

H.R. 1—the welfare bill adopted by the House of Representatives and generally supported by the Nixon administration—is a punitive and regressive measure. It is not welfare reform.

No welfare bill can measure up to the need for reform unless, among other things, it guarantees the rights of present recipients, provides for decent pay and jobs and sets an adequate standard of income. Everybody agrees that the present system traps people in poverty, that people need an adequate income if they are to have some chance to escape poverty—to be able to afford decent education, health, housing, and job opportunity.

Yet, most of the proposals—even the so-called liberal compromises—do not meet these standards.

Further, it is clear that, even if the Senate were to pass at this late date an acceptable welfare reform bill, there is almost no hope that the measure would come back from conference in an acceptable form.

I disagree with some well-intentioned organizations and Senators who believe that any bill that recognizes the rights of the "working poor" is better than nothing. I believe that any measure that compromises on basic principles will actually put off the day when we might have real welfare reform—a guaranteed income at a decent level for those who cannot find work or who are unable to work. Furthermore, I vigorously oppose any legislation that would make worse the already wretched lives of present recipients.

Consequently, I strongly feel that any present compromise on principle will not hasten the day of welfare reform—but will delay that just achievement. I believe the best we can do in this session of Congress is to act to protect the rights of those already receiving assistance and to give fiscal relief to the States. We must, then, continue to work for such education of the public and the Congress as will allow real welfare reform—not make the present welfare system worse.

Therefore, in line with my long-announced position on this matter, I intend to vote for the motion to table the Ribicoff amendment.

NEED FOR PASS-ALONG

Mr. WILLIAMS. Mr. President, for the vast majority of older Americans the 20-percent social security increase will bring long overdue and welcome relief.

It will remove almost 2 million persons from poverty, including 1.4 million aged 65 or older.

In terms of dollars and cents, the new law will boost monthly social security benefits:

From $133 to $161 for the average retired worker;

From $223 to $270 for the typical retired couple; and

From $114 to $137 for the average widow.

However, for some older Americans—particularly those who also receive old-age assistance—this raise may be neutralized because their walfare payments will be cut back by the amount of the 20-percent increase.

Others may actually be worse off because the new raise will make them ineligible for medicaid.

The Senate has taken action to assure that no one will be penalized because of the 20-percent increase.

The Senate has approved an amendment to pass along the 20-percent raise for persons who receive social security and old-age assistance. The effect of this measure is to assure a net increase in the limited incomes for the elderly poor.

Moreover, the Finance Committee has included a provision in H.R. 1 to protect the aged, blind, and disabled against loss of medicaid coverage because of the 20-percent increase. A similar provision has been incorporated in legislation recently reported out by the House Ways and Means Committee.

Both these provisions, in my judgment, are urgently needed now.

A recent article in the New York Times makes a compelling case for prompt action on these matters.

Mr. President, I comment this article—entitled "Social Security Rise Becomes a Nightmare for Many Elderly"—to my colleagues and ask unanimous consent that it be printed at this point in the RECORD.

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

SOCIAL SECURITY RISE BECOMES A NIGHTMARE FOR MANY ELDERLY

(By David K. Shipler)

Like millions of other aged Americans, Marie Nashif of Denver will receive a 20 per cent increase in her Social Security check this month. But unlike most, she will not welcome the extra cash.

Mrs. Nashif is among the 187,000 or so elderly for whom Congressional election-year generosity has become a nightmare. The Social Security rise, voted by Congress June 30, has pushed her income just high enough to make her ineligible for the welfare and Medicaid benefits that she needs so desperately.

Mrs. Nashif, a small, alert, 74-year-old woman, suffers badly from arthritis. Until now, her heavy medical bills have been paid fully by Medicaid. But when her monthly Social Security check rises from $138.40 to $166.10, it will surpass the $147 figure that Colorado uses to divide those who are eligible from those who are not.

In exchange for her $27.70 additional from Social Security, Mrs. Nashif will have to pay $5.80 a month in medical insurance premiums, 20 per cent of all doctors, bills, the first $68 a year in hospital expenses, $17 a day after 60 days in the hospital, and the total amount of prescription drugs.

Further, she will lose $7 a month in welfare payments, she will probably become ineligible for food stamps, and her rent will rise, since she lives in Federally subsidized housing where rents are tied to income.

"When I take all this into consideration," she said, "I'll be a darn sight worse off than I am now."

Congressional action could eliminate such hardships, and several bills addressed to the problem are now pending. Last Friday, the Senate voted a solution for welfare recipients by passing a measure that would force states to raise the eligible income limits for welfare by the same dollar amount as the Social Security increases. Prospects for the bill in the House are uncertain.

Even if the bill becomes law, it will not help people who now collect Medicaid and are not welfare recipients, and there are thousands of those in New York City alone who risk losing their medical benefits. The bill addresses itself only to welfare recipients.

ACTION BY STATES

Some states have already taken action on their own. Gov. William T. Cahill of New Jersey has ordered Medicaid benefits continued for 4,000 elderly who would otherwise become ineligible.

Delaware has allocated $1-million to raise the eligibility income maximums. Gov. Winfield Dunn of Tennessee has changed administrative regulations to keep 7,500 people on the welfare rolls, Nebraska, Missouri, Iowa, Florida and Wyoming are among the states that have increased the income levels that determine eligibility.

No action has been taken in New York. The state's Department of Social Services contends that it has no power to make the necessary changes without approval from the Legislature, whose regular session begins in January.

New York City has already sent letters informing 6,000 elderly people that their welfare benefits will be halted. This means that they will have to begin paying 20 per cent of their medical expenses.

In addition, many aged New Yorkers who are not on welfare and are not addressed by the Senate bill will be hurt by the Social Security increases.

The city's Office For the Aging estimated that 14,696 persons who now receive 80 per cent of their medical expenses from Medicaid will be cut off altogether. In addition, 22,434 who are not on welfare but are fully covered by Medicaid will have until they have spent all their income above the welfare maximum on medical bills. At that point Medicaid will pick up the full burden again. This totals about 43,000 elderly affected adversely in New York City alone.

The figures elsewhere are smaller, ranging from about 10,000 in California to 400 in Vermont. The United States Department of Health, Education and Welfare calculates that nationwide, 187,000 people will become ineligible for welfare and 93,000 will lose Medicaid.

Even many who do not lose will not gain from the Social Security increase, since some states apply Social Security income against welfare payments. As Social Security rises, welfare decreases; the beneficiary is not the individual, but the state.

"I'm all for the increase," said John Maros, administrator of the Wyoming Division of Public Assistance. "The more Social Security they get the less public assistance is needed." The State of Washington estimates

that it will save $2.3-million in welfare payments by next June 30.

"The average pensioner in Alabama won't gain a dime as a result of the increase," said Ruben K. King, Alabama director of pensions and security.

BAN UNDER SENATE BILL

"This is a form of psychological deceit practiced upon senior citizens," said C. Christophor Brown, head of the law reform unit of the Baltimore Legal Aid Bureau. "The government is giving with one hand and taking away with the other."

This cannot happen if the bill passed by the Senate is approved by the House and signed by President Nixon; Under the measure states would be prohibited from reducing welfare payments in response to the Social Security increase.

The bill would also cost the states additional money by requiring them to raise the income limits for eligibility, not merely for those welfare recipients who are on Social Security, but for all disabled, aged and blind. In New York, many in the disabled category are narcotics addicts.

In most states, elderly people on Social Security receive only small amounts of money from welfare, and their removal from the rolls is less of a hardship in terms of direct welfare payments than it is in terms of the services that are corollaries to a welfare status.

In many states, for example, Medicaid—whose cost is shared by the Federal and state governments—is available only to those whose incomes are low enough to qualify them for welfare, even though the Federal guidelines allow Medicaid benefits for those with incomes up to 133 per cent of the welfare maximum.

Other benefits, such as food stamps, legal help and homemaking services, are also often tied directly to welfare.

BRONX WOMAN HIT

Mrs. Elesabeth Miles of 1365 Finley Avenue, the Bronx, for example, faces the loss of a valuable homemaker because the Social Security rise will make he ineligible for welfare. She is 62.

"The letter came last Wednesday," she said, "and now I have nothing. I have been a widow for 29 years and am completely blind in the right eye and partially blind in the left eye. My son is unable to take care of me because he has eight children of his own."

Her monthly Social Security check, to rise from $133.10 to $159.70, will have to cover her $70.40 a month rent, as well as her food and other expenses.

"They say that they are giving me a 20 per cent increase, but they been taking everything back and all I get is nothing," Mrs. Miles said. "We worked hard to take care of ourselves and they just don't care if we live or die."

In a small, sad room on West 86th Street, Joseph Wolfson, 80, a frail, asthmatic man spoke with fear. "Most of the time I am in the hospital because of asthma," he said. "I feel all right now, but who knows what can happen next week? I just can't live with that little amount of money and no medicaid."

Eva Estelle Jackson, 70, lives alone in Montgomery, Ala., and has suffered from tuberculosis and ulcers. She now receives $132 a month in Social Security and $24 in welfare, but she has been told that the Social Security increase will raise her a few dollars above the welfare maximum she will therefore lose Medicaid, which paid several thousand dollars for three weeks she spent in hospitals last year.

"It's gonna hit me hard," Miss Jackson said. "If they'd just left me with a pension of $1 or $2, and Medicaid, I'd have been a lot better off. If I had some illness, I just don't know what I'd do. I'd just be in bad shape, because I've got nobody to fall back on."

Miss Jackson discovered that she will also have to pay a $2-a-month garbage collection fee to the City of Montgomery. Only those on welfare are exempted from the fee.

Another Montgomery resident, Emily Shepherd, 75, is now in the hospital, being treated for emphysema. When her $137-a-month Social Security check rises to $164, she will lose $66 in welfare from the state, ending up with $39 less a month than now, and no Medicaid.

At that point, her choices will be "either to go into a convalescent home or just go back to my apartment and die," she says. "It's the most ridiculous thing I ever heard of. They should have had a little forethought. They're just a bunch of meatheads in Congress."

In Las Vegas, the Social Security check of Henrietta G. Oberg, 78, will rise from $153 to $183 a month, but her $23 welfare payment will be eliminated as a result, leaving her $7 ahead, but without Medicaid. She is being treated for cancer. "What am I going to do?" she asked.

In Cedar Rapids, Iowa, Mary Wright also lost Medicaid. "It will take it all away from me," she said of the Social Security increase. "I can't afford it. I'm having it all canceled. I got to pay my rent, clothes, and feed myself. There's nobody else to do it for me. You can't get any glasses, can't get any teeth—anything you need you can't get."

The difficulties have also affected some younger people. Lennell Frison, 40, a father of 10 in Portland, Ore., is a former foundry worker whose arthritis put him out of a job two years ago. He and his wife, who has diabetes, were told recently that the Social Security rise would mean the end of welfare and the end of medical payments.

"Without that aid to the doctor, man, I don't know how we're going to make it." His wife, he says, works sometimes as a janitor at night, making about $100 a week. They had planned to try to buy the sixroom house they now rent, he said, "But we're probably gonna lose it."

Mr. Frison has considered sending his 17-year-old son to work, but he is torn by powerful doubts. "I hate to take my oldest boy out of school, because then he'd be where I am. I think I'd go back to work and punish myself instead. I can't stand up too long. My legs won't hold me. But it gets you. A man ain't nothing if he can't feed his children."

In Hazelwood, Mo., a suburb of St. Louis, Mr. and Mrs. Russell French face similar difficulties. Mr. French suffers from heart disease and diabetes, she from arthritis and rickets. Two of their children, Charles, 15, and Lorraine, 12, have rickets, and a third, Russell, is diabetic.

"It's the Medicaid that counts," said Mrs. French. "I figure it would cost us $100 a month just to keep my husband supplied with medicine." Neither she nor her husband can work; their Social Security comes to about $400 a month.

The family's physician, who asked not to be identified, confirmed that the French family needed constant medical attention. "Of all my families this is the one that is probably the most in need," he said.

When Mrs. French was 10 years old and living in Corning, Ark., she recalled, her mother died because she could not get medical help. "If anyone thinks things have changed, they haven't," she said, "because the same thing probably will happen to us."

The PRESIDING OFFICER. The Senate will be in order. The Senate is still not in order. Senators are requested to take their seats.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time on H.R. 1 be extended for 10 minutes so that the distinguished Senator from Delaware can withdraw his substitute and the distinguished Senator from Alaska may be recognized for not to exceed 10 minutes, with the time equally divided between the manager of the bill and the author of the amendment, and that at the conclusion of the 10 minutes, the Senate proceed to the consideration of the HEW appropriations bill under the previously agreed to order.

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

Mr. HUMPHREY. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUMPHREY. Mr. President, are we on controlled time on the HEW appropriations bill?

The PRESIDING OFFICER. The HEW appropriations bill is to be considered under controlled time.

Mr. HUMPHREY. Mr. President, what is the time situation on the HEW appropriations bill?

The PRESIDING OFFICER. The time on the HEW appropriations bill is 3 hours on the bill, 1 hour on any amendment in the first degree, and 30 minutes on other amendments.

MESSAGE FROM THE HOUSE— ENROLLED BILLS SIGNED

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

H.R. 2895. An act to provide for the conveyance of certain real property in the District of Columbia to the National Firefighting Museum and Center for Fire Prevention, Incorporated; and

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 Lumber Grant, in the State of New Mexico, and for other purposes.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. GAMBRELL).

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. ROTH. Mr. President, I intend to withdraw my amendment at this time. It is obvious that the Senate is not yet ready to vote upon it. In withdrawing it, I intend to withdraw it under a parliamentary situation where I can be sure that we get a vote.

Mr. President, I withdraw my amendment No. 1668.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. STEVENS. Mr. President, I call up the Metcalf amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to state the amendment.

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

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

The amendment is as follows:

On page 935, between lines 8 and 9, insert the following new sections:

LIMITATION ON FISCAL LIABILITY OF STATES FOR OPTIONAL STATE SUPPLEMENTATION

SEC. 513. (a)(1) In any case where supplementary payments are made during any fiscal year with respect to Indians (within the meaning of section 1101(a)(9) of the Social Security Act) pursuant to a State's agreement under section 1616 of the Social Security Act (as in effect after December 31, 1973), the Secretary of Health, Education, and Welfare (subject to paragraph (2) of this subsection) shall—

(A) reduce the amount otherwise payable to him by the State for such fiscal year as provided in section 616(d) of such Act by an amount equal to the total of the supplementary payments so made with respect to all such persons (if and to the extent that such agreement provides that the Secretary will make the supplementary payments involved on behalf of the State (or political subdivision thereof)), or

(B) pay to the State (or political subdivision) which made the supplementary payments involved an amount equal to the total of such payments (if and to the extent that such agreements do not so provide).

(2) Paragraph (1) of this subsection shall apply with respect to the supplementary payments made during any fiscal year with respect to Indians (within the meaning of section 1101(a)(9)(1) of such Act) pursuant to any State's agreement or agreements only to the extent that—

(A) the total of such payments, when added to the total of the benefits payable for such fiscal year to those persons under title XVI of the Social Security Act, does not exceed

(B) the total expenditures made during the fiscal year ending June 30, 1973, for aid or assistance with respect to Indians (within the meaning of section 1101(a)(9) of such Act) under the plans of such State approved under titles I. X, XIV, XV, and XVI of such Act in such fiscal year (excluding expenditures authorized under section 1119 of such Act).

(b)(1) In the case of any State which has an approved plan, under part A of title IV of the Social Security Act, which provides for the furnishing of aid in accordance with a standard of need higher than that which would be required to furnish aid to families of various sizes in accordance with the dollar amounts referred to in clauses (1) through (4) of section 404(a) of such Act, there shall be paid to such State for each calendar quarter (commencing with the quarter ending March 31, 1973) an amount equal to 100 per centum of the difference between the cost incurred by such State in providing, to Indians (as defined in section 1101(a) of such Act), such aid for such quarter in accordance with such higher standard over the cost which would have been incurred in providing such aid for such quarter to such Indians in accordance with the standard which would be required to furnish aid to them in accordance with the dollar amounts referred to in clauses (1) through (4) of such section 404(a).

(2) Amounts payable to any State under this subsection shall be payable in like manner as were payments to which States were entitled under section 403 of the Social Security Act, as such section was in effect prior to January 1, 1973.

(3) There are hereby authorized to be appropriated such sums as may be necessary to make the payments authorized by this subsection.

ADDITIONAL FEDERAL PAYMENTS UNDER PUBLIC ASSISTANCE PROGRAMS ON ACCOUNT OF EXPENDITURES FOR AID OR ASSISTANCE TO INDIANS

SEC. 514. (a)(1) Section 9 of the Act of April 19, 1950 (64 Stat. 47; 25 U.S.C. 639), is amended to read as follows:

"SEC. 9. The Secretary of the Treasury shall pay to each State which has a plan approved under title I, X, XIV, XV, XVI, (or, after December 31, 1973, title VI) or XIX, of the Social Security Act, for each quarter, an amount equal to the excess of—

"(1) the total expenditures made during such quarter under such State plan as aid or assistance with respect to Indians (within the meaning of section 1101(a)(9) of such Act) (including amounts expended by reason of section 1119 of such Act, to the extent applicable, but not counting so much of any such expenditure as exceeds the limitations prescribed for purposes of determining the Federal share of such aid or assistance under the applicable provisions of such title or part), over

"(2) the amounts otherwise payable to such State under section 3, (or, effective for quarters beginning after the quarter ending December 31, 1973, section 603), 1003, 1403, 1505, 1603, or 1903 of such Act (including amounts determined under section 1119 of such act, to the extent applicable) as the Federal share of aid or assistance under such plan with respect to such Indians."

(2) The amendment made by subsection (a) shall be effective with respect to calendar quarters beginning after the date of the enactment of this Act.

(b) Section 1101(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(9) The term 'Indian' means any individual who (a) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (B) is considered by the Secretary of the Interior to be an Indian for any purpose or (C) is an Eskimo or Aleut or other Alaska Native, or (D) is determined to be an Indian under regulations promulgated by the Secretary after consultation with the Secretary of the Interior."

The PRESIDING OFFICER. The Senator from Alaska is recognized for 15 minutes, and the Senator from Louisiana is recognized for 15 minutes.

Mr. STEVENS. Mr. President, today I am offering an amendment for the distinguished Senator from Montana (Mr. METCALF), which is cosponsored by myself, the distinguished Senator from North Dakota (Mr. BURDICK), the distinguished Senators from Arizona (Mr. GOLDWATER and Mr. FANNIN), the distinguished Senator from Alaska (Mr. GRAVEL), the distinguished Senator from Montana (Mr. MANSFIELD), the distinguished Senator from Kansas (Mr. DOLE), the distinguishetd Senator from South Dakota (Mr. MCGOVERN), the distinguished Senator from Minnesota (Mr. MONDALE), the distinguished Senator from Utah (Mr. MOSS), the distinguished Senator from West Virginia (Mr. RANDOLPH), the distinguished Senator from New Jersey (Mr. WILLIAMS), and the distinguished Senator from New Mexico (Mr. MONTOYA).

Mr. President, the historical position of the Government of the United States is that it has a unique and undeniable responsibility to one segment of our society—the American Indians. We have taken much from these people, so much, in fact, that as a group the American Indians rank lowest on our economic scale—lower than the black and lower than the Spanish-speaking Americans.

Of the two Houses of Congress, the Senate, in particular, has most often accepted the Federal Government's duty to the Indians. In 1935 when the first Social Security Act was passed, there was a provision in the Senate bill that the Federal Government assume the full cost of providing pensions for Indians. On numerous occasions since 1935 the Senate has reaffirmed this position.

The Federal Government has seen fit in the past to resettle and relocate Indian tribes from reservation to reservation and from State to State. Having made that decision, the Government has then placed on the individual States most of the burden of providing these people the economic assistance they require to achieve a minimal standard of living.

The amendment I am proposing today to H.R. 1 would relieve the States and place the financial responsibility for assistance to the American Indians where it belongs—on the Federal Government.

At present two States, New Mexico and Arizona, receive substantial Federal support for welfare assistance programs for the Navajo and Hopi Tribes residing in those States. Public Law 474 was enacted during the 81st Congress primarily because the welfare agencies of these two States refused to accept responsibility for the Indian population residing within their borders. This amendment being offered today would extend to all States the relief now enjoyed by two.

This bill does not merely extend the provisions of Public Law 474, however. In fact, enactment of this measure would effect the repeal of that law. This bill, authored by Mr. METCALF, would provide 100-percent Federal reimbursement for the costs of all welfare assistance programs, including medicaid, to American Indians, Aleuts, and Eskimos. It may be asked if the States should not assume some of the financial responsibility for these people—I contend that they will even with the enactment of this bill, as much of the land on which the Indians live is held in trust and thus not subject to State or local taxation. Additionally, because of the low economic status of the majority of our Indians, income tax revenues from this group are at a minimum. Thus, the States will still be sharing the financial burden with the Federal Government, but the costs will be more equitably shared than it is at present.

In 1970 when Senator METCALF introduced a similar piece of legislation, he was questioned closely by the distinguished Senator from Connecticut (Mr. RIBICOFF) as to the cost of this program to the Federal Government. No exact figures were available then and today I cannot give you an exact figure either. The reason for this is that the States do not keep a separate accounting of assistance programs to Indians. Very little information is available on this from either the Department of the Interior or the Department of Health, Edu-

cation, and Welfare. However, the following figures will give some idea of the scope of the commitment which the Federal Government would assume.

In 1970 it was estimated that State and county welfare agencies assisted twice as many Indians as were assisted by the Bureau of Indian Affairs. The BIA caseload for 1968 was 53,770. In 1969, BIA expenditures for welfare payments to Indians totaled $9,179,000. Assuming that the States spend twice as much as the Bureau of Indian Affairs, we are talking of a commitment in the range of $30 million annually.

Because of the increased responsiveness of the Congress in recent years to the plight of Indians, I would foresee this figure declining in coming years in contrast with the rapidly spiraling costs of welfare payments taken as a whole. In my own State of Alaska, for example, the lot of the Natives will be greatly enhanced in coming years thanks to the passage of the Alaska Native Land Claims Settlement Act. Many other Indian groups are also beginning to develop business and industries which will allow them to become economically independent and to regain their pride and stature. In Alaska we do foresee a better day, but it is not here yet. And until that day comes for my State and for all other States, I urge the Federal Government to quit paying lip service to responsibility toward our aboriginal people and to put words into deeds by passage of Senator METCALF's amendment to H.R. 1.

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

Mr. STEVENS. I yield to the Senator from Montana.

Mr. MANSFIELD. Mr. President, does the Senator have the name of the distinguished Senator from Arizona (Mr. FANNIN) and my name listed as cosponsors?

Mr. STEVENS. The Senator is correct.

Mr. MANSFIELD. Mr. President, I thank the Senator.

Mr. LONG. Mr. President, with the endorsement of those prominent cosponsors, I have no doubt that the amendment will be agreed to. I think that has been somewhat evident.

Along with the Senator from Utah (Mr. BENNETT), I think we can agree with the amendment.

Mr. BENNETT. The Senator is correct.

Mr. MONDALE. Mr. President, I would like to indicate that I am a cosponsor of the amendment to H.R. 1 submitted by my colleague from Montana, Senator METCALF, who could not be here today. The amendment provides for Federal reimbursement for State expenditures on public assistance programs for Indians.

There is a precedent for this type of reimbursement. Under legislation passed in 1949, State welfare departments receive reimbursement for 80 percent of their share of the cost of old-age assistance, aid to dependent children, and aid to the blind in the Hopi and Navajo Indian tribes. In addition, the Senate agreed in 1970 to the 100-percent reimbursement, but the amendment was lost in conference.

Senator METCALF has proposed similar amendments to the Senate in the past and I have cosponsored them because I firmly believe that the problems of the Indians in this country are a national, rather than a State, responsibility.

To a large extent as a result of Federal policies, Indians have been forced to live in economically deprived jurisdictions which cannot meet welfare and other costs out of their local taxes. This is true in my own State of Minnesota, where 7,000 persons, or 40 percent of the Indian population is on public assistance. They are on public assistance because in many cases they are trapped in an environment completely lacking in economic opportunity.

Since our national policies have contributed so heavily to this economic segregation, I believe that the Federal Government has an obligation to eradicate the effects of the segregation. An estimated $6.5 million was spent on public assistance for Indians for Minnesota in 1970. About $3.5 million of that came from the State. Under my amendment the State would be reimbursed for that sum. In Beltrami County, in northern Minnesota—where Indians make up about one-quarter or one-fifth of the welfare case load—the savings from this measure would come to approximately $110,000. This figure includes $60,000 contributed from local funds to this year's welfare budget, as well as a $50,000 special contribution from the State approved by the legislature in recognition of this special financial burden placed on the county by the presence of the Red Lake Indian reservation.

I would like to note that this idea was endorsed by the National Governor's Conference this year. In that group's list of policy positions, it is stated:

> The federal government should administer the Social Security Act programs on the federal Indian reservations, or if the States are to discharge this function, the federal government should first grant adequate jurisdictional authority to the States thereby enabling them to properly discharge this function.

One final point that I would like to make is that this amendment is consistent with what has become one of the basic principles of welfare reform—that welfare is a national problem which, with a highly mobile population, transcends legal boundaries; and should be treated as such.

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

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

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Alaska (Mr. STEVENS) (putting the question).

The amendment was agreed to.

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

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

The motion was agreed to.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS, 1973

The Senate continued with the consideration of the bill (H.R. 16654) making appropriations for the Departments of Labor, Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1973, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Washington yield me 2 minutes?

Mr. MAGNUSON. Mr. President, I yield 2 minutes to the Senator from West Virginia.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination at the desk which was reported earlier today by the committee, in which the distinguished Senator from Kentucky (Mr. COOK) is interested.

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

U.S. CIRCUIT JUDGE

The legislative clerk read the nomination of Frederick Pierce Lively, of Kentucky, to be a U.S. circuit judge for the sixth circuit.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. COOK. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

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

LEGISLATIVE SESSION

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

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

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS, 1973

The Senate continued with the consideration of the bill (H.R. 16654) making appropriations for the Departments of Labor, Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1973, and for other purposes.

Mr. COTTON. Mr. President, will the Senator yield me one-half minute?

Mr. MAGNUSON. Mr. President, I yield to the Senator from New Hampshire.

Mr. COTTON. Mr. President, I ask unanimous consent that my legislative assistant, Warren Kane, be allowed to remain with me during the consideration of the bill, including the votes.

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

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the committee amendment in the nature of a substitute be agreed to and that the bill as thus amended be considered as original text for purpose of further amendments and that no points of order be considered as waived.

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

Mr. MAGNUSON. Mr. President, as usual, we are here late in the year with another HEW appropriations bill. It has been vetoed twice in the past 3 years. The Department of Education, which is part of the bill, was vetoed, too, but that veto was overridden by both the Senate and the House.

We now have to go back again to consider what we should do in view of the President's veto of the original bill. The original bill was somewhat over the budget. And as a matter of record, the House has taken up the bill after the veto and has now sent us a bill which substantially reduced the amount that was over the budget in the bill which the President vetoed.

We have before us today a compromise bill on appropriations for the health, education, and welfare of the American people. In all candor, I cannot tell the Senate that I am pleased with this bill. It is millions of dollars under what I consider the bare minimum for crucial health and education programs.

SENATE MUST COMPROMISE

It seems inconceivable to me that a nation as great as ours should be forced to compromise on such basic human needs as those covered in this bill. But we, in the Senate, are realists by nature, and compromise we must. As a matter of fact, all major legislation is a matter of intelligent compromise.

This is one of the great frustrations of politics. There are many days when I wish we could forgo the necessity of realism for the luxury of idealism. This is one of those days, because what is being done to this bill is somewhat a travesty. This kind of economy—in one of the most important appropriation bills to come before the Congress—is false economy and we will pay the price later. But political reality dictates a compromise today and so we must compromise.

THE EXECUTIVE MUST COMPROMISE

I sincerely hope that the same understanding of reality and the same spirit of compromise exists at the other end of Pennsylvania Avenue. However, we have no assurances that it does. In his veto message last month, the President called our original bill:

A perfect example of reckless Federal spending.

There was no spirit of compromise in that veto message. Just the contrary.

I know the usual practice is to repass such a bill with a slight reduction and assume that the second bill will have to be signed.

The President said:

Such action would obviously not satisfy the objections to this measure which I have set forth.

ATTITUDE OF WHITE HOUSE

Frankly, I have gone beyond the point of outrage over the administration's cavalier attitude toward health and education. This is, after all, the second time in 4 years that the President has vetoed an HEW appropriations bill. He has made his position perfectly clear. As I say, I have gone beyond outrage. I feel despair and dismay over the attitude at the White House.

We are accused of "reckless spending" when we attempt to adequately fund programs that save lives and save minds. Mr. President, I say that is reckless rhetoric.

ESSENTIAL MONEY FOR HEALTH AND EDUCATION PROGRAMS

It never ceases to amaze me how we are accused as big spenders when we add absolutely essential money for health and education programs. Yet all we hear from the other end of Pennsylvania Avenue are squeals of pain and anguish when we cut outsize defense appropriations bills or balk at aid to mismanaged big businesses. What strange set of priorities—what twisted logic guides this kind of thinking? The problem, of course, is that there is no logic in it at all.

EXCESSIVE AND INFLATIONARY DEFENSE EXPENDITURES

Is it logical when, on the one hand, the President claims spending for health, education, and welfare beyond his own request is excessive, reckless, and inflationary, but similar—and far greater—expenditures for defense or foreign assistance apparently are not inflationary or excessive?

Since the President so obviously dominates the headlines, hardly allowing congressional pleas to be heard, the American public conceives the President as a one-man task force trying to curb a wasteful, spendthrift Congress.

But the truth of the matter is that it is the Congress that has cut inflation by curbing Presidential budget requests by $12.7 billion from 1970 through 1973.

CONGRESS CUT DEFENSE BUDGET

In 4 years the President has asked for $297.1 billion for defense, but Congress wisely curbed this spending spree to $281.5 billion—a saving of $15.6 billion. Congress was wise in doing that.

THE COUNTRY'S TRUE PRIORITIES

For HEW, the President asked for appropriations of $95 billion over 4 years, but Congress, sensing the country's true priorities far better than the President, granted $99.4 billion—an increase of $4.4 billion over the aggregate 4 years' requests.

CONGRESS CUT FOREIGN AID

For foreign aid, the President asked for $16.1 billion, but Congress granted $13.2 billion—a saving of $2.9 billion.

CONGRESS CUT APPROPRIATIONS BY $12.7 BILLION

So, with a combined savings of $18.5 billion from defense and foreign aid, Congress rightly sensed urgency in HEW and used $4.4 billion of this total savings for human resource needs. When all other departments of Government were considered over the 1970–73 period, another $1.4 billion was utilized for such areas as Agriculture and Interior, thus leaving an overall savings of $12.7 billion in the 4-year period.

I do not want to discuss at length what the priorities of America should be, but I have my opinion. The vetoed bill was the deliberate result of many, many days of hearings, listening to all kinds of people, experts, in the health, welfare, and education fields, and administration officials and Members of Congress. The Senate proposed some amendments and raised some amounts. I do not think the bill was excessive when it has only risen in 4 years by $4.4 billion due to congressional increases derived from savings made in the defense budget.

The administration talks a great deal about their devotion to the health and education needs of the country but when the budget comes up, after all the speeches are made, and, of course, there is intensive publicity given to those speeches, it is not what was said in the speech. There is no connection. As I said on the floor the other day, in this field they should get a stereo set where they have two speakers, one on each side, so they can talk both ways. But that is their privilege.

AMERICA'S PRIORITIES

I wonder what a historian will conclude when, at some future date, he looks back at the priorities of the American Government in 1972. He will see that we traded a 40-bed hospital for two Huey helicopters. He will see that we downplayed psychiatric research that would aid emotionally troubled Vietnam veterans, but wrote a blank check in the billions for the bombs to save our "honor" in North Vietnam. He will see that we in the Congress were asked by the Nixon dministration to spend $1.7 billion for foreign military aid. But he also will see that we were vetoed when we asked the administration to spend exactly that same amount in extra aid for health, education, and welfare.

ADMINISTRATION'S ACTIONS SPEAK LOUDER THAN WORDS

Early in this administration we were advised by one of Mr. Nixon's aides to watch what the administration does, not what it says. That probably was the best advice we have received out of the White House in the past 4 years. We certainly are seeing that President Nixon's actions speak louder than his words on this bill.

THE PRESIDENT'S BUDGET FOR HEALTH AND EDUCATION IS LESS THAN LAST YEAR

The President said as he vetoed this bill: This administration is second to none in its concern for America's health, education and manpower program needs.

That, of course, is pure balderdash. In item after item in this bill the President's budget requested less money than was recommended by his own advisory committees—and less money than was sought by his own people in the Department of Health, Education, and Welfare.

Second to none? The request for the National Institutes of Health was almost $26 million lower than the previous year's level. The request for health manpower was down $140 million from the 1972 fiscal year.

The President's budget figures represent a reduction in real purchasing power for research into such serious diseases as arthritis, diabetes, stroke, epilepsy, multiple sclerosis, parkinonism, cerebral palsy, and cystic fibrosis.

In office of education programs the President's budget recommended a cut of more than $186 million.

CANCER RESEARCH

We have heard a lot from the Nixon administration about his so-called conquest of cancer. Yet the budget sought

only two-thirds of the amount recommended by Mr. Nixon's own cancer advisory board for cancer clinical centers.

RESULTS OF THE VETO

The list goes on and on. The President says his administration is second to none in health, and education. Yet, by virtue of his veto, Mr. Nixon was asking for these perplexing results:

1. Approximately 150,000 fewer school-aged, handicapped children would be served and 1,500 fewer teachers of the handicapped would be trained.

2. Construction of 4,000 hospital beds in 8 public-health centers and 46 new general hospital projects would not be funded because the President's budget requested zero for hospital construction grants.

3. Construction of 2,400 beds in an estimated 39 nursing homes and chronic disease projects would not be funded because the President's budget requested zero for long-term construction grants.

We attempted to do something about that and that was vetoed. I could go on and on. I note in the Chair the distinguished Senator from Massachusetts (Mr. KENNEDY) who worked so hard through his Committee on Health to arrive at what we think is a decent sense of priorities in the health field.

4. Modernization of 4,000 hospital beds in an estimated 55 projects would not be funded because the President's budget requested zero for hospital modernization projects.

5. Construction of the experimental children's hospital in Washington, D.C. would be crippled by the loss of a special $12 million experimental hospital grant because the President's budget failed to seek funds for this important experimental facility which, when successfully proven, would provide a model than can be replicated throughout the Nation.

6. Grants which would produce an estimated 560 additional first year spaces in medical and related schools would not be funded because the President's budget requested zero for medical school construction grants even though there is a shortage of 50,000 doctors right now.

7. Grants which would produce an estimated 1,650 additional student first year places in nursing schools would not be funded because the President's budget requested zero for nursing school construction grants even though the shortage of nurses is many times greater than the shortage of doctors.

8. 600 fewer physicians would be trained in the new specialty of family medicine.

9. 10,500 nursing students could be turned away when they seek scholarship aid to continue their education.

10. Initiation of a "life plan" in the area of kidney disease that could result in saving the lives of 10,000 to 20,000 Americans each year who now die because of the lack of life-saving kidney machines and other therapy would not become a reality.

11. Hospitalization costs for migrant farm workers and their families would not be funded.

12. Approximately 30,000 fewer crippled children would be served.

13. 25 new specialized care units for premature babies would *not* be established even though this new development provides a most promising way of reducing infant mortality.

14. Approximately 250 fewer doctors and nurses would be sent to medically underserved areas where existing health manpower is either inadequate or nonexistent.

15. Several hundreds of thousands of men, women, and children would *not* receive medical and mental health attention.

16. Research funds on sickle cell disease ($5,000,000) and sudden infant death or "crib death" ($5,400,000) at the National Institutes of Health would not be made available.

17. Cancer research would be reduced by $60,000,000 below the vetoed bill.

SENATE COMPROMISE BILL

Now, as I said earlier, we have before us a compromise bill that restores about half of the money that the veto sought to eliminate. As we will get into later, this bill is somewhat different from a compromise bill approved earlier by the House. I believe that the Senate approach represents an improvement which we should approve here on the floor. But, even with these changes, and even with half of the vetoed money restored, I will not find myself very satisfied when our work is done here today, but circumstances require that we do something now and move ahead. Because of the President's veto, we will not have enough money for health, education, and welfare this year—regardless of what we do in these Chambers.

WILL REASON PREVAIL?

Nor, as I said earlier, can I offer any assurances that the White House will accept this compromise. There was no spirit of compromise in the President's veto message. I can only hope that, even in this election year, reason will prevail. There was not a frivolous nickel in the appropriations bill which we passed earlier. There surely is not a frivolous nickel in this one.

ADMINISTRATION'S BUDGET OUT OF BALANCE

We all know that Mr. Nixon's budget is badly out of balance. But we must ask why it is out of balance. Is it out of balance because we in the Congress added money to the President's woefully inadequate requests for training doctors and aid to emotionally disturbed children? Or is it out of balance because of the unnessary recession of the past 4 years, a recession that has put more than 2 million tax-paying Americans out of work and on the relief rolls? Is it out of balance because we added money to train nurses and teachers? Or it is out of balance because of ill-considered aid to big business, yawning tax loopholes and bombs to kill little people in black pajamas in Southeast Asia?

BASIC HUMAN NEEDS

There is perhaps no appropriations bill that deals with basic human needs more directly than this one. I think it is disgraceful that we must compromise on this bill. But we must. Then the shoe will be on the other foot. And we will see how it fits on an administration that proclaims that it is "second to none" in providing for the health and education of Americans.

We have before us in the Senate the vetoed bill that we passed, that went to conference, that was compromised a great deal, that was brought back, and that was agreed upon by both Houses of Congress.

THE NEW SENATE BILL

In developing a new measure to replace the vetoed bill, the committee started with the vetoed bill, and, as suggested in the veto message, the committee added a new general provision which would authorize the President to:

First. Reduce the amount available for obligation down to the total figure in the House bill, which was approximately, in round figures, $935 million.

Second. Apply the reduction so that no program is reduced by more than 10 percent below the amount in the vetoed bill.

That would be approximately $935 million. It would amount to a little over 3 percent in the total bill. Some items in the bill, vetoed or otherwise, are noncontrollable. That would mean the President could not take one program and say, "I am going to cut it out completely and substitute another." He will have the right, if the bill is passed and it is accepted by the House, to reduce any one program by up to 10 percent. That end result would put us right in line with the House figure.

Mr. DOMINICK. Mr. President, will the Senator yield for a question on that point?

Mr. MAGNUSON. Let me finish.

Mr. DOMINICK. I wanted to ask a question on that point.

Mr. MAGNUSON. I will yield later, as soon as I am through. We have plenty of time.

The committee evaluated several alternatives, but is recommending this approach for several reasons.

First, it will provide a bill that would contain a total figure which would possibly meet with the President's approval and that he would sign.

Second, the new bill would also recognize the priorities, limitations, and agreements of both House and Senate as agreed to in conference in the first Labor-Health, Education, and Welfare bill.

Third, the committee felt that the President ought to have the opportunity, if he so chooses, to spend the full amount of the vetoed bill. The legislative conferees have already closed the open end on social services for a saving of $2.5 billion.

This was a great part of the veto message, and with that part of the message I thoroughly agree with the President of the United States. The Senator from New Hampshire (Mr. COTTON) and I tried this for 3 years. We never got anywhere with it. The President's complaint on the social services part of the veto message was well taken, that program has gotten entirely out of hand.

Congressional actions will also result in reducing military spending levels several billions below that contemplated in the President's budget. These economy measures have occurred in the last month and have markedly changed the overall budget picture since the President formulated his position on the veto. The approach recommended by the committee is intended to afford the President the opportunity to reevaluate his spending plans and to encourage him to spend the full amount in the vetoed bill, but he may reduce it to the House figure.

I already mentioned a few of the individual programs in health and education that would be funded by the additional amounts provided in this bill. I will not take time to review them all.

When the Senate considered the first Labor-HEW bill on June 27, we discussed those programs at some length and they were all covered in our report 92–894 issued on June 21. On August 10, when the Senate approved the conference report on H.R. 15417, I again reviewed the major programs involved under the increased allowances provided for fiscal 1973.

Although the House and Senate reports on this bill, H.R. 16654, do not go into specific detail, the table in our report sets forth all of these programs and the amounts involved. The departments and agencies provided for in this bill are expected to be guided by the instructions, directions, and suggestions contained in the first House and Senate reports and the joint explanatory statement of the Committee on Conference on H.R. 15417.

I am not clear on all the reasons why the House cut our initial increase in half. I guess it is logical to assume that the House felt the budget was too stringent and cut out too much, and perhaps if we compromised by cutting the increases in half, either that the President would sign this bill or that there would be enough votes in the House to override the veto if the President vetoed it. I do not know. That will be brought out perhaps in conference.

I think this is a compromise that takes care of many of the needed programs. None of them can be shunted aside or put under the rug. Some of them could be frozen, but I doubt that they will be. We have arrived at what I think is a well-rounded bill that establishes the right kind of priorities in keeping with the needs of this Nation.

Now I am glad to yield.

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

Mr. MAGNUSON. I yield first to the majority leader.

FIVE-YEAR FUNDING FOR GLASGOW

Mr. MANSFIELD. The distinguished chairman of the subcommittee will recall that 2 years ago the Congress included $4 million in the education appropriations bill for fiscal year 1971 for the purpose of establishing an experimental residential training facility at Glasgow Air Base in Montana. The Defense Department, the Senator will recall, no longer needed the base for defense purposes and moved out, leaving a substantial asset worth $150 million. There was a great opportunity to put this facility to use serving the rural residents of the six Mountain-Plains States of Idaho, Montana, Nebraska, North Dakota, South Dakota, and Wyoming.

I am pleased to be able to report that this model facility is just entering its second year of funding. The first year has been devoted primarily to demothballing, setting up the corporation which manages the program, hiring personnel, and recruiting the families which will benefit from the training provided at the school. The program has been designed by the U.S. Commissioner of Education, Dr. Sidney Marland, as a model project for the Nation in residential occupational family development. The Mountain-Plains Education and Economic Development Program is being designed to develop, install, operate, and evaluate the effectiveness of residential career education. There are currently 107 participant families on site and it is expected that the program will be up to its full operating capacity of 200 families by the end of the calendar year. Each family is expected to complete its training in about a year and make way for a new family.

It is clear that an operation of this scope takes time to get established and produce results for the families being served and for the Nation for which it serves as a model. I understand that Office of Education officials are encouraged by the process to date. In view of this great investment in human and material resources, those close to the project believe that a 5-year funding commitment is essential. I would like to take this opportunity to inquire of the distinguished chairman if this was not the intent of the Appropriations Committee when it made funds available for this purpose?

Mr. MAGNUSON. I am glad to be able to assure the distinguished Senator on this point. It was our intention in approving the funds requested in the budget for this career education model that there be a commitment to this experiment for 5 years. It would be penny-wise and pound foolish to make an investment of this magnitude without allowing sufficient time to demonstrate its effectiveness and, hopefully, attract other sources of funds at the end of this period.

I would just like to mention, though, that funds for the third year of this project are not contained in the bill we are now debating. Under the new reorganization downtown resulting from enactment of the Education Amendments of 1972, this program, I understand, is being shifted organizationally from the Office of Education to the new research-oriented National Institute of Education. The funds for that new Agency are contained in the supplemental request we are waiting for the administration to submit on the education amendments. I can assure the distinguished Senator, though, that the committee's commitment to a 5-year project is there regardless of who operates the program.

The Senator from New Hampshire is familiar with this also.

Mr. COTTON. Yes. Mr. President, if the distinguished Senator from Montana will yield——

Mr. MANSFIELD. I shall be delighted.

Mr. COTTON. I would just like to confirm the views expressed by my chairman, the distinguished Senator from Washington (Mr. MAGNUSON). In approving funds for the Glasgow project—and incidentally, I was deeply interested in that project, as the Senator from Montana will remember.

Mr. MANSFIELD. I certainly do, and I appreciate the Senator's interest.

Mr. COTTON. In the last two appropriation bills, it was our understanding that what was involved was the initial funding of a 5-year demonstration project, and as far as I am concerned, I intend to adhere to that plan and will persist in efforts to see that it is implemented.

Mr. MANSFIELD. I thank the Senator from Washington and the Senator from New Hampshire for their comments on this matter. Although I am very pleased with the progress of this training program, a more immediate and critical concern to me is the lack of adequate health care services in the area of Glasgow Air Force Base. Only one hospital, the Francis Mahon Deaconess Hospital, with only 64 beds, exists in the town of Glasgow which has a population of 5,000. The population for the Glasgow Air Force Base is nearing another 5,000 already. Because of the distance from the hospital—about 20 miles—and the small number of hospital beds at Deaconess, it is clear that the hospital will not be able to adequately serve both the town of Glasgow and the airbase population. Even now, I am told, the training program has had to halt the arrival of trainees for the program, because of the lack of adequate health care capabilities.

It is my understanding that the HEW Department is now looking into the possibility of providing ambulatory care services to Glasgow Air Base at a cost of $300,000 yearly. They would provide these services by partially utilizing a vacated but well equipped 50-bed hospital facility on the base itself. However, word has reached me that some people at the Department are having difficulty identifying funding sources for the $300,000. I should hope, because of the critical nature of this situation, that the Department would give this "search for a funding source" a high priority status.

Could the distinguished manager of the bill comment on this matter?

Mr. MAGNUSON. Mr. President, I must confess that I was talking with the Senator from New Jersey, but I anticipated the Senator's question and am prepared to reply.

It seems to me that there is absolutely no reason to bring in all of these families, promise them that we will teach them a skill and better their opportunities for advancement in society—and then while we are doing all these great things, their children get sick and we cannot provide them with adequate health care. It just does not seem consistent to me.

I would hazard the guess, however, that if the Secretary or his appropriate agency head would decide to find that funding source within all of these funds we appropriate to the Department, that it would not be very long before the health care situation at Glasgow improves. As a matter of fact, I would like to see that entire 50-bed fully modern hospital developed into a health care center for the base population as well as any other use to assist the health programs in that rural region. The Senator from New Hampshire and I know about this matter, and will be as helpful as we can with the Department, to see that they do this. It is vitally necessary.

Mr. MANSFIELD. In other words, the distinguished manager of the bill hopes that the Secretary or some responsible official down in the Department will read this discussion tomorrow, as they read it last year and the year before?

Mr. MAGNUSON. I am sure they have

someone in the gallery right now who will do it.

Mr. COTTON. Mr. President, will the distinguished Senator yield again for a moment?

Mr. MANSFIELD. I would be delighted.

Mr. COTTON. I would like to add my support to the views expressed by the able Senator from Montana and the distinguished chairman of the subcommittee. When the conferees on the 1971 education appropriation bill agreed that this project should be funded, we expected that the Department which administers this program would make adequate preparation for the success of the training project. It disturbs me that the bureaucrats downtown would let a $300,000 item block the progress of a $4 million a year program. It is my position that somebody down there had better do something to solve the problem soon to include a plan for utilizing the entire hospital and its equipment which has been sitting idle for the last 5 years.

I would like to add that, if the distinguished majority leader recalls, someone else brought my own attention to the possibilities of making use of this very expensively built and abandoned Air Force base for this very necessary purpose. It appealed to me greatly, as it did to the chairman of the committee, and we supported it.

In view of the fact that it falls my lot sometimes, as ranking minority member of this committee, to try my very best, with proper friendly techniques toward the majority members who have the votes, to try to represent the viewpoint of the Department of Health, Education, and Welfare and of the White House, I just have the feeling that they would be helpful. I would expect that they would be helpful to all of us, and I would expect they would especially be helpful to me on this project, because I happen to be almost as interested in it as if it were in my own State, because it is such a worthy project and it has the advantage of utilizing this plant which had been given up; and it seems just a godsend and an opportunity for those children that it benefits. I shall certainly use all the influence I can to see that that is done.

Mr. MANSFIELD. Mr. President, neither the distinguished Senator from Washington, the manager of the bill, nor the distinguished Senator from New Hampshire, who has just spoken, will ever know the extent of my gratitude for once again giving me the encouragement necessary to look after the needs of the people in an isolated area, and to help rectify a situation brought about primarily because of the shutdown of a base which was the most modern in the United States, and which cost the U.S. Government in excess of $150 million. I thank both Senators, and express my apologies to the distinguished Senator from Florida for interrupting him.

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

Mr. MAGNUSON. I yield.

Mr. CRANSTON. I ask unanimous consent that Louise Ringwalt of my staff be accorded the privilege of the floor during the consideration of this measure.

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

Mr. KENNEDY. I ask unanimous consent that Stan Jones of my staff be accorded the same privilege.

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

Mr. CASE. Mr. President, I make the same request for Steve Bryen of my staff and two staff members of the Committee on Labor and Public Welfare.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. MAGNUSON. Mr. President, I yield to the Senator from Florida on my time.

Mr. CHILES. Mr. President, recently I received a communication from Dr. Eugene L. Nagel of the Jackson Memorial Hospital in Miami and the University of Miami, who is also a member of the national committee on early coronary care. Since time is a key factor in heart attacks, Dr. Nagel and his associates have pioneered the system of rushing emergency care to the victim at the point of his or her collapse, and treating on the spot in the first critical minutes. This system has saved the lives of many persons who might otherwise have been dead on arrival at a hospital. The rescue vehicles and their equipment of defibrillators, emergency equipment, and special drugs, the radio communications, and the telemetry system for reading electrocardiograms at a distant hospital, and the paramedical attendants, especially trained by Dr. Nagel and his fellow specialists, are all run by the fire department. The same sort of municipal emergency medical systems have been set up elsewhere in my State of Florida, in Jacksonville—funded by HEW—in Tampa, Coral Gables, Hialeah, and Miami Beach.

These systems are based on municipal vehicles, and not on private ambulance companies, so I was astonished to read in Senate Report 92-894 on the HEW appropriations, at the top of page 28—and I understand that the same language is incorporated by reference in the report on the new HEW appropriation bill—that: "These funds shall not be utilized to duplicate, or compete with any existing private enterprise for emergency medical ambulance services."

May I ask, Mr. President, if the distinguished Senator in charge of the bill can reassure us that this sentence is not to be taken literally, and that, rather, the committee intends to expand and upgrade, with the help of Federal funds, these municipal emergency medical services so that the enormous potential of these systems for saving human lives may be continued and expanded?

Mr. MAGNUSON. I share the concern of the Senator from Florida in this field. This has been one field in which we have had the difficult problem of getting money for all these emergency services, whether it be the fire department or a nonprofit organization or a municipality. They save thousands of lives. It is not our intention to shut off or taper off any of these funds.

The sentence at the top of page 28 of our report should not be taken literally. I wish I had reworded it so that there would not be any confusion. It should be read in conjunction with the sentence at the bottom of page 27. We merely intended that no one should be put out of business or that their business should be damaged seriously, that the best overall use should be made of these medical assistance systems, whether they be private, nonprofit, or public, which meet the highest standards and needs, of the community and of the Federal Government for emergency services.

In fact, we intend that there should be an expansion and an upgrading, assisted by Federal funds, of emergency care systems, such as we have in Seattle, with the fire department and Medic One, as the Senator has in Florida. That is what we intend to do. I think the Department agrees with this. Secretary Richardson made a point about these ambulance services and what they do. They are very important in the regional medical programs.

Mr. CHILES. I thank the distinguished Senator.

Mr. CRANSTON. Mr. President, I would like to congratulate the chairman of the Appropriations Committee (Mr. McCLELLAN) and the chairman of the Subcommittee on Labor-HEW appropriations (Mr. MAGNUSON) for the forthright stand they have taken in reporting out the Labor-HEW appropriations bill for fiscal year 1973. Their action in maintaining the level of support at the same level that both Houses reached in conference last summer but allowing the administration some leeway in reducing specific programs ensures that adequate funds can be made available where the need is most critical and that no program can be cut so severely it will be hindered in its operation.

The leadership offered by the Appropriations Committee members in this issue is outstanding. It is an imaginative solution to a very complex problem. I urge all Members of the Senate to support the bill as reported so that the Senate conferees will meet with the House in the full knowledge they have the backing of this body.

I have discussed with the distinguished Senator from Washington (Mr. MAGNUSON) a matter which has been brought to my attention by a number of individuals who are leaders in the development of comprehensive emergency medical service systems in their communities. This relates to the appropriation for regional medical programs for the support of emergency medical services systems. Needless to say I am delighted with the commitment which is being made to the development of these programs. I feel they are of critical importance and I have introduced legislation which passed the Senate recently to authorize a program of grant support to communities and to States for the development of comprehensive emergency medical services systems.

In the legislation I authored, and in the programs supported by the funds appropriated for regional medical programs in fiscal years 1972 and 1973, a basic principle has been to build these systems upon existing components, to coordinate to the utmost existing components where they meet quality standards, and, where it is feasible, to expand and improve

existing components to meet recommended standards of quality health care and performance.

I believe that the Senator from Washington expressed this intent very clearly in the hearing record of the Subcommittee on Labor-HEW appropriations.

However, when H.R. 15417 was reported from committee, the committee report was not quite clear on this point, and is susceptible to a very restrictive interpretation. I refer specifically to pages 27 and 28 of S. Rep. 92–894. One interpretation which could be made of this report language is that it directs the utilization of private ambulance companies, in preference to vehicles, communication systems, and paramedical personnel involved in ambulance services operated by fire departments, or other public safety agencies, community health departments, or nonprofit organizations.

I discussed with the distinguished Senator from Washington (Mr. MAGNUSON) whether the intent of the committee, was rather to direct that emergency medical systems supported by these funds should be linked to and make the best use of, wherever practicable, existing emergency medical service components, whether private, nonprivate, or public, which meet acceptable standards of quality. I am delighted that the Senator from Florida (Mr. CHILES) in a colloquy with the Senator from Washington clarified that is the intent.

With this intent clearly expressed, I believe communities which develop coordinated systems will be able to provide the quality of care their residents want without disrupting existing services where such services—public, private, or voluntary—provide quality services to the community.

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

Mr. MAGNUSON. I yield.

Mr. KENNEDY. I have listened to the colloquy, and there is emergency medical services legislation now before the Senate which has been passed by the House. The Senate Health Subcommittee is studying it. I can assure the Senator from Florida and the Senator from Washington that we will definitely have some major legislation in the next few months. It is a matter of great importance to the Senate Health Subcommittee, as I know it is to the chairman of the Appropriations Committee.

Mr. President, let me say on the Labor/HEW appropriations bill, if the President had not vetoed the bill sent to him by Congress, we would not be dealing with this matter again today. Moreover, if he had not pointedly implied that he would veto the bill again were it not drastically cut, we would have a much easier job on our hands. Unfortunately, the President did veto the Labor-HEW appropriations bill, a bill which I considered one of the finest ever sent to the President by the Congress. In the area of health, this vetoed bill made long-needed research investments in developing health care resources in this country. The bill appropriated funds to train more doctors, nurses, dentists, and other health manpower. It appropriated funds to build necessary hospital beds. It also appropriated adequate funds for medical research, especially stepped-up efforts in the area of cancer and heart disease. It also increased funding for special priority programs to Americans who are most deprived of adequate health services. To this latter end, it appropriated more money for neighborhood health centers, for mental health centers, for maternal and infant care projects, and for a variety of other such efforts.

In all of these areas, it is true, the Congress' bill far surpassed the funding levels of the President's budget. But that was necessary, and intentional. It was necessary because the President's budget in the area of health, for example, essentially held the line on existing funding levels.

In fact, most of the institutes of the National Institutes of Health were not even given a cost-of-living increase under the President's budget. That budget would not offer additional health services to one additional expectant mother or newborn infant under maternal and infant care projects. It would not open a single new neighborhood health center. In addition, it made available only a portion of the funds needed by our medical, dental, and nursing schools to produce the health manpower our country so badly needs.

The Congress had to take issue with this budget; and I do not think we should be frightened by charges of "fiscal irresponsibility" into feeling apologetic for our earlier action. I firmly believe that the real fiscal irresponsibility is in the White House. It is fiscal irresponsibility to refuse to make investments that we know ultimately will help extinguish the fires of inflation in the cost of health care services.

The President speaks in his health messages about a balanced attack on health care problems in America, involving improvements in the financing system as well as in the Nation's capacity to supply health services. But when it comes down to the crunch, when it comes to facing the hard decisions of the budget, the President backs off from this commitment. He refuses to invest the funds required to create the personnel and other resources we need.

Perhaps the problem in the White House is more "loss of nerve" than fiscal irresponsibility. The effect, however, is the same—we would not get the doctors, dentists, and nurses we need if the President had his budget; we would not do the medical research we need to do; we would not supply the health services that the poor of our Nation need; and above all, we would do nothing to stop health care costs from taking bigger and bigger portions of every American's pocketbook.

The President's veto leaves the Congress in a very difficult position. It is growing late in fiscal year 1973, and an appropriation must be passed if we are not to bog down the support in DHEW programs by sheer delay. It is important to assure that programs which the Congress considers of highest priority be given the funds they need.

The House action is of little help to the Senate. They have responded quickly to the President's veto, and they have preserved the House priorities in their response, but they have done it by retreating to the original bill reported by the House Appropriations Committee. The House has totally ignored the actions taken by the Senate Appropriations Committee, the actions taken by the full Senate, and all of the agreements reached between the Senate and House in conference. Frankly, this response by the House is worse than unresponsive, it is an affront to the Senate Appropriations Committee and to the full Senate.

The Senate Appropriations Committee has responded to the President's veto in what I consider a statesmanlike manner. The bill before us attempts to cut the level of appropriations to one that the President must accept. It proposes an increase of over $800 million as compared to the $1,000,800,000 in the earlier vetoed bill. And it also incorporates deliberations of both House and Senate and the agreements of the House-Senate conferees.

As I understand the Senate proposal, it accomplishes both of these goals by allowing the President flexibility to reduce by 10 percent any item in the earlier vetoed bill in order to reduce the budget overall to the level of the original House-passed bill. Given the President's veto, and his stated intent to veto the bill again if it is not considerably reduced, and given the constraints on time, I consider the Senate bill to be acceptable, and I urge support of it.

The Congress, by passing this approach, however, takes upon itself an added burden for oversight of the executive branch's actions. The fact is, that by exercising this 10-percent cut option, the administration could reduce the budgets of seven of the 10 National Institutes of Health below a cost-of-living increase. It could also decrease mental health research beneath the fiscal year 1972 level. Other programs could likewise be damaged by this flexibility.

If circumstances permit it, I should certainly have preferred to see the Senate do the "fine tuning" that this budget so badly needs, in such areas as Federal programs for mental retardation, for example.

However, with the assurance that the Appropriations Committee will undertake this surveillance, and that we will have opportunity later in the year to redress any "fiscal irresponsibility" on the part of the administration in supplemental appropriations, I urge the Senate to support this bill.

I ask this of the chairman of the committee. Will he give careful oversight as these cuts take place? Can he give us some assurance that if some of these funds are moved back below the 1972 level, he will make appropriate recommendations in the supplemental appropriation bills?

I think it would be reassuring to the Members of the Senate who are distressed by the cuts made possible by this bill, but who have great confidence in the chairman, the Senator from Washington, and in Senator COTTON. I think they have exhibited their deep concern that appropriate resources be available in the areas of health and education.

Mr. MAGNUSON. I say to the Senator from Massachusetts—he knows this, be-

cause he knows this bill almost as well as we do because of his position in the health field—that, No. 1, there are very few items of major importance in this bill in which we did not go a little over the budget, and the cut might bring it down to the budget.

I have had some surprises in this field, but I do not think the President will cut his own budget in this field. I am hopeful that he will not. I am equally hopeful we can get that kind of accommodation if we can get this bill passed that way.

I do not think the 10 percent would be applied to all items. He would not need to take it on all items. It might be more with respect to amounts we raised considerably over the budget in the health field, that would be up to the President. I would hope that the President would not withhold any of the funds in this bill.

We have some problems here because of what the House did. Talk about adding to some of these needs that we thought were vital—the House took all those they had originally and cut out all of ours, and wanted us to have a conference just on ours. That would be some conference, would it not?

Mr. KENNEDY. I commend the Senator for pursuing the position that was accepted in the conference. I think the House bill is completely irresponsible, and, indeed, an affront to the Senate Appropriations Committee.

I do not want to delay the Senate. I am sure the Senator will review in careful detail the areas which are being cut, and I am sure he will take whatever action he feels necessary to restore those cuts in a supplemental, in order to protect programs which I think are of desperate importance.

Mr. MAGNUSON. We have another problem, also. There are some uncontrollable items in this bill. The House did not cut anything in impacted aid, and there we had substantially raised that amount, dollarwise. Under our proposal, the President could cut impacted aid 10 percent but he could not cut it all out together nor cut it back to his budget request, and he could not change the formula at all. This is the way we hope we can figure it out and work it out in a sensible way.

Several Senators addressed the Chair.

Mr. MAGNUSON. I told the Senator from Minnesota (Mr. HUMPHREY) that I would yield to him for a question.

Mr. HUMPHREY. I want to thank the Senator from Washington for yielding to me.

The reason I ask the Senator from Washington to yield to me is to discuss with him for a very few minutes a critical situation prevailing in Minnesota, relating to the University of Minnesota Medical School and the new medical school at Rochester, Minn., known as the Mayo Medical School. My colleague (Mr. MONDALE) and I have been contacted by our fellow citizens in Minnesota at the university and at Rochester relating to these two projects. I shall be brief about them.

The U.S. Public Health Service, the NIH, and the Department of Health, Education, and Welfare came to the University of Minnesota and asked it to expand its teaching program for doctors and assured the University of Minnesota that if they would add the additional physicians and the additional students for medical education, that funds would be forthcoming to provide the facilities and the space there.

The State Legislature of Minnesota has made its appropriate allocations on the amount of money required for each student. This expanded program of medical training requires the construction of a $20 million building for which the State is putting up $8 million and on which there was a request for slightly over $12 million under the medical school construction grant program, with respect to the University of Minnesota Medical School. The Mayo Medical School, which has just been authorized by our legislature, made a request for $4,600,000. This application was for an HEW facilities grant in support of the new medical school under the Health Manpower Training Act of 1971.

I should note for the record that the House committee report on the Comprehensive Health and Manpower Training Act of 1971 had this observation to make:

> The Committee is aware of proposals by several outstanding institutions—including the Mayo Clinic in Rochester, Minnesota—to establish new schools of medicine, osteopathy or dentistry. The bill (section 106) provides new authority for "start-up" grants to assist certain new schools in meeting their initial costs of operation.

The report goes on to say:

> The bill includes two companion provisions for new schools which, because of the use that will be made of existing facilities (including Federal medical or dental facilities) will be able to accelerate the date on which they can begin their teaching program. The bill provides that priority shall be given to applications for grants for *construction of teaching facilities* for such schools, and special consideration shall also be given to applications from such schools for *start-up grants*.

I have read those portions of the report because the Mayo Medical School, through the State of Minnesota, its legislature, and through the Mayo Clinic, has provided most of the facilities needed for this medical school. It seeks, under the terms of the Health Manpower Training Act, $4,600,000.

This request was turned down.

I am certain that my distinguished senior colleague (Mr. MONDALE), the Presiding Officer in the chair at this moment, would agree with me that we have made every solicitation we can on behalf of these two meritorious programs.

In the pending bill, there is money for medical school construction. As I recall it, the President, in his budget for fiscal 1973, did not ask for any such money but Congress did put it in. When the President vetoed the first Labor-HEW appropriations bill, the respective committees of the Senate and the House put the money back in the subsequent appropriations measure.

There is a variance between the House and Senate figures but, hopefully, the Senate figure will prevail.

I want the record to indicate, first, that the University of Minnesota was promised these lands by the Department of Health, Education, and Welfare and, therefore, the university appealed to the Minnesota State Legislature for the funds that the State had to put up. The State has responded. The students are enrolled. The medical school is an established and venerable institution.

The Government of the United States has broken faith with the University of Minnesota Medical School. It has broken its word. It has not permitted the grant to be made, despite the fact that the appropriate office of the Department of Health, Education, and Welfare has said this is one of the best applications filed. The same thing prevailed in the instance of the Mayo Medical School application for partial funding for construction and new facilities. I have a report of a conversation between Dr. Robert Knouss, Acting Chief, Physician Education Branch, Division of Physician and Health Professions Education, National Institutes of Health, and David Barnes. This is a report and conversation signed by Dr. Raymond D. Pruitt, dean of the Mayo Medical School, which reads in part:

> Mr. David Barnes and I participated in this conversation with Doctor Knouss, who provided us initially with this information: The Mayo application for a construction grant was an altogether acceptable application. The reviewing bodies, including the Health Manpower Council, found in it many good points; they felt that the success of the educational program, meaning the medical school, was assured. The proposal, which would "place all teaching functions under a single roof," would be a highly desirable development.

Mr. President, I shall ask to have printed in the RECORD this statement and the reports I have here relating to these two applications, and also a copy of a letter that I had written to the distinguished chairman, the Senator from Washington (Mr. MAGNUSON) and, if the chairman has no objection, his response as well.

My appeals to the Department of Health, Education, and Welfare have been essentially oral, over the telephone, and in personal visitations; but it would be the purpose of this statement on my part and on behalf of my colleague (Mr. MONDALE) to have the Department of Health, Education, and Welfare know that these are meritorious applications and they have been considered by the appropriate authority in government. They are applications which were originally initiated at the request of the Department of Health, Education, and Welfare. I want those responsible for making these grants to take note of this colloquy in the Senate and forthwith to provide the funds that they promised they would provide.

It was one thing when there were no funds, resulting from the full commitment of fiscal 1972 funds. However, under the pending legislation, fiscal 1973 funds will become available. I hope there will be as much interest in making these funds available for these important medical educational facilities as there must be if our national commitment to meeting the critical need for increased health

manpower resources is to be carried out.

Now I should like to direct certain questions to the distinguished Senator from Washington (Mr. MAGNUSON).

Mr. President, am I correctly informed, may I say to the distinguished chairman, that of that appropriation, after the conference, of $125 to $130 million or more, that there will be funds available to take care of some of these projects that I have mentioned here?

Mr. MAGNUSON. Mr. President, may I state to both Senators from Minnesota that I know what has happened to them and what has happened to the University of Minnesota and the matter relating to the assurance that something will be done at Mayo. There is a long history in this particular field of broken commitments.

What happened was that we appropriated in fiscal 1972 $139 million.

Mr. HUMPHREY. The Senator is correct.

Mr. MAGNUSON. What did they do downtown? They stretched this out over a 2-year period. So, therefore, they had to come back and say to those people who went to all of this trouble because, in fact, they encouraged them to do so and told them to go ahead, that they did not have any money. That is because they requested zero for medical school and nursery school construction in the 1973 budget—even though we all know about the great need and the shortage of 50,000 doctors and even more nurses. So they turned this down. It has been done on other occasions.

I hope this changes it. I hope that someone is hearing what I have to say. I am sure that the rest of the members of the committee feel the same way. So, in 1973, what did they come up with in the budget. They came up with zero for the building construction grants.

The vetoed bill contains $140 million. The new bill that the House sent over does bring it down to $87.5 million. But when we talk about the chances of getting these things done where the people have made these commitments and everybody is ready to go—and they are probably the most needed projects in the United States for the future—all the President could do under this bill with the $140 million would be to cut it by up to $14 million and it would still put us, as the Senator says, in the ball park with respect to getting these needed things done. I hope the President does not cut it a nickel. After all, we just saved him $4 billion in defense apporiations.

I assure the Senator from Minnesota of my support.

Mr. HUMPHREY. Mr. President, I thank the Senator from Washington.

Mr. President, I ask unanimous consent that the letter from Dr. Emmerson Ward, chairman of the board of governors of the Mayo Clinic, be printed in the RECORD.

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

MAYO CLINIC,
Rochester, Minn., September 15, 1972.

HON. HUBERT H. HUMPHREY,
U.S. Senate,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR HUMPHREY: Mrs. Margaret Thompson, Registrar of Mayo Medical School, has told me about her conversation with you regarding the recent adverse decision on our $4,600,000 application for a Health Education Facilities Grant in support of our new medical school under the Health Manpower Training Act of 1971. Needless to say, we were extremely disappointed that our grant application was not funded. Of course, we realize what a difficult administrative decision it must have been, to try to allocate funds to the many health professional schools when the available funds were so limited. Our intent is not to criticize HEW in making these awards. However, we thought that you would be interested to know about our problems.

Mrs. Thompson has told me that you would like some supporting data regarding the medical school and the grant application; I have enclosed a number of references, among which is the Mayo Medical School brochure. When Mayo Medical School accepted its first class on Monday of this week, it did so with limited physical facilities. Nevertheless we are most enthusiastic about the future of Mayo Medical School, given the prospect of reasonable financial support from the public and private sectors. We have a fine class of 40 students.

Another enclosure is a brief summary of our grant application requesting $4,600,000 for partial funding of construction of medical school facilities. This will explain the nature of our program and may answer many questions regarding our physical facilities and plans for the future.

An enclosure from our annual report points out that Mayo has embarked upon a very ambitious development program of its own to raise funds to support medical education. We are certainly grateful that the Minnesota Legislature has seen fit to support our program by providing capitation of $8,000 per Minnesota student. Private individuals, corporations and foundations also have provided generous support. Thus you can see that we are not looking to federal sources for all, or even most, of our funding.

However, we were hopeful that we would receive assistance for construction of some of the needed facilities through the Health Manpower Act, and, as a matter of fact, we were led to believe that Mayo stood rather high on the priority list because it is a new school, it has some existing facilities and an existing faculty, and hence could be developed much more economically and expeditiously than would otherwise be so. You will note in the House Committee report on the Health Manpower Training Act, page 32 (enclosure), that Mayo was singled out by name as the kind of school that would have high priority. It only compounds our disappointment that Dr. Robert Knouss, Acting Chief, Physician Education Branch, NIH, acknowledged that our application was altogether acceptable and the design of our proposed facilities was regarded as excellent. A summary of this conversation between Dr. Raymond D. Pruitt, Mayo Medical School dean, and Doctor Knouss, is also enclosed for your information.

On reading in the *Rochester Post-Bulletin* your comments before the American Hospital Association in Rochester, we were pleased to learn of your concern about the funding of these grants. We certainly want you to know of Mayo's concerns as well, and will be grateful for any suggestions you might make.

Sincerely yours,

EMMERSON WARD, M.D.,
Chairman.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that a copy of memorandum of conversation with Dr. Robert Knouss be printed in the RECORD, along with a summary of Mayo Medical School application for partial funding for construction of new facilities.

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

SEPTEMBER 11, 1972.

Memorandum of conversation with Dr. Robert Knouss, Acting Chief, Physician Education Branch, Division of Physician and Health Professions Education, National Institutes of Health.

Mr. David Barnes and I participated in this conversation with Doctor Knouss, who provided us initially with this information: The Mayo application for a construction grant was an altogether acceptable application. The reviewing bodies, including the Health Manpower Council, found in it many good points; they felt that the success of the educational program, meaning the medical school, was assured. The proposal, which would "place all teaching functions under a single roof," would be a highly desirable development. That we would be providing 40 new positions for physician education was recognized. The modular design of the facility was regarded as excellent. In summary, there would have been no reason the program would not be funded had there been more dollars available.

Doctor Knouss then went on to say that there were a large number of meritorious projects with only $142 million to underwrite the costs. There is no single reason that he could define for our project receiving a lower priority than some of the others. He indicated that a simple ratio of number of new places in a medical school class to dollars requested for construction was not the answer, although it was indeed a very significant component of the grounds for decision.

As regards further grant funds in support of construction, Doctor Knouss was quite pessimistic. He emphasized the negative position of the Administration and presumably of the Office of Management and Budget. One might surmise that if Congress should appropriate additional construction funds and the President should sign the bill, perhaps there would be a revision in the position of the Division on this matter. At the moment that position is almost entirely a negative one.

We shall have to assess our position on the basis of this and other information and determine where we go from here. Obviously, Doctor Knouss can't be of any particular help to us. A protest is unlikely to carry much weight unless we have exhausted what the Federal Administration apparently thinks is an adequate response to the construction needs of the medical academic institutions, namely, guaranteed loans and perhaps interest subsidies.

RAYMOND D. PRUITT, M.D.

SUMMARY OF MAYO MEDICAL SCHOOL APPLICATION FOR PARTIAL FUNDING FOR CONSTRUCTION OF NEW FACILITIES

This application is for a grant in aid of $4,600,000 under the authority of the Comprehensive Manpower Training Act of 1971 for partial support of the construction of a Life Sciences Building which is necessary to serve the health research and education requirements of Mayo Foundation. The need for this building is particularly evident with the decision to initiate a program of undergraduate medical education with an entering class of 40 students to start in September of 1972. Temporary accommodation of the educational activities of the entering class can be accommodated in a less than optimal manner in existing Mayo facilities; however, the proposed educational program anticipates, in the third and fourth years of the undergraduate curriculum, that there will be significant requirements for the undergraduate within the scientific laboratories of the institution. The proposed Life Sciences Building will provide space for relocation of approximately 30 members of our medical science faculty and provide unfinished space

for approximately 25 new additions to that faculty to provide, in large part, facilities and teaching capability for undergraduates in the laboratory fields.

This building has been planned to accommodate the basic medical science departments of Biochemistry, Physiology and Biophysics, Microbiology and Immunology, Pharmacology and Endocrine Research, and provide space for the associated clinical investigative groups who relate intimately with these departments. In addition, the building provides space for the core, or first year program of undergraduate education, other health education research spaces in the building for the purpose of educational experiences for undergraduates, and anticipates the continuation and expansion of the Mayo graduate program within the new facilities made available to the faculty accommodated in the building. The building also contains certain other common spaces to serve all of the programs in the building, including the requirements for animal housing, spaces for human investigation, etc. The faculty located in this building will utilize their research programs and space to provide a meaningful educational experience for undergraduate and graduate medical students in the scientific disciplines of medicine and the health sciences. It should be recognized that similar activities will continue in other facilities in Mayo which may require a revision for their accommodation. This is true, particularly in the Medical Sciences Building, an existing research building in this institution, in the Alfred Building, a research building adjacent to St. Marys Hospital, and will also occur in new Laboratory Medicine Building which will be built from Mayo resources for the purpose of the practice of laboratory medicine, adjacent to the proposed Life Sciences Building. Funds for the revision of space to accommodate the needs of health related research in Medical Sciences and at the Alfred Unit for the conduct of educational programs, and for space in the new Laboratory Medicine Building, are not requested in this application, but it is fully expected that significant educational activities, both at the undergraduate and graduate level, will continue and be expanded in these facilities. Current faculty who will be moving to the Life Sciences Building are now housed in either the Medical Sciences Building or the Plummer Building of this institution. Space vacated by scientists in the Medical Sciences Building (13,000 net square feet) will continue to be used for research and for undergraduate and graduate education. These disciplines include the Neurosciences, the Department of Pathology and Anatomy, the activities of Surgical Research, certain of the elements of the Department of Physiology, the Orthopedic Research Unit, Section of Developmental Engineering and an arm of the discipline of Biochemistry. Others who will move to the Life Sciences Building from the Plummer Building include the Departments of Endocrine Research, Microbiology and Immunology. The space currently occupied by those groups will cease functioning as laboratory space on advice of architects and engineers concerning the structural integrity of the building, or will be reassigned for other institutionally approved purposes including research and education uses.

Information which follows in this application attempts to demonstrate a need for this building for the conduct of health research programs essential to health professions education.

The plan for construction of this building anticipates ground breaking by the end of September, 1972, with excavations, footing, erection of the structural members and enclosing of the building (Phase I) to be provided from Mayo resources and initiated simultaneously with the similar requirements for the Laboratory Medicine Building which will be fully funded by Mayo. The grant application requests funds for facilities for the programs necessary for health education to be accommodated in this building, with the federal funding to commence at the end of the structuring and enclosure phase of this building. The funding requested is for completion of space, all of which is fully dedicated to education programs and health research programs necessary for education. Federal funding will not be requested for Phase I or for the unoccupied space that will be available in this building. Under this proposal, federal construction funds for each new physician produced annually is approximately $115,000 for each of the first graduate class. It is expected that this facility, with the utilization of facilities currently existing in Mayo, will accommodate our educational requirements for the foreseeable future, including those for a new program of undergraduate medical education.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the exchange of correspondence with the distinguished chairman, who has been most helpful, be printed in the RECORD. And may I say that the distinguished ranking minority member of the committee, the Senator from New Hampshire (Mr. COTTON), has also been most helpful, and that I have also spoken with the ranking minority member, the Senator from North Dakota (Mr. YOUNG). I thank all of them for their consideration and cooperation, and I want the RECORD to note that they have been exceedingly cooperative and helpful, for which I am extremely grateful.

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

U.S. SENATE,
Washington, D.C., September 15, 1972.

Hon. WARREN G. MAGNUSON,
Chairman, Subcommittee on Labor, Health, Education, Welfare and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to you on what I consider a high priority item for the people of Minnesota and states surrounding my state. I have been informed by some of my good friends in the medical school at the University of Minnesota that the University has been denied funding for a new medical building.

After hearing the facts surrounding this decision by the Department of Health, Education and Welfare, I am certain that you will agree with me it is another case of the federal left arm not knowing what the federal right arm is doing.

The University of Minnesota was pressured by the Public Health Service into increasing its medical student training program from 160 to 230. The University complied with this request under the clear assumption that it would receive funds for its new medical building. There was a clear indication from the Department of Health, Education and Welfare that such funds would be forthcoming on a first priority basis.

Now, I am told that the Department of Health, Education and Welfare has decided against funding the University medical building—a clear violation of what I understand to be a hard and fast promise by the Department. In other words, the federal government says on the one hand, increase the medical students and we will give you money for the building. But a little while later the federal government says now that you have increased students you can get along with the facilities you have. As one of my close friends in the medical school told me, 'it is like being told to practice and teach medicine on a curb stone."

The building in question is primarily a teaching building with class rooms, laboratories, faculty offices and an outpatient clinic. The University has applied for $12.8 million of the $19.8 million it would take to construct the building.

I do hope that you can help me in this matter. It is critical to my state and other states surrounding Minnesota. Our supply of doctors is short—especially in the rural areas. And, the University does a first rate job of medical training—both in paramedical programs and allied health professions.

Best wishes.

Sincerely,

HUBERT H. HUMPHREY.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C., September 25, 1972.

Hon. HUBERT H. HUMPHREY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HUMPHREY: Thank you for your letter of September 15 regarding construction funds for the University of Minnesota medical school. I completely agree that it certainly does seem to be an inconsistent Federal policy which would, on the one hand, encourage medical schools to increase the capacity of their training programs—and then, with the other hand, fail to request funds for the necessary medical school construction grants. But that is exactly the policy proposed by this Administration in its FY 1973 President's budget request. Despite the overwhelming need for increased medical school capacity, the 1973 President's budget recommended zero — nothing — for construction of medical and related schools, a decrease of $140 million from the prior year's level.

In processing the first Labor-HEW bill, the Congress attempted to remedy this obvious discrepancy by including $140 million in the bill for medical school construction in order to continue the program at the previous year's level. But the President vetoed the bill which would have provided a more nearly adequate level of funding for medical school construction grants.

Moreover, the President in his veto message, indicated that the amounts in the new bill should not exceed his budget request—while at the same time and in the same document, you may recall that he makes the incredible assertion that this Administration is "second to none" in its concern for America's health.

As you may know, the House, in drawing up a new measure to replace the vetoed bill, has included $87.5 million for medical school construction grants.

Please be assured that your views regarding the need for medical school construction grants will be given very careful consideration when the Committee deliberates on the second Labor-HEW appropriation bill later this week.

Sincerely,

WARREN G. MAGNUSON,
Chairman, Subcommittee on Labor, Health, Education, and Welfare.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Jersey.

Mr. JAVITS. Mr. President, will the Senator yield me 3 minutes?

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

The PRESIDING OFFICER. The Chair recognizes the Senator from New Jersey.

Mr. COTTON. Mr. President, are we not on controlled time? I thought that the Senator from Washington and the

Senator from New Hampshire controlled the time on the bill. I think it is about time that I yield myself 2 minutes out of 1½ hours.

The PRESIDING OFFICER. I am advised by the Parliamentarian that the Chair was incorrect. The Senator from New Hampshire has yielded himself time.

Mr. MAGNUSON. Mr. President, we have 3 hours, and the Senator can yield himself such time as he wishes.

Mr. COTTON. Mr. President, I simply want to yield myself 2 minutes.

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

Mr. COTTON. Mr. President, I yielded myself the 2 minutes to say that while I know the Senator from New York wishes the floor and the Senator from New Jersey has an amendment which he wants to get action upon, at this time, I will be happy to step aside and make way for them. However, when we have finished considering those particular matters, I wish to point out that there are a few things that have been said about the President that I feel constrained to answer very briefly, which I can do on my own time and without delaying the Senate. However, because of the fact that there are those who have asked for an early vote on the amendment of the Senator from New Jersey, and possibly the amendment of the Senator from Indiana, I will do that later.

Does the Senator from New York have an amendment?

Mr. JAVITS. I do not have an amendment.

Mr. COTTON. Mr. President, I will wait until they have finished. I take these 2 minutes to say that after these matters have been disposed of, I might take 5 minutes to say that this President is not such a heartless creature that he tries to trample upon the lame, the halt, and the blind as one would gather from the comments of the last hour.

Mr. JAVITS. Mr. President, will the Senator yield me 2 minutes?

Mr. COTTON. Mr. President, I yield 2 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 2 minutes.

Mr. JAVITS. Mr. President, I ask unanimous consent that Eugene Mittelman, who is minority counsel for the Labor and Public Welfare Committee, may have the privilege of staying on the floor while this mater is being debated.

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

Mr. THURMOND. Mr. President, I ask unanimous consent that Bill Hancock, one of my staff members, be allowed on the floor during the consideration of the bill.

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

Mr. JAVITS. Mr. President, I wish to indicate my general support for certain items in this bill relating to manpower training and employment programs and to commend the committee for maintaining the levels available in the House bill, in each case.

They are as follows: The amount of $719,554,000 for manpower training programs under the Manpower Development and Training Act of 1962. These programs include the JOBS program, New Careers, the Neighborhood Youth Corps, Operation Mainstream, Job Corps, and a number of other essential activities. If combined with the $829,862,000 requested by the administration under the Economic Opportunity Act— which I understand will be considered in a supplemental appropriation bill later this session—there will be available a total of $1,549,416,000 for the provision of 1,043,100 annual training slots.

Although by no means adequate to the overall need, this level of opportunity compares favorably with the number of opportunities made available during fiscal year 1972 under the two legislative authorities in the initial appropriation bill. In that year approximately 1,100,000 slots were funded under the initial bill.

The real deficiency will lay, as in past years, in the Neighborhood Youth Corps summer job program as we approach the summer months, and the needs of the cities and States are known more accurately. Under the administration's request I am advised that a minimum of $256.6 million will be available for the funding of 575,000 slots; this falls $14.2 million and 34,300 slots below the initial funding for last year, but I am informed that the States and the cities may decide to shift funds from other programs to maintain the initial 1972 level.

Thus it will be appropriate to consider these actions, as well as any additional needs for other programs, in the context of a subsequent supplemental appropriations bill.

Second, $1,250,000,000 for public service employment programs under the Emergency Employment Act of 1971. This is the full authorized amount as requested by the administration and it would fund approximately 225,000 jobs during the year for unemployed and underemployed persons in rendering vital public services in fields such as health, education and environmental control; a total of $1 billion was made available in fiscal 1972 for approximately 150,000 jobs.

The Emergency Employment Act is a most appropriate vehicle to deal with the continuing problem of employment and it is essential that it be maintained at the full level of funding. Even with the appropriation requested it can reach less than 5 percent of the more than 4 million persons currently unemployed.

Third, $66,700,000 for grants to the States for employment services and $445,133,000 for work and training for welfare recipients under the work incentive program.

Mr. President, the funds for manpower programs derive not only from the Manpower Development and Training Act and Emergency Employment Act, for which funds have been appropriated in this bill, but under the Economic Opportunity Act of 1964.

On September 19, President Nixon signed the Economic Opportunity Amendments of 1972, sponsored in the Senate by Senator NELSON, chairman of the Subcommittee on Employment, Manpower, and Poverty, and myself.

It contains an authorization of $900.3 million for manpower programs, most of which are delegated to the Department of Labor.

This exceeds by $70,438,000 the amount of $829,862,000 requested by the administration under that authority.

To the extent that there are further needs for these programs above the administration's requests, I reserve the right to seek additional funds in that context as a part of the supplemental bill for the OEO authorizations, which I understand will be considered shortly.

As the ranking minority member of the Committee on Labor and Public Welfare, I have had the opportunity both to contribute to the establishment of our major manpower training and related efforts and to assess their effectiveness. I believe that—although certain changes should be made in the means of administration—they continue to constitute a highly effective means of enabling our citizens to find self-sufficiency and thus to reduce the risk of welfare dependency and should be fully funded.

I shall view with great reservation any step taken by the President—pursuant to the general authority contained in this bill to reduce programs by 10 percent—having the effect of cutting back on these vital manpower efforts.

I ask unanimous consent that there be printed at this point in the RECORD a chart prepared by the Department of Labor indicating the levels of appropriation for manpower services for fiscal year 1973, broken down by legislative source and program and compared with fiscal year 1972.

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

DEPARTMENT OF LABOR, MANPOWER ADMINISTRATION

MANPOWER TRAINING SERVICES—FISCAL YEAR 1973 LEVELS REFLECTING WIN-TALMADGE REDUCTIONS

	Fiscal year 1972 comparable			Fiscal year 1973 Appropriation Request		
	MDTA	EOA	Total	MDTA	EOA	Total
Private sector OJT	$194,200,000		$194,200,000	$194,200,000		$194,200,000
Public sector OJT	35,400,000	$26,800,000	62,200,000	35,400,000	$26,800,000	62,200,000
Institutional training	372,452,000	200,097,000	572,549,000	368,410,000	205,715,000	574,125,000
Regular classroom training	(372,452,000)		(372,452,000)	(368,410,000)		(368,410,000)
Job Corps		(200,097,000)	(200,097,000)		(205,715,000)	(205,715,000)

Footnote at end of table.

DEPARTMENT OF LABOR, MANPOWER ADMINISTRATION—Continued

MANPOWER TRAINING SERVICES—FISCAL YEAR 1973 LEVELS REFLECTING WIN-TALMADGE REDUCTIONS—Continued

	Fiscal year 1972 comparable			Fiscal year 1973 Appropriation Request		
	MDTA	EOA	Total	MDTA	EOA	Total
Inschool work support	$174,850,000	$232,600,000	$407,450,000	$18,300,000	$327,600,000	$345,900,000
Postschool work support		209,420,000	209,420,000		208,128,000	208,128,000
Out of school		(125,520,000)	(125,520,000)		(124,228,000)	(124,228,000)
Operation Mainstream		(83,900,000)	(83,900,000)		(83,900,000)	(83,900,000)
Special targeting	52,000,000	102,600,000	154,600,000	51,971,000	102,419,000	154,390,000
Computerized job placement	22,274,000		22,274,000	32,000,000		32,000,000
Program support	54,173,000	5,200,000	59,373,000	58,273,000	5,200,000	63,473,000
Total	905,349,000	776,717,000	1,682,066,000	758,554,000	875,862,000	1,634,416,000

	WIN-Talmadge reductions			Revised level		
	MDTA	EOA	Tota	MDTA	EOA	Total
Private sector OJT	−$9,980,000		−$9,980,000	$184,220,000		$184,220,000
Public sector OJT	−1,820,000	−$1,408,000	−3,228,000	33,580,000	$25,392,000	58,972,000
Institutional training	−18,940,000	−10,804,000	−29,744,000	349,470,000	194,911,000	544,381,000
Regular classroom training	(−18,940,000)		(−18,940,000)	(349,470,000)		(349,470,000)
Job Corps		(−10,804,000)	(−10,804,000)		(194,911,000)	(194,911,000)
Inschool work support	940,000	−17,206,000	−18,146,000	17,360,000	310,394,000	327,754,000
Postschool work support		−10,930,000	−10,930,000		197,198,000	197,198,000
Out of school		(−6,524,000)	(−6,524,000)		(117,704,000)	(117,704,000)
Operation Mainstream		(−4,406,000)	(−4,406,000)		(79,494,000)	(79,494,000)
Special targeting	−2,670,000	−5,379,000	−8,049,000	49,301,000	97,040,000	146,341,000
Computerized job placement	−1,650,000		−1,650,000	30,350,000		30,350,000
Program support	−3,000,000	−273,000	−3,273,000	55,273,000	4,927,000	60,200,000
Total	−39,000,000	−46,000,000	−85,000,000	719,554,000	829,862,000	1,549,416,000

[1] Includes $1,050,000 Job Corps pay amendment.

Mr. MAGNUSON. Mr. President, the Senator from New Jersey has an amendment he wishes to offer.

Mr. CASE. Mr. President, I thank the manager of the bill and the ranking minority member of the subcommittee. I shall only take about 3 minutes. The Senator from Nebraska will take about 3 minutes.

Mr. CURTIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CURTIS. Mr. President, might I inquire who has charge of the time in opposition to the amendment?

Mr. MAGNUSON. Mr. President, I think I can clear that up. The distinguished Senator from New Jersey is proposing an amendment to strike a portion from the bill. The Senator who had the original amendment when the original bill was up for consideration is opposed to that amendment. Inasmuch as I am going to vote for the Case amendment, I would agree with the Senator from New Hampshire to let the Senator from Nebraska have control of the time.

Mr. COTTON. Mr. President, that is perfectly agreeable to me. I am also opposed to the amendment. However, I would be glad to let the Senator from Nebraska have control of the time.

Mr. CASE. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to state the amendment.

Mr. CASE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and that the amendment be printed at this point in the RECORD and that the RECORD show that I have as cosponsors of the amendment the following Senators. Senators JAVITS, WILLIAMS, MATHIAS, HART, TUNNEY, HARTKE, MCGOVERN, BROOKE, and STEVENS. I announce that if any Senator would like to be added, if he would leave his name at the desk before the close of business today, that will be done.

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

The amendment is as follows:

On page 48, after line 4, strike out: "None of the funds appropriated by this Act shall be expended to pay the salaries of any employees of the Federal Government who inspect firms employing fifteen persons or less for compliance with the Occupational Safety and Health Act of 1970."

Mr. CASE. Mr. President, my amendment would strike from the bill the restrictive language which exempts employers who employ fewer than 15 employees from the Occupational Safety and Health Act of 1970.

This provision, if it remains, will exempt more than 86 percent of all business establishments from coverage under the Occupational Safety and Health Act and thereby jeopardize the health and safety of a full one-fourth of the Nation's work force.

It is estimated that as many as 100,000 men and women will die this year of an occupational hazard or an occupational disease. Most of these women and men are employed in small business enterprises. That is why the full protection of the occupational safety and health measure is of critical importance.

My amendment has the full support of the Department of Labor and the administration. It has the full support of the legislative committees that proposed the occupational safety and health measure originally and recently held oversight hearings on the first year's experience under the law. And my amendment has the full support of working men and women who depend on the protection and relief afforded them by the law.

I regret the full Appropriations Committee failed to strike this provision. However, this action was based, I think, on the desire to limit the controversy with the House over the Labor-HEW appropriations bill.

I reject this view. The importance of this matter is great and I believe the chances are good to eliminate this restrictive language from the bill altogether.

Since the hasty Senate floor action on the occupational safety and health measure when the Labor-HEW appropriations bill was last considered, the Senate Labor and Public Welfare Committee has conducted oversight hearings on the occupational safety and health law. Similar hearings have been held in the House. These hearings reveal the law is sound and an exemption restricting application of the law would seriously erode the protection now given to the American worker.

Close scrutiny of the small-business exemption reveals basic flaws. It would create opportunities for evasion of safety rules, lead to confusion in some work situations and arbitrary discrimination in others.

In return for these large and small problems, exempting firms with less than 16 employees would not even meet the real desires of small business. Businessmen do not want a free ride, and they need the expertise and resources the Government can offer to help improve their performance on safety. What they ask is relief from inappropriate or harassing enforcement, and a chance to seek help and advice on reasonable terms.

First, let us consider the impact of the exemption rider on small businesses and

their employees. A recent sampling showed that 24 percent of the inspections of small businesses came as a result of bona fide employee complaints or of fatalities and catastrophic accidents. If the rider remains, the Secretary of Labor will be powerless to investigate the conditions that kill employees, or to respond to complaints that might spotlight dangers in time to avoid future damage. I know that the distinguished Senators who have expressed sympathy for the exemption do not oppose inspections where death or catastrophe is involved, but unfortunately, the language we have before us would have the effect of barring such inspections.

There is another dimension to the harm this amendment would cause. Some of the industries that have been singled out for urgent attention because of their high injury rates are composed mostly of small businesses that would fall within the 15-or-less exemption. The logging industry, for example, is carried on in over 16,000 logging camps in this country; 96 percent of them have 20 employees or less. The workers in these camps suffer almost three times the disabling injury rate of all industrial employees. How can we justify withdrawing OSHA protections from them? The disabling injury rate in another "target industry" composed largely of small businesses, roofing and sheet metal work, is fractionally higher than in logging, and many other typically small-unit industries have high rates.

Representatives from the construction industry have given examples of the confusion and discord that an arbitrary cutoff on enforcement of responsibility for safety could cause.

I am well aware that small businessmen have some legitimate complaints about the way OSHA has affected them in these early stages of its administration. Together with other Senators, I have pursued these points and will continue to do so, through oversight of the Labor Department and, where appropriate, through amendments to the act. In this regard, it is worth noting that the rider does nothing to change the basic law. The obligations of the Government are left intact, but it is rendered incapable of carrying them out. This is bad lawmaking as well as bad policy.

While there is a solid core of reasonable criticism about OSHA to which we should respond, there has also been a great deal of overstatement that has alarmed the uninformed. A National Small Business Association representative, Mr. Carl Beck, testified before the Senate Labor Subcommittee that "the business community has fallen victim to a great many rumors and scare-stories which appear to have little foundation in fact." This statement was based on an intensive study of OSHA operations in one area of the country. The association found few fines or penalties of great size, and no confirmation that any firm had been forced out of business. The major problems it found were in making the OSHA requirements accessible to businessmen and providing them with help in compliance.

The Labor Department is improving its administrative efforts to meet these problems, and the Secretary of Labor has supported an amendment to permit on-site consultation with small employers which is expected to reach the floor of the House during this session.

In conclusion, I ask only that each Senator consider whether he has been given sufficient justification for abandoning a great portion of the Safety and Health Act and leaving one American worker in four unprotected. If the answer is "no," the exemption rider must be rejected.

Mr. President, the administration is in favor of my amendment.

Mr. CURTIS. Mr. President, will the distinguished Senator yield at that point?

Mr. CASE. Yes. I have a letter before me addressed to the Senator from Pennsylvania (Mr. SCOTT) from the Secretary of Labor, expressing that view.

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

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

SEPTEMBER 27, 1972.

Hon. HUGH SCOTT,
U.S. Senate,
Washington, D.C.

DEAR HUGH: The Department of Labor notes with concern the efforts of various Senators to attach a provision to the Labor-HEW Appropriations bill which would exempt firms with fifteen or fewer employees from coverage under the Occupational Safety and Health Act of 1970. Such an amendment passed the House by nine votes on September 19.

I have written to Senator Magnuson urging that the Senate Appropriations Committee reject the House Floor amendment as an unwise approach to the problems raised by small employers who are endeavoring to comply with the Williams-Steiger Act. It is the position of the Administration that it would be unconscionable to exempt more than 86% of all business establishments from coverage under the Act and thereby deny the protection which this landmark legislation affords to a full one-fourth of all working men and women in America. We are supported in this view by organized labor as well as by many segments of industry. It should be noted that the vast majority of employers in the construction industry would be included in the exemption. This would be particularly unfortunate in view of the fact that construction is a target hazard industry due to its high accident frequency rate.

The Department has repeatedly stated that it recognizes the problems faced by small employers and is anxious to assist them in their compliance efforts. But to do this an amendment to the Williams-Steiger Act is required. Therefore, we have urged Congress to adopt an amendment which would permit the Department of Labor to provide on-site consultation to small employers, thereby easing the burden of compliance on small businesses while maintaining the basic integrity of the Act.

Such an amendment has recently been proposed by Congressman William Steiger in the form of H.R. 16508.

The Administration earnestly desires to continue, uninterrupted, its efforts to assure a safe and healthy workplace for all Americans. Your assistance at this vital crossroad in OSHA's history would be deeply appreciated.

Sincerely,

JIM HODGSON,
Secretary of Labor.

Mr. CURTIS. Mr. President, I hold in my hand a letter apparently sent to all colleagues signed by the distinguished Senator from New Jersey, who now has the floor. It says,

My amendment has the full support of the Department of Labor and the administration.

Who speaks for the Department of Labor?

Mr. CASE. The Secretary of Labor.

Mr. CURTIS. Then, the Senator has the words "and the administration."

Mr. CASE. And I could add a half dozen others. The administration is the Secretary of Labor.

Mr. CURTIS. Does the Senator have any additional communications?

Mr. CASE. Yes.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. CASE. I am happy to yield at this point to the Senator from New York, the ranking Republican member of the Committee on Labor and Public Welfare.

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Secretary of Labor, dated September 29, 1972.

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

U.S. DEPARTMENT OF LABOR,
Washington, D.C., September 29, 1972.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: Yesterday, the Senate Appropriations Committee reported H.R. 16654, the Labor-HEW Appropriations Bill for fiscal year 1973. In adopting the conference version of H.R. 15417, the committee gave its approval to a provision which would exempt firms employing fifteen or fewer employees from coverage under the Occupation Safety and Health Act of 1970.

The Department of Labor is opposed to such a provision, which would exempt more than 86 percent of all business establishments from coverage under the Act and thereby jeopardize the health and safety of a full one-fourth of the Nation's work force.

This amendment was conceived last June at a time when OSHA was coming under heavy criticism from small business interests who claimed that the Department of Labor was not enforcing the Act in such a way as to give cognizance to the needs of small business.

These fears were based on a lack of knowledge regarding the Act's purpose and the Department's intent. Since June, OSHA has had an opportunity to testify before four Congressional Subcommittees where the concerns of small employers were met head on. At these hearings, the Department repeatedly stated that it recognizes the problem faced by small employers and is anxious to assist them in their compliance efforts. To this end, we have also stated that we would favor an amendment to the Williams-Steiger Act which would permit OSHA to provide on-site consultation to small employers.

Such an amendment has recently been proposed by Congressman William Steiger in the form of H.R. 16508. By adopting such an amendment Congress would be responding to the concerns raised by small employers, and at the same time the basic integrity of this landmark legislation would be preserved.

The Department of Labor earnestly desires to continue, uninterrupted, its efforts to assure a safe and healthful work place for all Americans, and we therefore strongly

urge that the exempting language in H.R. 16654 be deleted.

Sincerely,

J. D. HODGSON,
Secretary of Labor.

Mr. JAVITS. Mr. President, I wish to read the first two paragraphs of the letter. The letter states in part:

Yesterday, the Senate Appropriations Committee reported H.R. 16654, the Labor-HEW Appropriations Bill for fiscal year 1973. In adopting the conference version of H.R. 15417, the committee gave its approval to a provision which would exempt firms employing fifteen or fewer employees from coverage under the Occupational Safety and Health Act of 1970.

The Department of Labor is opposed to such a provision, which would exempt more than 86 percent of all business establishments from coverage under the Act and thereby jeopardize the health and safety of a full one-fourth of the Nation's work force.

I shall hand a copy of the letter to the Senator from Nebraska.

The PRESIDING OFFICER. Who yields time?

Mr. CASE. Mr. President, I reserve the remainder of my time. I do yield 2 minutes to the Senator from New York and then I shall yield briefly to my colleague.

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

Mr. JAVITS. Mr. President, I was one of the main authors and conferees on the Occupational Health and Safety Act. It is simply appalling that we should consider the broad scale exemption which the Secretary of Labor said would take out 86 percent of all business establishments, and take out the most hazardous of all callings, the building trades, because of the small number of employees they have engaged on particular jobs in that particular trade at this particular time, when we are just getting started with the administration of the act.

There has been some argument about how this act is being administered. We heard testimony that was produced on that score. I was present at those hearings, as the Senator from Nebraska knows.

The Department of Labor letter which I just had printed in the RECORD also states it recognizes the problem faced by small employers, is anxious to assist in their efforts, and, therefore, is supporting an amendment to the law, the Steiger amendment which would permit OSHA to provide on-site consultation to small employers. I wish to assure the Senate I will make it my business to see that such an amendment is considered. I think we will have broad support in the Senate.

Mr. President, I hope very much the Senate will approve the pending amendment, and I commend Senator CASE for taking the initiative in offering it.

As the ranking minority member of the Labor and Public Welfare Committee, I am familiar with the problems which gave rise to the provision in the bill which exempts small businesses from OSHA inspections. I do not for a moment deny that there have been mistakes made by the Department of Labor in getting this monumental program off the ground; indeed, the Labor Committee has held 4 days of hearings in which the problems faced by small businessmen under this act have been explored in great depth. The hearings were extremely useful because while, on the one hand, they clearly showed the need for certain adjustments in the program to ease the impact of OSHA on small businssmen, they also demonstrated that many of the rumors which had circulated among the small business community about OSHA were completely false.

The main problems which have arisen for small businessmen under the OSHA program are: first, a lack of readily understandable information as to what standards they are expected to comply with; second, the lack of any on-site consultative services for small businessmen; and third, what appears to be a lack of simple commonsense on the part of inspectors and certain other OSHA officials.

Clearly, these are all problems which can be taken care of by appropriate administrative and legislative changes. They hardly justify a proposal which would emasculate enforcement of the law for 20 million employees of small businesses throughout the country, some of whom are employed in hazardous occupations. Thus, a majority of employers in the construction industry and the logging industry employ fewer than 15 workers and would be exempt from inspection if this amendment is not adopted. Yet, construction and logging are two of the five target industries selected by the Labor Department as the most hazardous industries in the Nation for priority consideration under OSHA.

Another reason why this amendment should be adopted is that if the exemption of small employers is permitted to remain in the bill, neither Federal or State occupational safety and health laws will apply to small employers in States which have not filed acceptable State plans with the Secretary because of the preemption provisions of section 18 of the Occupational Safety and Health Act. Thus, employees of small businesses in those States will be utterly bereft of any statutory health and safety protection while on the job.

In the last analysis, the question comes down to whether we really believe that all American workers need and deserve the protection of occupational safety and health standards. In my judgment, just to ask that question is to answer it. An employee of a small business is no less subject to occupational dangers to his health or even his life than an employee of a large business. If certain standards should be observed in order to protect a worker, there is no reason to say that they should be observed by a large employer but not a small employer. It also bears emphasis that the standards about which the small businessmen are now complaining are for the most part national consensus standards which have been developed with the approval and consent of the business community itself. The complaints we are now receiving about enforcement of these standards which the business community itself developed demonstrate the futility of a completely voluntary approach to health and safety standards.

Of course, many—perhaps most—small businesses in this country are engaged in essentially nonhazardous activities. To the extent that this is true, small business will be less affected by the provisions of the new law larger than businesses. In addition, the Labor Department's policy of concentrating on "target industries"—those with the worst injury record—will further reduce the impact of the new law on small businesses except those that are within the target industry group. Also, since the available manpower for enforcement purposes is extremely limited—only about 800 Federal inspectors are now in the field—it is to be expected that the Labor Department would focus most of its efforts on larger businesses as the way to get the most protection for the largest number of employees utilizing existing resources.

Finally, I would like to set the record straight on the matter of OSHA inspectors going around levying fines on small businessmen, as has been alleged. The record ought to be crystal clear on this point: OSHA inspectors do not levy fines. After an inspection, OSHA sends to the employer a citation and a notice of proposed penalty for any violations found during the inspection. The citation and notice of proposed penalty have exactly the same status as a traffic ticket issued by a policeman; every employer has an absolute right to contest the validity of the citation, the time specified for abatement, or the amount of the penalty, by filing a simple notice of intention to contest. Just as in the case of a traffic ticket it is the traffic court that has the actual power to impose any fine on an offender, so under OSHA it is the Review Commission, an autonomous body not part of the Labor Department, which has the power to levy penalties.

As many Senators will recall, the question of whether there should be an independent tribunal established for the purpose of adjudicating contested enforcement cases was one of the key issues when the OSHA legislation was considered by the Senate. I was the author of the amendment which created an autonomous review commission which was approved by the Senate and embodied in the law as finally enacted.

The purpose of creating a separate review commission was precisely to guard against possible abuses of the law by those responsible for enforcing OSHA requirements. I am pleased to say that the Commission has already acted to correct some of the problems about which small businessmen have complained, such as the levying of small penalties for violations which have very little or nothing to do with health and safety. It is also noteworthy that the Commission has bent over backwards to facilitate recourse by small businessmen to it. Among other things, they have published a very simple, easy to follow guide to their procedures which advise businessmen, in readily understandable language, of their rights at every step of a proceeding. I ask unanimous consent that the text of the guide be printed in the RECORD together with a letter to me from the Chairman of the Commission.

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

A GUIDE TO THE PROCEDURES OF THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

INTRODUCTION

This pamphlet is an explanation of how proceedings are conducted in the Occupational Safety and Health Review Commission (OSAHRC). It is not an official supplement to the Commission's Rules of Procedure but is published as a guide so that some of the principal provisions of those Rules may be more readily understood.

The Commission's Rules of Procedure may be obtained by writing to: Executive Secretary, Occupational Safety and Health Review Commission, 1825 K Street, N.W., Washington, D.C.

They are also published in volume 29, Code of Federal Regulations, §§ 2200.1–2200.110.

1. The Commission

The Occupational Safety and Health Review Commission is an independent agency of the U.S. Government. It is not affiliated in any way with the Department of Labor. There are three Commission Members who are appointed by the President of the United States for six year terms, and forty-five or more judges who have career tenure. The judges hold hearings and adjudicate disputes under the Occupational Safety and Health Act of 1970. The Commission Members review the judge's decision, and have the authority to change such decisions.

Review Commission Judges are appointed by the Chairman of the Commission. Their offices are located in principal cities throughout the United States, but they generally travel to the community where an alleged violation of the Act has occurred to hold their hearings.

2. How OSHA cases are initiated by the Department of Labor

Cases which come before the Commission or its Judges begin with an inspection conducted by the Occupational Safety and Health Administration (OSHA), an agency of the United States Department of Labor.

When the OSHA inspector finds what he believes to be a violation of the Act, the employer is notified in writing of the exact nature of the alleged violation and the period of time OSHA deems reasonable for its correction. This document is called a *citation*. The period of time specified in the citation for the correction of the alleged violation is called the *abatement period*. The Act requires that the employer post a copy of the citation.

Within a reasonable time after the issuance of the citation, OSHA is required to notify the employer in writing of the penalty, if any, proposed to be assessed for each violation it has alleged. This document is called a *notification of proposed penalty*. It must be sent by certified mail.

Many times both the citation and notification of proposed penalty are mailed to the employer in the same envelope.

If neither the cited employer nor any affected employees take action to contest this action within fifteen working days (Mondays through Fridays, excluding Federal holidays), the citation and notification of proposed penalty will become the final order of the Commission and not subject to review by any court or agency.

COMMISSION PROCEDURES

3. How an employer contests an OSHA action

Initially there are 2 things to be done by an employer who wishes to contest the citation he has received from OSHA, or any part thereof, or the amount of any penalty proposed against him:

(a) Within fifteen working days from his receipt of the *notification of proposed penalty*, he must notify the Labor Department, in writing, of his intent to contest (this is called a *Notice of Contest*), and

(b) Upon receiving notice that the case has been docketed, he must notify his affected employees (and their union representative, if any) that he is contesting the case.

This latter requirement has been included so that affected employees will know of the case in the event they wish to avail themselves of the opportunity to participate as a party. The Commission will supply forms to the employer for this (further explanation is contained in section 11D of this Guide).

The notice of contest is a simple written statement by the employer or his representative that he intends to contest the action initiated against him by the Department of Labor. If the employer does not wish to contest everything in the citation and notification of proposed penalty, his letter should specify exactly what he is contesting. For example, there may be two citations and he wishes to contest only one of them. He should identify that one. Or there may be six different items alleged as violations in a citation and he only wishes to contest items 3, 4, and 6. He should so specify. If he wishes to contest the total amount of the proposed penalty or only the amount for one citation or specific items on one citation, or only the abatement period for some or all of the violations alleged, he should so state.

For any citation or items listed on a citation which the employer does *not* contest, the employer must comply with the abatement period and pay to the Department of Labor whatever monetary penalty is specified for such citation or items.

4. Where to send a notice of contest

The employer must mail his notice of contest to the Area Director of the OSHA office from which the citation came. Regular first class mail will be sufficient for this purpose. The appropriate Area Director's name and address will be listed on the citation. The employer must *not* send this notice to the Commission.

Note: The filing of this notice of contest in good faith and not solely for purposes of delay or avoidance of penalties tolls the abatement period. In other words, the time specified for correcting the violation alleged in the citation does not begin to run until the entry of a final order of the Commission for those alleged violations which are contested.

5. Procedures before hearing

Within seven days of receipt, the OSHA Area Director must forward the employer's notice of contest to the Commission. The Commission's Executive Secretary then notifies the employer, the Secretary of Labor, and all other parties to the case of the Commission's receipt of the notice of contest and the docket number assigned to the case. The Secretary of Labor then becomes the *Complainant* in that case, and the contesting employer is the *Respondent*.

At the time the employer is notified that his case has been docketed, the Commission will furnish him with a copy of a notice to be used in advising his affected employees and a return postcard so the Commission will know that this has been done.

Pleadings are then filed as specified below:

Within 20 days of the date on which OSHA receives the employer's notice of contest, counsel for the Secretary of Labor must file a written *complaint* with the Commission. A copy must be sent to the employer and all other parties to the case, if any (See section 11B of this Guide). The Complaint sets forth the alleged violation (or violations), which the employer is contesting, in more specific detail than was listed on the citation, and recites certain jurisdictional matters. It also relates the basis for the abatement period, and a justification of the proposed penalty.

The employer must file a written *answer* to the Complaint with the Commission within 15 days of the date the Secretary files the Complaint. A copy must be sent to counsel for the Secretary and to all other parties to the case, if any. The Answer must be either a general denial of the Complaint or specify those statements in the Complaint which the employer denies or wishes to explain. Any allegation in the Complaint not denied in the Answer will be deemed to have been admitted.

Between the filing of the Answer and the date of the hearing, various motions or petitions may be filed by any party. After all pleadings are completed, the parties will be notified of the assignment of the case to a Commission Judge. Prehearing conferences may then be scheduled by the Commission.

The parties will be notified of the time and place of the hearing at least 10 days in advance thereof. This notice must be posted by the employer. A form to accomplish this will be supplied by the Commission.

6. Withdrawal of notice of contest

An employer who has filed a notice of contest and later determines that he wishes to withdraw his case may do so at any stage of the proceedings if he:

1. Shows that the alleged violation has been abated (or shows when it will be abated.)
2. Pays the amount of the proposed penalty to the Secretary of Labor.
3. Serves notice thereof upon affected employees and their authorized representative, if any.

7. Settlement

The Commission encourages settlement at any stage of the proceedings. The Secretary of Labor must agree to the settlement terms and affected employees or their authorized representative must be advised of the terms thereof. The Commission must also approve.

8. Hearings

Hearings are adversary proceedings conducted like trials in court. The hearing is usually conducted in or near the community where the alleged violation occurred.

At the hearing, a Review Commission judge will preside. The Secretary of Labor has the burden of proof (except as stated in section 10 of this Guide). He must establish each contested violation through evidence introduced in open court. Each party to the proceeding may call witnesses, introduce evidence, and cross-examine opposing witnesses. In making his decision, the judge is only permitted to consider matters received during the hearing. Thus, each party must be sure to see that their case is fully presented.

After the hearing is over, and before the judge makes his decision, each party is given an opportunity to submit to the judge, written briefs and proposed conclusions of law.

9. Procedure after hearing

After the Judge has heard the evidence, he will issue a written decision and file it with the Commission. Each party will receive a copy. This decision becomes final 30 days after its receipt by the Commission, unless within that 30-day period any Commission member directs that the case be reviewed by the full Commission.

Review by the Commission is not a matter of right. It is solely within the discretion of the members of the Commission. However, any party may file a petition with the Commission during the 30-day review period requesting that the Commission review the decision of the Judge. The petition should state the reasons the petitioner believes the Judge's decision should be reviewed. It should be sent to the Commission in Washington, D.C. so that it will be received no later than 25 days after the judge's decision.

When the Commission does decide to review a judge's decision, the parties are noti-

fied and given an opportunity to submit written briefs and exceptions to the judge's decision. No party is required to appear in person before the Commission. However, the Commission may, on occasion, request an oral presentation.

Where the Commission does not grant review of a judge's decision, the judge's decision automatically becomes the final order of the Commission 30 days after it is filed. It may then be appealed by any aggrieved party to an appropriate U.S. Circuit Court of Appeals. This right of appeal also applies to Commission decisions issued after a direction for review.

10. Petition for modification of abatement

There are some instances where an employer has not contested an OSHA citation (or appealed a Commission order) but wishes to have a change in the abatement date with which he is required to comply. If the employer has made a good faith effort to comply with that abatement period but has not been able to do so by the prescribed date because of factors beyond his control, he may file a *petition for modification of abatement*. This Petition is filed with the OSHA Area Director in the same manner as a notice of contest and must be filed *no later* than the end of the next working day following the date on which abatement was to have been completed. It should state why the abatement is not completed. Affected employees and their union (if any) must also be notified (see section 11D of this guide).

OSHA is required to forward the Petition to the Commission within 3 days of receipt. Various pleadings are then filed as indicated below.

Within 10 days, the Secretary of Labor is required to file a Response. Procedures are otherwise the same as with a notice of contest, except that the employer must demonstrate that he could not complete abatement for reasons beyond his control.

In cases of this kind, the employer is called the *Petitioner*, and the Secretary is called the *Respondent*, and the burden of proof is upon the Petitioner.

Note: Where the abatement period has been prescribed by a Commission order after the citation has been contested, the proper procedure is to file a Petition with the *Commission* for modification of its order.

11. Other important matters

A. Definition of Affected Employee

The Commission's Rules of Procedure define an affected employee as "an employee of a cited employer who is exposed to the alleged hazard described in the citation, as a result of his assigned duties." *Any employee, including supervisors and company officers, can be affected employees.*

B. Election of Party Status by Others

Affected employees, or a union which represents affected employees, may elect to participate as parties in any proceeding before the Commission at any time before the commencement of the hearing. Such election is made by filing a *Statement of Intent to Participate* or a *Statement of position* which sets forth the affected employees' position with respect to the issues. A copy must be served on all other parties.

Where a proceeding has been initiated by an affected employee (or union which represents affected employees), the employer may elect to participate as a party at any time before the commencement of the hearing by filing a statement of intent to participate or a statement of position. A copy must be served on all other parties to the proceeding (for a fuller explanation of this type of proceeding see section 11L of this guide).

C. Service of Papers on Others

All papers filed with the Commission or a Judge must be served on all other parties to the case (see also the last sentence of section 11G of this Guide). Service is the delivery of copies of the papers to the other parties, either personally or by first class mail.

Note: When an employer initially files a notice of contest to an OSHA citation, the Labor Department and the employer are the parties. Others may join the case later. When this happens, the employer will receive appropriate notice.

In addition, a statement that service has been accomplished must be attached to any papers submitted for filing with the Commission. The statement must show the date and manner of service (mail or personal delivery) and the names of the persons served. Such a statement is called a certificate of service.

D. Notifying Employees of Case

An employer who files a notice of contest to an OSHA enforcement action (or petitions for modification of abatement) is *required* to give notice to all his affected employees in the manner specified below.

If there are any affected employees who are not represented by a union, the employer is required to do 2 things: (a) Post a copy of the notice of contest (or petition for modification of abatement) at each place where the OSHA citation is required to be posted, and (b) Post a notice informing the affected employees of their right to participate in the case (The Commission supplies forms for this).

If any of the affected employees are represented by a union for collective bargaining purposes, the employer is required to serve (see section 11C of this guide) such union with a copy of the notice of contest (or petition for modification) *and* with a copy of the notice supplied by the Commission (if more than one local union represents affected employees, each such union must be served).

If some affected employees are represented by a union and some are not, the employer must comply with *both* of the 2 preceding paragraphs.

The employer must also notify the Commission that he has complied with these requirements for notifying employees (The Commission will furnish a return postcard for this purpose).

E. Maintaining Copies of Pleadings

In order that affected employees may have the opportunity to keep abreast of the status of the case and other developments therein, the employer must keep available at some convenient place copies of all pleadings and other documents filed in the case so they can be read at reasonable times by affected employees or agents of unions representing affected employees.

F. Computation of Time

The Commission's Rules provide that in computing time, the day which starts the period shall not be included. The last day of the period is included, unless it is a Saturday, Sunday, or Federal holiday.

Example: The report of the Judge is filed Monday, July 3. In computing 30 days, July 3 is not included. Begin counting days on July 4. Thus, the review period ends on August 2. Since August 2 is not a Saturday, Sunday, or Federal holiday, it is included as the last day. However, were August 2 a Saturday the last day of the review period would be the next Monday—August 4.

Where the period of time prescribed is less than 7 days, intermediate Saturdays, Sundays, and Federal holidays are not included.

Example: A motion is mailed on Monday, July 3. Since the period of time to respond is 10 days, Saturdays, Sundays, and Federal holidays are counted, and July 4 is the first day of the Computation period. Since the motion was served by mail, 3 days are added to the time to respond. Thus, the last day of the period is July 16. However, since July 16 is a Saturday, the last day to respond is put over to the following Monday—July 18.

G. Appearances in Commission Proceedings

Any party may appear in a Commission proceeding either personally, through an attorney, or through any person of his choosing. Such person need not be an attorney at law. Where affected employees are represented by a union for collective-bargaining purposes, customarily only the union's designated representative may appear.

An attorney or other representative who files an appearance in a case for one of the parties controls the proceedings with respect to the party represented. That person is the one to whom all papers in the case are sent.

H. Penalties

OSHA only *proposes* penalties. Their proposals become penalties when the enforcement action is *not* contested within the time prescribed. Once a case is contested, the assessment of a penalty, if any, is a matter for the Commission.

When a case goes to hearing before a Review Commission Judge, the employer's evidence and argument on what penalty, if any, should be assessed, receives the same consideration as the evidence and argument of the Secretary of Labor on this matter.

The four factors which the law requires the Commission to consider in determining the appropriateness of civil penalties are:

The size of the business of the employer being charged;

The gravity of the violation;

The good faith of the employer; and

The employer's history of previous violations.

The amounts which may be assessed as penalties are set forth in Section 17 of the Act. All penalties assessed by the Commission are civil, not criminal.

I. Criminal Fines

The Commission has no jurisdiction to impose criminal fines or prison sentences.

J. Ex Parte Communication

Parties to cases before the Commission may not communicate *ex parte* with the Judge, a Commission member, or any employee of the Commission involved in a decisional process. In other words, no participant may discuss the merits of the case or make any argument with respect to a matter in controversy unless the other participants are present and given an opportunity to present their side or unless it is done in writing and copies are sent to all other parties. This prohibition does not, however, preclude asking questions with respect to the scheduling of a hearing or other procedural matters.

K. Court Review

Any person aggrieved by a final order of the Commission which was issued after a case has been initiated by the filing of a notice of contest, may petition for review in an appropriate United States Court of Appeals.

L. Employee Initiated Proceedings

Even if the employer does not file a notice of contest, affected employees may contest the reasonableness of the abatement period specified in the OSHA citation. They can do this by filing a notice of contest with the OSHA Area Director within 15 *working days* from the date the *citation* was issued.

The notice of contest need state only that the contestant is an affected employee (or a union which represents affected employees for collective bargaining purposes) and wishes to contest the reasonableness of the abatement period. In all such proceedings, the other affected employees and the employer may elect to participate as parties.

Note: Where affected employees are represented for collective bargaining purposes by a union, customarily only their union may file.

Within 7 days of receipt of such a notice of contest, OSHA must forward it to the Commission. Within 10 days, the Secretary of

Labor must file a statement with the Commission stating why the period prescribed for abatement is not unreasonable. No later than 10 days after service of this statement, the affected employees or their authorized representative must file a response, stating why the period prescribed by OSHA is unreasonable.

Procedures are similar to those for an employer notice of contest. The Secretary is the complainant, and he must establish that the period prescribed for abatement is not unreasonable.

Note: Where the case involves *only* an employee (or union) contest to the reasonableness of the abatement period specified in the Citation, that period is not toiled with a final order of the Commission.

M. Expedited Proceedings

In certain unusual situations, it may be necessary that the time allowed for the proceedings described in this Guide be expedited. The Commission's Rules of Procedure permit this upon the application of any party or intervenor, or upon the order of any member of the Commission. If an order is made to expedite proceedings, all parties and intervenors in the case will be specifically notified of the variances from what has been described in this Guide.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION,
Washington, D.C., September 26, 1972.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: For your information, and as further amplification of my testimony during the oversight hearings on the Occupational Safety and Health Act, on September 19, 1972, I wish to advise that the Occupational Safety and Health Review Commission has adopted new Rules of Procedure to replace interim rules which have been in effect since October 1, 1971. These new rules, which simplify and streamline the system for contesting occupational safety and health enforcement actions become effective with their publication in the Federal Register on September 28, 1972.

In order to assist those who wish to contest OSHA enforcement actions, or better understand the procedures involved in doing so, the Commission is also publishing a Guide to its procedures, an early copy of which is enclosed herewith.

This Guide, written in plain non-legal language, is available to the public at the Commission's Washington office and, beginning on September 28th, will automatically be sent to all parties when their cases are docketed with the Commission.

Employers who contest OSHA actions will also be furnished with a notice to be used in informing their employees of the case and a return post card which will advise the Commission that they have done so. This will make it easier on employers to comply with a Commission rule requiring that affected employees, and unions representing them, be notified of the case so they can avail themselves of the opportunity to participate as parties.

In addition, the Commission has worked out an agreement with the Department of Labor under which each cited employer, at the time he is cited, will be supplied with written information explaining how to contest OSHA citations and penalty proposals. This will go into effect as soon as printing and distribution of the information to OSHA area offices can be accomplished.

With these changes, no one who is dissatisfied with an OSHA enforcement action affecting him, should have any trouble understanding what he must do to obtain a hearing on the matter, and, if he wants a hearing, there will no longer be any red tape or other legal barriers to achieving that desire.

Very truly yours,

ROBERT D. MORAN,
Chairman.

Mr. JAVITS. I hope this discussion will serve to put to rest, once and for all, the notion that under OSHA inspectors are authorized to go around the country slapping fines on small employers.

For all of these reasons, Mr. President, I hope very much the Senate will approve this amendment.

Mr. CASE. I thank the Senator.

I yield 2 minutes to the Senator from New Jersey.

Mr. WILLIAMS. Mr. President, I have cosponsored and strongly support the amendment to strike the provision exempting employers of 15 or less from Federal inspections under the Occupational Safety and Health Act of 1970.

While this exemption provision would leave such firms subject to the act's requirements, it would prevent Federal inspectors from enforcing those requirements—no matter how blatantly the act might be violated or how hazardous the working conditions that might exist—unless the Department of Labor enters into an agreement to use State inspectors under section 7(c) of the act.

Those advocating this type of exemption seem to assume that we are dealing with businesses comparable to mom-and-pop grocery stores, where employees suffer very little risk to safety or health. The fact is, however, that a great many high hazard activities are commonly performed by small firms.

Senator CASE has already discussed the logging industry. Mention may also be made of a host of other types of small establishments—construction firms, foundries, machine shops, print shops, electroplating shops, welding shops, stonecutting operations—where there are either above-average injury rates or where the health problems are severe.

I would point out that a 1970 study by the Department of Health, Education, and Welfare conducted in the Chicago metropolitan area, found that the smallest firms surveyed—those employing eight to 19 workers—had the highest percentage of employees exposed to one or more potential occupational hazards. In this group, 46.3 percent of the workers were so exposed, as against an overall average of 33.8 percent. This survey disclosed that these small firms had the highest concentration of health hazards, the fewest safeguards, and the least awareness on the part of management, of the dangers existing in the workplace.

I, of course, recognize that there have been many complaints regarding the implementation of the act. As chairman of the committee which has held oversight hearings on this subject, I want to discuss that aspect of this exemption issue.

The fact is that the effort to exempt small employers arises out of some real problems that have existed with the act's administration, as well as a great deal of exaggeration that surrounded those problems. As the National Small Business Association pointed out to us during our hearings:

The business community has fallen victim to a great many rumors and scare-stories which appear to have little foundation in fact.

We have now had an opportunity to sift through the exaggerations and determine just what the real problems are. It is clear that the most basic problem is the fact that the standards issued by the Secretary of Labor were published in such form that many businessmen have had difficulty in determining just what standards might be applicable to their particular workplaces.

Since this problem first became evident, many of the trade associations have done an excellent job of sorting out the standards which apply to their members' activities and have distributed them with appropriate explanatory material.

In addition, it is clear that the Department of Labor has now recognized the need for making more meaningful information available to employers, and is preparing guides to the standards which will make it easier for a businessman to find the requirements to which he is subject, as well as detailed subject indices to each of the areas covered by the standards.

I would also point out that a number of the standards issued by the Secretary of Labor, which have been the subject of the greatest criticism, have been revoked or modified or are in the process of being so. These include:

The standards prohibiting ice in drinking water;

The standards relating to toilet facilities;

The standards requiring the use of boom-angle indicators, and weight-moment devices on cranes and derricks;

The inconsistent provisions relating to scaffolding which are now found in different sections of the standards.

In the area of enforcement, the Occupational Safety and Health Review Commission—the agency provided by the act to hear appeals from OSHA citations and to make final decisions with respect to the assessment of penalties—has issued a number of rulings relating to citations and penalties, which meet some of the criticisms most frequently voiced by businessmen.

For example, the Review Commission has made it clear that in the case of nonserious violations, it will not approve the type of small monetary penalties which many employers have come to regard as harassment and which the Commission has concluded do not really serve to encourage compliance.

The Commission has also ruled that an employer is not subject to citation because an employee, unknown to the employer, violates a safety requirement which the employer has made every effort to enforce.

I might add that the Review Commission itself, effective September 28, has adopted new procedures which simplify and streamline the system for employers who wish to contest safety and health enforcement actions. To further reduce any burden on employers, the Commission has assured our committee that its judges will come to the community where the alleged violation occurred;

there is no need for an employer to travel a great distance to avail himself of the due process provisions which the act incorporates.

These and other developments I have discussed more fully in a statement which I included in the CONGRESSIONAL RECORD for September 15. I cite them again now to underscore the point that the situation of small businesses under the act is not the same as it seemed some months ago when this exemption proposal was first conceived.

I think it important to note that although we heard from a great number of business organizations during our oversight hearings—including those having many small business members—there was very little support expressed for a small business exemption. Most of the organizations appearing recognized that employees of businesses of every size are subject to on-the-job hazards, and all are equally entitled to protection. It was also recognized that in some work situations, such as construction, the presence of exempt and nonexempt employers would present a chaotic situation. As was emphasized by the Associated General Contractors, an organization having many members with less than 15 employees:

> To exempt some firms without exempting others can create a confused and unsafe condition on every construction project. Job experiences indicate that the small firm should not be considered a "second-class citizen" by way of the inspection exemption; such firms are in need of safety assistance—frequently more so than large firms.

The testimony submitted by two organizations—the American Pulpwood Association and the Western Wood Products Association—is particularly instructive, for, coming as it does from industry groups heavily populated by very small employers, it indicates that small businessmen can readily live with the act as presently administered.

For example, the American Pulpwood Association told us that its members recognized that the OSHA standards simply told them to do what they should have been doing all along; that the act's enforcement had had a constructive impact on the small business members of the industry; and that if Congress adopted an exemption provision, "A real opportunity to improve logging safety will be lost."

Similarly, the Western Wood Products Association stated to us that it regards the Occupational Safety and Health Act "As a positive and progressive instrument" which "provides all industries with a working tool to modernize safety programs which, for whatever reason, might have been deficient." The association pointed out that while difficulties had been encountered with the form in which certain standards had been promulgated, these were being ironed out in cooperation with the Labor Department. But it emphasized that "We need no administrative reprives or changes in the law because of lack of information."

I should stress that because of the high work-injury record in the lumber and wood products industry, the members of these organizations have been singled out for special enforcement emphasis as one of the Labor Department's "target industries." If they can respond in such a positive fashion to the act's requirements, if is hard to believe that others cannot do so as well.

The fact that there is such a high proportion of small employers in the lumber and wood products industry underscores the point made earlier about the need to enforce the act against the small employers as well as the large. When an industry has been singled out by the Labor Department for target emphasis because its injury frequency rate is more than twice that of manufacturing generally, we are sadly deluding ourselves if we pretend that its members can be exempted without significant consequences.

And this observation is not confined to this particular industry. At least one of the other target industries—roofing and sheet metal work—is also largely composed of very small employers, and its injury frequency rate is even higher than that of lumber and wood products.

A look at the target health hazards identified by the Labor Department also attests to the error in thinking that we can exempt small businesses without undue concern for the results. The target health hazards include five toxic substances which the Labor Department has found to be not only particularly widespread and detrimental to life and health of workers, but also readily susceptible to enforcement effort. Four of these five: Asbestos, carbon monoxide, silica, and lead, are frequently found in very small establishments.

Asbestos, for example, is now known to induce lung disease and cancer which take at least 3,000 lives a year.

It is estimated that at least 50 percent of the more than 200,000 workers directly exposed to this hazard work in small firms—from construction companies to brake relining shops—that would be exempted by this provision.

I find it absolutely impossible to justify any exemption which would exclude these employees from the safeguards which, after so many years of tragic neglect, are just now being provided under the act.

I hope each Member of the Senate, before voting to sustain this exemption, will consider exactly what justification he can find for removing these and 15 million other workers from the long-sought protections of the act.

Mr. CASE. I thank the Senator for his statement.

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

The yeas and nays were ordered.

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

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

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 5 minutes.

Mr. CURTIS. Mr. President, this provision already has been adopted once by the Senate, by the House, and agreed upon in conference. I believe that we need to understand the situation just a little better.

The language in the bill does not exempt projects or job situations that have fewer than 15 employees. It would exempt firms that have 15 or fewer employees. So the assertion about the building trades is inapplicable. Even though they send a few men on the job, if the firm employs more than 15 they are under the act. That is one thing we should keep in mind. Another thing is that here all at once a health and safety law is applied all over the United States to all sizes of businesses. When they went to write the regulations they stated, "As provided by such and such a reference." When this matter was here before I had a partial set of those references. It was four stacks, this high. Had I been able to get all the books showing the regulations it would have been a stack 17-feet high.

There is scarcely a State in the Union that has a library that a small businessman can go to and find out what the regulation means.

Now, what are we talking about? The law just went into effect this year. We are asking for a small business exemption for the balance of this fiscal year—8 months or a little more.

I realize there has been a great lobby; it has been confusing people, stating it would take construction workers out of it, which is not true at all.

I submit that under these circumstances, applying the Federal law across the board, they could do a better job and hire more competent inspectors if they do not have to go in, right off, at least, and regulate every filling station with two employees, or every store with five, six, nine, or 10 employees, and that is the issue.

It has been said here that this is an attack on health and safety. Not at all. It will lead to better administration and mean that the inspectors can concentrate where the most people are employed and the most hazardous situations.

Now, I admit that the Secretary of Labor has written a letter in conformity with all the lobbies running up and down the hall here that want this provision wiped out, but I emphatically deny that anybody else in the administration is in agreement with the amendment.

Mr. President, the hour is late. I doubt if any minds can be changed, but the fact remains——

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

Mr. CURTIS. In just a moment.

The fact remains that if we are going to force the little people to comply with a law that is largely regulation, that has not even been published in the Federal Register, and it takes a stack of books 17-feet high to find out about, and we are asked to do that because of the misguided efforts of some of our labor leaders—I think they intend to do the right thing; I think they feel they are protecting the health and safety of the workers, but in reality they are not—they are spreading the efforts of the Government so we cannot get the inspectors to do the job. They are definitely wrong in their claims about the construction industry.

I hope, Mr. President, that the United States, which should believe in the rule

of law, will not impose on little business people the requirement to live up to a stack of books 17-feet high, regulations that we cannot find in any library in any State.

Now I yield to the Senator from New Hampshire.

Mr. COTTON. I thank the Senator.

Mr. President, I wanted to merely give a word of corroboration to the Senator's statement that it is the Secretary of Labor, or the Labor Department, and not the administration, that objects to this provision. The Secretary of Labor wrote a letter to the chairman of the committee protesting this provision. The Secretary of Labor has written letters to the distinguished Senator from New York and the distinguished Senator from New Jersey and all the other distinguished Senators of his persuasion. I, as the senior Republican on this committee, have been in conference constantly with representatives of the administration, the Department of Health, Education, and Welfare, and the White House. Not one word has ever been said to me by any one of them that they were interested one way or the other in this particular provision.

I happen to know from experience, and I would like to get it in the RECORD so that there will be no chance of misunderstanding, that this Department of Labor, from top-to-bottom, are nothing but field representatives of the AFL–CIO, and I have found this from good experience, when early in this administration I recommended a man for, I think it was, a grade 11 position in the Labor Department Office, in Boston, and I found immediately that he was turned down. This man was a trusted employee of the Senate who served here on the floor for 12 years, under both Styles Bridges and myself. When I investigated this action I found that a labor leader in New Hampshire who dislikes me with a passion, had appealed to the Secretary to refuse this position to this man who enjoyed the trust of the Senate but was rejected for this subordinate position in their regional office.

So let there be no misunderstanding. I am going to support the provision because the Senate voted for it before and because I think it is a reasonable provision, but when anyone starts saying that the administration has indicated their opposition to this provision, I would like to have more proof, because I have not had any tangible proof brought to me. If it has, then I cannot read the signs of the times. I want that to be very, very clear.

Mr. CURTIS. I thank my distinguished colleague. I might say I have been involved in this matter for months and months, and never has any representative of the administration voiced any opposition to this small businessmen's exemption. I think the facts are that the original administration proposal, sponsored by the distinguished Senator from Colorado (Mr. DOMINICK) carried a small businessmen's exemption in it. I believe that is correct. The claims made here that the administration is involved here, beyond what might be carried by the Labor Department, I do not think can be substantiated.

Again I remind Senators that this provision does not eliminate the construction firms, because there are very few such firms that do not involve many, many more than 15. The notion that they would be sent out on jobs that were not covered is not in conformity with the language of the bill.

Mr. President, have my 5 minutes expired?

The PRESIDING OFFICER. The Senator from Nebraska has used 10 minutes.

Mr. CURTIS. Mr. President, I yielded myself 5 minutes. I do not know whose 5 minutes I used other than that.

Mr. WILLIAMS. Mr. President, will the Senator yield for a clarification?

Mr. CURTIS. I yield.

Mr. WILLIAMS. I would not want the RECORD to indicate that the bill introduced by the Senator from Colorado had an exemption. It did not. I am sure that has been clarified, as a matter of fact.

Mr. CURTIS. Mr. President, before I yield the floor, I just want to remind Senators that we are talking about just 8 months. This is a national law just getting started, and we ask for a breathing spell for small businessmen. They are on one side; the giant vested interests and the labor forces are on the other side.

I reserve the remainder of my time.

Mr. MOSS. Mr. President, with the passage of the Williams-Steiger Occupational Safety and Health Act, the Congress made a major commitment to assure, as far as possible, every working man and woman in the Nation safe and healthful working conditions.

The reason for this commitment is simple and compelling. In 1970 more than 14,000 Americans died as a result of accidents on the job. There were 2.2 million disabling injuries. In the decade of the 1960's, the reported accident frequency rate jumped nearly 20 percent.

These grisly statistics, and the human pain and suffering they represent, led to the enactment of the Occupational Safety and Health Act.

All of us are aware that this new law has had its share of criticism and complaint during the first year and a half of its implementation. This should not surprise us if we remember how comprehensive and innovative this legislation is.

Of course there will be improvements in the administration of the law. Many improvements have already been made. And undoubtedly the act itself will be improved and amended in the light of experience. Comprehensive oversight hearings are now underway by the responsible committees in both Houses to review the administration of the act. They will, I am sure, give careful consideration to all proposals for improving the implementation of the act, whether by legislative or administrative means.

But when we consider improvements in the Occupational Safety and Health Act, or when we consider the complaints we have heard concerning the administration of the act, we must not forget the commitment we made when passing this law or the reasons for that commitment. The difficulties encountered in administering this new law are trivial in comparison to the great accomplishment of putting the force of Federal law behind the safety and health of America's workers.

Today we are asked to use the appropriations process to rip the Occupational Safety and Health Act to shreds for millions of American workers. For in one rash action millions of workers—many of them in very hazardous occupations—would be placed beyond the jurisdiction of the law.

Let us consider the reasons behind this unfortunate proposal. Many small businessmen have complained that they have been subject to harrassment by compliance officers from the Occupational Safety and Health Administration. They have complained that the safety standards are too complicated. It is difficult, they have said, to obtain information and advice on how to comply with the law.

Many of these complaints are undoubtedly accurate. There have been compliance officers who have used their authority arrograntly. And the administration can and should improve its information and education program. But all of the problems we have heard about are essentially administrative problems and must be dealt with at that level.

We should recognize the burden we placed on the Occupational Safety and Health Administration to implement a full set of safety standards in the initial period of the act. We should also recognize the progress they have made in overcoming many of the administrative difficulties we have heard so much about. The causes of many of the complaints we have heard have already been eliminated.

Exempting small businesses from the act is not a solution for any of these problems. Responsible representatives of small businessmen realize this.

What would be the consequences of exempting small businesses from the act? First, millions of workers would be denied the protection of the law simply because they work for a small employer. This is a violation of fundamental equity in the application of the law.

Second, many of the employees who would be left without protection work in the most hazardous industries. Many industries, which we do not normally think of as small businesses, such as sawmills, logging operations, and construction, have extremely high rates of death and disabling injuries. Yet these industries, which require vigorous enforcement of the law, would be left without any enforcement at all.

Third, a blanket exemption of small employers would lead to increased administrative difficulties rather than administrative improvement. Compliance officers would be forced to spend much of their time and effort just determining where they had jurisdiction and where they did not.

Mr. President, crippling the enforcement of the Occupational Safety and Health Act through the appropriations process will not bring relief to the small

businessman and it will not solve any administrative difficulties. Instead, it will represent a major reversal of the commitment of Congress to achieve safe and healthful working conditions for all American working men and women.

Mr. DOMINICK. Mr. President, I oppose this amendment. I cosponsored and spoke in support of my colleague from Nebraska's (Mr. CURTIS) amendment to the Labor-HEW appropriations bill which was subsequently vetoed. That amendment was adopted by the Senate with a modification reducing from 25 to 15 employees, the size of the firms exempted. I am pleased to see that the Senate Appropriations Committee has seen fit to retain the 15-employee exemption which was adopted again by the House in the revised Labor-HEW appropriations bill. This issue has been debated thoroughly and approved by both Houses. Since the circumstances have not changed, I do not see why it should be necessary to rehash it again. If anything, the impact of this amendment has decreased, because it applies only to funds appropriated for this fiscal year, and we are already well into the fiscal year. I agree that it is not an adequate long-range solution. But it will give small employers a short respite—for the remainder of this fiscal year—from harassment under the Occupational Safety and Health Act while Congress decides what permanent changes should be made.

As I pointed out during debate on this issue when the first Labor-HEW appropriations bill was considered in June, rather than an instrument for the noble purpose of providing a "safe and healthy environment" for American workers, OSHA has been a device for the harassment of thousands of already harried small businessmen and farmers. This is due primarily to the punitive approach the act takes toward employers.

OSHA's first set of comprehensive standards came out 1 month after the law became effective. Many of these are supposed to reflect so-called national consensus standards. The problem with that is that there never has been any real consensus as to such standards, and there was not enough time to develop any kind of meaningful consensus. The act also required the new National Institute of Occupational Safety and Health to publish within 6 months of enactment a list of all known toxic substances and their tolerable concentration levels. Well, the deadline was met. But the list and concentration levels were based primarily on animal research rather than human exposure, and even officials of the Institute admit that they bear no relation to actual working conditions.

So it was no surprise to me when the OSHA standards turned out to be unrealistic. Many of my colleagues and I pointed out this danger before this legislation was enacted 2 years ago. The best evidence that we were not just making idle talk is that less than 25 percent of the employers inspected by OSHA in fiscal year 1972 were found to be in compliance. Spokesmen for OSHA point with pride to the speed with which they move to enforce the act, and boast about how enforcement will be stepped up next year. The OSHA budget for fiscal year 1972 was $35.9 million; the budget request for fiscal year 1973 is $69.2 million. The appropriations bill vetoed earlier this year increased that to $72.2 million, and I note this bill retains that level. In fiscal year 1972 OSHA conducted 32,701 inspections, resulting in 23,231 citations charging 102,861 violations, and imposing penalties totaling $2.3 million. Plans for fiscal year 1973 call for increasing the force of OSHA inspectors from 400 to 500, and a goal of 100,000 inspections.

Testimony taken in recent oversight hearings on OSHA indicates there is wide dissatisfaction both with existing standards and the way they are being enforced. OSHA standards are inflexible. They fail to take into account variations in working conditions in different industries, the size of the firms affected, or the cost impact of compliance. Employers, particularly small ones who cannot afford to retain full time legal counsel, are unable to understand complex and vague OSHA regulations. They are reluctant to seek advice from OSHA officials for fear that an inspection will be triggered before they are able to determine what action is necessary to comply. Moreover, once they do understand what the regulations require, they frequently are unable to see any relationship with better working conditions or improved safety.

OSHA is being enforced as if it were penal, rather than remedial legislation. The overbroad delegation of authority to OSHA inspectors permits them to exercise the powers of policeman, judge, and jury all rolled into one. They can make on-the-spot decisions to issue citations and levy immediate fines against employers for seemingly trivial violations. Employers wonder, if this legislation was intended to promote compliance with safety standards, why they are not given a reasonable period of time to comply before fines are levied. The way it is now, they are fined immediately for violations, and are subject to additional fines if they do not comply within a specified period of time. They are, in short, treated like criminals.

The police-oriented approach which permeates the legislation has gotten the administration of OSHA crosswise with what I thought was the original intent of Congress—to improve working conditions for all the workers in this country. Employers are punished for noncompliance with standards they know little about, rather than assisted in complying. For example, the act makes it a crime to give an employer advance notice of an inspection. It should be just the opposite. Employers should be notified in advance, told where they are in violation, and offered assistance in complying. Only then should fines for noncompliance be levied. OSHA is not a criminal statute, and administration of it as if it were simply is not going to work. Unfair regulatory procedures will only alienate employers from State and Federal officials who ought to be guiding employers toward compliance.

I can see why businessmen, particularly small businessmen, are losing their faith in Government. They pay taxes to establish a large bureaucracy which sets and enforces safety standards, and then they cannot get advice from the very officials whose salaries they are paying as to how they can comply with those standards. And they struggle under red-tape and paperwork imposed by the OSHA bureaucracy. They wonder, and I do, too, whether the money to establish and enforce, against two- and three-employee firms, regulations doing everything from prohibiting ice in drinking water to requiring separate restrooms and split toilet seats, could not be better spent. I think it could, and I am confident that enough of my colleagues in Congress agree, so that improvements can be made next year.

Mr. President, I have an editorial from a small town Colorado newspaper which typifies the resentment small businessmen feel toward OSHA and the way it is being enforced. I ask unanimous consent that it be printed in the RECORD at this point.

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

[From the Boulder, Colo., Daily Camera, Sept. 6, 1972]

OSHA OVERKILL

Arch N. Booth, executive vice president of the U.S. Chamber of Commerce, tells of an actual episode having to do with the new Occupational Safety and Health Administration.

One day a federal safety inspector showed up and looked over a small business with six employees. A few weeks later the owner was notified that he had violated a section of the Occupational Safety and Health Act.

The businessman asked for a copy of the regulation he had allegedly violated. He was told no copies were available. He was fined $16.

Two weeks later he received a 248-page list of OSHA regulations. There was nothing in the document about the violation he was charged with, so again he asked for a copy of the pertinent regulation.

After a month he received a 48-page supplement to the 248-page rule book. The new document covered his situation but did not indicate he was violating any rule. So the small businessman appealed the case.

After four hours of hearing with seven federal officials, the charge was dismissed—in a 19-page decision.

This is only one of scores of cases of bureaucratic overkill by the OSHA. We have mentioned some of them here before. Others:

The OSHA has 11 pages of rules on the construction and use of ladders. If a small businessman has one stepladder that he uses maybe once a year, he's got to wade through all those regulations to be sure he is in compliance.

On construction projects, even if the building is entirely of concrete and steel, contractors must have on the job fire extinguishers suitable for wood, cloth and paper.

Drinking water for workers on a construction job can't have ice in it—because ice from frozen rivers and ponds may be unsanitary. But who uses any but artificial ice today?

Many businessmen and others complain that a lot of the OSHA rules have no relation to real conditions. And these rules are only part of the voluminous regulations imposed by bureaucracies.

The Associated General Contractors estimates that a building contractor seeking to be fully informed on his responsibilities under various laws would have to spend $6,000 for a collection of documents that would stack 17 feet high. Big corporations have staffs of legal experts to keep abreast of government regulations.

The small businessman can't afford this. He would benefit by an emphasis on infor-

mation rather than out-of-the-blue inspection and punishment. So would the goal of safety.

Congress would do well to take a new look at the OSHA it has created and at its apparently harassing approaches. Evidently some changes are in order.

Mr. DOMINICK. Mr. President, I hope it will be possible to replace existing across-the-board OSHA standards with more flexible standards which would take into account different conditions in different industries. Where an employer is charged with violation of a regulation, I would like to see the burden shifted to OSHA to demonstrate that compliance will actually result in improved working conditions. Where the cost impact of compliance would impose an unreasonable burden on the employer, particularly a small businessman, there should be provision for a waiver, or financial assistance through the Small Business Administration. The power of OSHA inspectors to levy fines on the first inspection should be removed; and OSHA should be directed to help employers understand regulations, and to provide technical advice and assistance in complying. Finally, I would like to see more emphasis placed on shifting responsibility for enforcement of OSHA to States having safety and health programs with standards comparable to, but not necessarily identical to OSHA.

Mr. President, hopefully, these changes can be made early next year. In the meantime, though, I strongly urge my colleagues to retain the exemption for small firms in this bill by voting against my colleague from New Jersey's (Mr. CASE) amendment to strike it.

Mr. CHURCH. Mr. President, earlier this year, when the issue of exempting small businesses with 15 employees or less from coverage under the Occupational Safety and Health Act was before the Senate, I supported an amendment to do so. I voted for that amendment for several reasons.

To begin with, the recordkeeping requirements which had been imposed upon small businesses were costly and difficult. They were a serious source of concern.

In addition, I was fearful that many small businesses would be fined for violation of an extremely complicated law without notice or opportunity to discover that they were out of compliance with the act.

I was also advised, in numerous letters from Idaho, of enforcement that appeared to take the form of harassment of small businesses, including inordinate fines for minor violations.

On the basis of this information, I supported exempting small businesses with 15 employees or less from the act. At that time, however, I opposed an exemption for 25 employees, feeling it was too large, and I would have preferred an exemption limited to 10 or less. But when 15 became the compromise figure, I felt obliged to vote for it.

Since that time, several changes in the administration of the law and in the attitude of the Congress, taking into account the special needs of smaller business, have come about.

First of all, the Subcommittee on Labor of the Senate Labor and Public Welfare Committee has begun oversite hearings on the administration of the act. These hearings will help to gage the use of the act and make realistic recommendations for changes either in the law itself or in administrative procedures.

Second, the Occupational Safety and Health Administration is preparing guidelines which will make it easier for the businessman to find and apply the standards applicable to his operation.

Third, dubious rules issued by OSHA, which drew especially heavy criticism, have been revoked or modified. The ones I heard the most about—ice in drinking water, certain standards relating to restroom facilities and inconsistent provisions relating to scaffolding—fall in this category.

But perhaps most important to small businesses in my State have been the decisions rendered by the Occupational Safety and Health Review Commission, construing the law in a much more reasonable manner than some of the OSHA inspectors had done in certain cases. The Review Commission has held that the law does not require the assessment of monetary fines for each discovery of a nonserious violation of the act or the standards.

The Review Commission has also held that an employer is not subject to a citation because an employee, unknown to the employer, violates a safety requirement which the employer has made every effort to enforce. Additionally, the Review Commission has also held that a prime contractor on a construction project is not liable for a violation committed by a subcontractor, when the prime contractor has not exposed his own employees to the violation. The Commission has also undertaken an effort to simplify the process of appeal to make it less difficult for an employer to appeal a determination that he has violated the law.

As for the recordkeeping requirements of the law, I am pleased to say that OSHA has proposed modifications of the current regulations. Under the proposed modifications, most employers, hiring no more than seven employees at any one time in the prior calendar year, would normally not be subject to the recordkeeping requirements of the act.

It should also not be overlooked that one of the loudest outcries against the act related to alleged cases of outlandish fines and the closing of businesses. However, testimony from the National Small Business Association, which conducted its own investigation of the effects of the act, came to this conclusion:

The business community has fallen victim to a great many rumors and scare-stories which appear to have little foundation in fact. . . . We could find no substantiation for any of the many stories circulating about firms being forced out of business as a result of OSHA inspections.

In addition to this testimony, a spokesman for the American Pulpwood Association stated:

We certainly haven't heard of anyone going out of business because of the high cost of OSHA.

I have also reviewed the activities of the Occupational Safety and Health inspectors in my own State. The facts indicate that the businesses inspected had an average workforce of 110. This does not indicate an inordinate harassment of small businessmen. I ask that a press release and chart dealing with OSHA inspection appear at this point in the RECORD.

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

LABOR DEPARTMENT ISSUES JOB SAFETY AND HEALTH INSPECTION DETAILS

The Department of Labor issued today breakdowns by State of compliance inspection activities of the Occupational Safety and Health Administration (OSHA) in its first fiscal year of operations.

George C. Guenther, Assistant Secretary of Labor for Occupational Safety and Health, said the itemized data show that 32,700 inspections were made by OSHA in establishments employing 5,987,000 workers between July 1, 1971 and June 30, 1972.

Average employment size of the establishments inspected was 180, Guenther said.

A total of 102,860 violations of standards were alleged in 23,230 citations to employers. The violations resulted in proposed penalties totaling $2,291,000. Employee complaints totaled 4,950.

Guenther gave the following breakdowns:

OSHA COMPLIANCE ACTIVITY REPORT BY STATE, FISCAL YEAR 1972

State	Inspections	Employees covered	Average employment size of establishment inspected	Citations	Violations	Penalties proposed	Complaints received
Alabama	540	166,000	310	430	1,870	41,000	70
Alaska	80	4,000	50	30	210	10,000	10
Arizona	180	115,000	640	140	380	14,000	30
Arkansas	90	20,000	230	60	510	12,000	10
California	2,950	414,000	140	2,480	8,640	120,000	150
Colorado	500	84,000	170	350	10,600	51,000	100
Connecticut	300	59,000	200	180	1,000	40,000	40
Delaware	20	7,000	380	(1)	10	2,000	(1)
District of Columbia	10	1,000	90	(1)	(1)	(2)	(1)
Florida	1,530	123,000	80	1,090	4,070	97,000	90
Georgia	1,240	113,000	90	1,030	2,830	51,000	50
Hawaii	90	9,000	100	60	380	11,000	10
Idaho	130	14,000	110	140	1,230	78,000	(1)
Illinois	860	216,000	250	1,020	3,510	97,000	170
Indiana	460	155,000	340	450	3,000	57,000	180
Iowa	110	16,000	150	100	360	36,000	30
Kansas	270	43,000	160	240	640	17,000	60
Kentucky	250	80,000	320	330	970	26,000	40
Louisiana	830	67,000	80	330	870	25,000	40
Maine	110	11,000	100	150	320	7,000	10
Maryland	230	171,000	740	70	100	23,000	50
Massachusetts	760	83,000	110	420	2,070	50,000	60
Michigan	450	364,000	810	670	1,900	90,000	1,130
Minnesota	410	65,000	160	270	1,770	25,000	70
Mississippi	180	88,000	490	150	660	19,000	10

Footnotes at end of table.

OSHA Compliance Activity Report by State, Fiscal Year 1972—Continued

State	Inspections	Employees covered	Average employment size of establishment inspected	Citations	Violations	Penalties proposed	Complaints received
Missouri	640	150,000	230	500	1,530	41,000	160
Montana	150	11,000	70	110	2,850	25,000	20
Nebraska	230	21,000	90	360	630	97,000	70
Nevada	50	1,000	30	60	140	4,000	(1)
New Hampshire	150	9,000	60	180	580	8,000	10
New Jersey	1,970	355,000	180	720	3,470	95,000	80
New Mexico	70	5,000	70	60	410	4,000	20
New York	5,010	787,000	160	3,130	8,550	201,000	160
North Carolina	880	73,000	80	560	2,630	22,000	90
North Dakota	70	4,000	50	20	450	5,000	(1)
Ohio	1,620	660,000	410	1,950	6,140	119,000	1,190
Oklahoma	130	33,000	290	50	510	9,000	40
Oregon	960	96,000	100	780	6,170	134,000	50
Pennsylvania	2,580	531,000	210	1,870	7,110	189,000	230
Puerto Rico	340	30,000	90	230	1,160	55,000	10
Rhode Island	180	12,000	70	70	200	2,000	10
South Carolina	490	46,000	90	150	630	14,000	30
South Dakota	60	8,000	140	10	540	4,000	10
Tennessee	510	106,000	210	380	1,590	60,000	40
Texas	1,710	225,000	130	560	2,040	67,000	150
Utah	130	29,000	220	50	1,390	8,000	10
Vermont	30	3,000	80	120	180	7,000	(1)
Virginia	580	82,000	140	210	470	44,000	70
Washington	1,160	92,000	80	540	2,730	40,000	60
West Virginia	30	21,000	730	30	70	3,000	(1)
Wisconsin	300	100,000	330	240	1,870	28,000	40
Wyoming	100	3,000	30	100	920	7,000	(1)
Total United States	32,700	5,987,000	180	23,230	102,860	2,291,000	4,950

[1] Less than 5.
[2] Less than 500.

Note: Employees, proposed penalties are rounded to the nearest thousand. All other figures are rounded to the nearest 10. Details may not add to totals because of rounding.

Mr. CHURCH. Mr. President, I believe that we who previously supported the exemption have made our point. The threat of the exemption has caused a needed review of the law and has resulted in reasonable changes in enforcement procedures. Therefore, I will vote against reinstating the exemption at this time.

In Idaho, it is estimated that 62 percent of all manufacturing establishments are engaged in the 10 most hazardous industries and employ 15 or fewer employees. They deserve a safe working place just as their employers deserve equitable treatment under the Occupational Safety and Health Administration. I cannot in good faith support an exemption which will deny them the protection of the act.

I ask unanimous consent that a chart which was prepared for me from figures supplied by the Bureau of Labor Statistics and Census of Manufacturers, regarding the number of employees in Idaho who would be denied protection under the proposed exemption, appear at this point in the RECORD.

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

10 MOST HAZARDOUS INDUSTRIES, 1970: MANUFACTURING

S.I.C.	U.S. 1970 Frequency	U.S. 1970 Severity	Idaho 1967 total establishments	Estimated percent establishments 15 and under
24 Lumber and wood products	37.6	2,891	473	70
35 Machinery, except electric	35.4	583	71	72
30 Rubber and plastics	34.5	795	9	87
34 Fabricated metal	34.0	1,003	30	61
20 Food and kindred	27.1	1,156	215	52
32 Stone, clay, glass	29.2	1,540	69	70
37 Transportation equipment	19.7	488	30	51
27 Printing and publishing	16.5	411	110	83
39 Miscellaneous manufacturing	15.3	561	33	90
29 Petroleum and coal	13.8	1,116	1	0

NOTES

1970 figures from industry rates by industry 1970, (BLS 406).
1967 figures from Census of Manufacturers.

We estimate that 62 percent of all manufacturing establishments in Idaho are engaged in the 10 most hazardous industries and employ 15 or fewers employees.

Mr. CHURCH. Mr. President, these employees in my State deserve the protection the act will afford them and that reason alone is sufficient to support a vote against reinstating the exemption. But I would like to make one additional point.

Too often, Congress passes laws that promise much but, because of the cost and breadth of administration, deliver little. It is a process which has bred a great deal of disappointment. Too often, we have left it to an agency to institute a proceeding to cure a wrong and then found out that the agency has fallen down on the job. The Occupational Safety and Health Act has a mechanism to help remedy this weakness, for under OSHA any employee—or his representative—who believes that a violation of a job safety or health standard or generally unsafe or unhealthy conditions exist may request an inspection by the Department of Labor. He need not consult his employer. In making the complaint, he may request that his name not be furnished to the employer. Thus, under OSHA, the employee need not wait for years until the inspector gets around to his plant. The employee may, with the assurance that he will not be made the subject of reprisals, begin the process which triggers an inspection. We bring the worker into the process and help assure that the act will not be another empty gesture but a mechanism for achieving a safe working environment for every working man and woman in our Nation.

For these reasons, Mr. President, I will vote against reinstating the exemption as provided in the bill, and support the efforts by the Senator from New Jersey (Mr. CASE) to strike the exemption from the bill.

Mr. DOLE. Mr. President, I feel that I must speak out in opposition to the amendment which has been offered to strike the 1-year Occupational Safety Health Act exemption for small business included in the 1973 Department of Health, Education, and Welfare appropriations bill as passed by the House and reported by the Senate Appropriations Committee.

The purpose of this exemption is to forestall immediate application of OSHA's arbitrary, confusing, and burdensome regulations against small businesses and provide a 1-year moratorium on enforcement. In adopting this provision it was felt that during this 1-year period OSHA regulations could be studied and corrected, and Congress can consider amending OSHA to insure its reasonable enforcement at all levels, thus promoting the act's goal of improved job safety and health.

The small business OSHA exemption is necessary because existing OSHA regulations often have no meaningful application in the small business setting, and the only result of their enforcement will be the creation of unreasonable burdens which would bring ruin to many small businesses.

It has long been recognized that small businesses are the backbone of the U.S. economy. They are essential to the Nation's economic health, because their vitality can insure the increased productivity and expanded employment that must underlie the growth and stability on which our social and economic systems depend. Therefore, it seems totally wrong to impose the unrealistically heavy costs of OSHA compliance on small business, since only a doubtful connection can be demonstrated between compliance with existing OSHA regulations and improved job safety and health for the employees of these small business concerns.

In considering this amendment it should be remembered that small businesses are highly vulnerable to the added costs of OSHA compliance, and the financial strains resulting from efforts to comply with OSHA can be overwhelming.

The interpretation of these regulations,

their application, and the associated recordkeeping requirements necessitate the costly employment of additional personnel with special knowledge in this field. The resulting salary expense increases can be fairly easily absorbed by larger firms; but, for small businesses, this expenditure in many instances might consume a small business man's profit margin, destroying the employer's livelihood as well as the jobs of his employees.

The need for changes in the OSHA regulations governing small businesses is often admitted; however, many still question the propriety of a blanket exemption for any business having fewer than a certain number of employees. Statistics are often quoted to show that such an exemption would exclude 90 percent of the work places in the United States.

But it is important to realize that even if such statistics are accurate, more than three-fourths of the workers in the Nation would still be subject to OSHA coverage.

Retention of this exemption is important, but only as a stopgap measure to prevent serious impact upon the large and important class of businesses which will be most extremely affected by continued application of the existing OSHA regulations. What is needed for the long term is legislation to establish a mechanism for developing and enforcing reasonable health and safety standards; emphasize and encourage cooperation among labor, government, and management; and provide shared responsibility for occupational safety and health among these sectors. Such a measure has been introduced, and I would take this opportunity to call attention to S. 3263 now pending before the Committee on Labor and Public Welfare. This exemption will provide temporary relief from arbitrary application of OSHA regulations, but S. 3262 is needed to provide a permanent solution for the inequities of the 1970 act and to further the goal of improved occupational safety and health protection for all workers.

Mr. PACKWOOD. Mr. President, when Congress passed the Occupational Safety and Health Act, we intended to provide safe and healthful working places for all working men and women in this country. This is an objective which I have, and will continue to support.

However, Mr. President, the volumes and volumes of rules and regulations which have been published by the Occupational Safety and Health Administration have proven to be virtually unavailable to the vast majority of small businessmen, unintelligible when made available, and worst of all, nearly impossible to comply with. The American Society of Safety Engineers has reported to the Labor Subcommittee that even some individuals with safety backgrounds have had difficulty in interpreting the promulgated standards.

For the small business establishment, understanding the regulations is the first, and sometimes insurmountable, hurdle. If they reach the point of understanding what they are supposed to do to provide a safe and healthful environment for their employees, they must then be subject to the elaborate system of fines and penalties should their judgment prove faulty or at variance with the Federal inspector. Our Labor Subcommittee oversight hearings brought to light too many cases of arbitrary and dictatorial handling of this Nation's small businessmen, who are seeking help in providing the safe workplaces called for by the legislation, but instead of assistance in complying, are receiving the message that any call for help will result in an inspection leading to penalties.

Mr. President, large businesses can afford to hire safety experts and industrial hygienists to assist them in complying with this new statute and its endless rules, regulations, and standards. Our small businessmen cannot. As an interim measure, we have a right and an obligation to protect our small businessmen from the Rube Goldberg figure we have created and the bureaucracy we have established to man its operation until some more satisfactory and equitable solution can be worked out.

Mr. CASE. Mr. President, if the Senator is willing to yield back his time, I will yield back my time.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. CURTIS. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from New Jersey—No. 1667. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BEALL (when his name was called). Mr. President, on this vote I have a pair with the Senator from Texas (Mr. TOWER). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. SCOTT (when his name was called). Mr. President, on this vote I have a pair with the Senator from Colorado (Mr. ALLOTT). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. SPARKMAN (when his name was called). Mr. President, on this vote I have a pair with the Senator from New Hampshire (Mr. MCINTYRE). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. LONG (after having voted in the negative). Mr. President, on this vote I have a pair with the Senator from West Virginia (Mr. RANDOLPH). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON) the Senator from Mississippi (Mr. EASTLAND), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Virginia (Mr. SPONG) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

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

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Ohio (Mr. TAFT) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Tennessee (Mr. BROCK) and the Senator from Michigan (Mr. GRIFFIN) are necessarily absent.

The respective pairs of the Senator from Colorado (Mr. ALLOTT) and that of the Senator from Texas (Mr. TOWER) have been previously announced.

The result was announced—yeas 47, nays 33, as follows:

[No. 507 Leg.]

YEAS—47

Aiken	Harris	Nelson
Allen	Hart	Pastore
Bayh	Hartke	Pell
Bible	Hughes	Percy
Boggs	Humphrey	Proxmire
Brooke	Inouye	Ribicoff
Burdick	Jackson	Roth
Byrd, Robert C.	Javits	Schweiker
Cannon	Kennedy	Stafford
Case	Magnuson	Stevens
Church	Mansfield	Stevenson
Cooper	Mathias	Symington
Cranston	Mondale	Tunney
Eagleton	Montoya	Weicker
Fong	Moss	Williams
Gravel	Muskie	

NAYS—33

Bellmon	Edwards	McClellan
Bennett	Ervin	Miller
Bentsen	Fannin	Packwood
Buckley	Fulbright	Pearson
Byrd, Harry F., Jr.	Gambrell	Saxbe
	Gurney	Smith
Chiles	Hansen	Stennis
Cook	Hatfield	Talmadge
Cotton	Hollings	Thurmond
Curtis	Hruska	Young
Dole	Jordan, N.C.	
Dominick	Jordan, Idaho	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—4

Beall, for
Scott, for
Sparkman, against
Long, against

NOT VOTING—16

Allott	Griffin	Randolph
Anderson	McGee	Spong
Baker	McGovern	Taft
Brock	McIntyre	Tower
Eastland	Metcalf	
Goldwater	Mundt	

So Mr. CASE's amendment (No. 1667) was agreed to.

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

Mr. HARTKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PERCY. Mr. President, I think the bill before us today is a responsible attempt to fund adequately the vitally needed health and education programs. While containing the same amount of funds as the conference committee agreed on the first time, the bill does contain provisions to provide fiscal controls.

The bill provides funding for meeting our responsibilities in health and education activities. But to provide fiscal controls should the budgetary and economic situation warrant, the bill authorizes the President to withhold up to $935 million from this appropriation bill, allowing him if he wishes to bring the total appropriation down to the House-passed figure, provided that no more than 10 percent of any particular appropriation can be withheld. This allows additional flexibility for spending of funds, yet insures that the priorities and judgments of the Congress are basically maintained and respected.

Included in the bill also is a $2.5 billion ceiling for social services which further insures fiscal control of this program. A ceiling is vitally needed for this program and I support it.

In passing this new bill, the Senate will be reasserting its original recommendations, but will also be working with the President to allow him a reasonable degree of flexibility in working out actual spending levels.

I would like to comment briefly on some of the specific programs funded under this appropriations bill in which I have particular interest.

The impacted aid program in education has served a good purpose. Without impacted aid funds, we would also be denying our duty to provide just compensation for the burdens Federal facilities place on an area. These areas cannot collect property taxes from Federal facilities and yet they are expected to provide education facilities for the children of people working in those Federal installations. There is a need to provide compensatory funds to those areas whose tax base is eroded by Federal facilities, so that they can provide adequate educational services for all the children involved.

I am also pleased to see funds included for category C—funds to offset the tax revenues lost when public housing units are built—although I think the $10 million appropriated is inadequate.

BILINGUAL EDUCATION

There is no need at this time for me to reiterate my interest in and support for bilingual education programs to benefit this country's 9 million citizens of Spanish origin. My belief in the critical need for these programs has already been established, so I just want to express my support for the $60 million funding level provided here.

TITLE I

My colleagues are also well aware of my history of support for title I, ESEA, programs. In my opinion, the need for a decent, basic education is secondary in importance only to the need for food and shelter. Because of circumstances over which they have absolutely no control, millions of children in this country cannot obtain such an education without the assistance provided through title I. Their special education needs simply must be met through special educational programs such as those offered under title I.

Considering that the House and Senate both originally appropriated $1.8 billion for title I, ESEA, I think that congressional consensus has been expressed. Although the $1.8 billion appropriated in this bill is $.2 billion in excess of the 1973 budget estimate, I truly believe that this amount should be appropriated for title I, which is perhaps the one most deserving item in the appropriation.

EDUCATION OF HANDICAPPED CHILDREN

There are two remaining points on which I wish to comment that I have not mentioned in the context of appropriations before. One of these is the education of handicapped children. Public attention to the needs and the rights of America's handicapped citizens is just beginning to focus. Our society is gradually realizing that the handicapped have tremendous potential and that many of our handicapped citizens are capable of assuming an active and productive role. I feel that the Congress should encourage this budding acceptance of the handicapped as deserving of equal opportunity by providing adequate funding for education of the handicapped, one of the most basic of their special needs. I wish to express my intense hope that if the President feels the absolute necessity of making substantial cuts in spending that he not take one dollar from this vital area.

MENTAL HEALTH

The final point I wish to make regards the recent call for a new national commitment for mental health initiated by the National Association for Mental Health. No one will argue against such a national commitment, but some will argue against providing the necessary funds to take action on that commitment, This appropriation bill allots $783 million to the area of mental health, roughly only one-eighth of the total appropriation for health. One-eighth of our health appropriations devoted to mental health is not an overwhelming amount; I would say that it is barely a respectable amount. I only regret that the sum cannot be higher as evidence of Congress' commitment to the improvement of mental health programs.

Mr. President, I support this bill. The funds will enable us to meet our education and health needs, but there is also fiscal responsibility included in this bill. I support its passage.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the amendment of the Senate to the bill (H.R. 14909) to amend section 552(a) of title 37, United States Code, to provide continuance of incentive pay to members of the uniformed services for the period required for hospitalization and rehabilitation after termination of missing status.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS, 1973

The Senate continued with the consideration of the bill (H.R. 16654) making appropriations for the Departments of Labor, Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1973, and for other purposes.

Mr. CURTIS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER (Mrs. EDWARDS). The amendment will be stated.

The assistant legislative clerk read as follows:

At the appropriate place, insert the following:

None of the funds appropriated by this Act shall be expended to pay the salaries of any employees of the Federal Government who inspect firms employing 7 persons or less for compliance with the Occupational Safety and Health Act of 1970.

Mr. CURTIS. Mr. President, I shall be very brief, if I may have the attention of the Senate.

When this matter was considered some weeks ago, we established very clearly that the laws they have to abide by are by regulation, and there is no place one can go and get a copy of the regulations, including all the things incorporated by reference. All the codes and formulas and guidelines would take a stack of books 17 feet tall, and we are imposing that on the small people.

There has been a great deal of misunderstanding about this matter. It has been said that when we asked to have a firm of 15 or fewer exempt from the law, it let out the building trades. That is not so at all, because it is not the number of persons on a job or on a project; it is the number employed by the firm.

There are those who want the Federal Government employees to come into a little corner store, into the garage and the filling station, and spread themselves out like that, when they should use the talent they have to inspect and administer this law where the greatest number work and where it is most hazardous.

I also want to state to those who were not here earlier that the letter passed around said that the Case amendment was supported by the Department of Labor and the administration. I stand on the fact that no one in the administration is supporting it besides the Secretary of Labor.

Madam President, at this time I ask that for the balance of this fiscal year, only 8 months, while this law is being inaugurated, we leave the little people, who employ seven or fewer, out of the jurisdiction of this law. Until recently, health and safety, with few exceptions, such as mines, were left to the States and the localities. Where on earth is the Labor Department going to hire inspectors who can go into highly dangerous places, installations of nuclear power and what not, and at the same time hire men to go in and torment some grocer because he does not have a coat hanger on the door of the washroom or does not have sufficient facilities there?

Madam President, I said earlier that on one side we have these small operators, unorganized, and on the other side we have the vested interests of the gigantic and powerful unions. Senators know who has filled the mail with letters in the last 3 weeks. Senators know who has been running up and down the Halls here. Those people have no in-

terest in the survival of small business. They supplied the muscle to cripple the industrial development bonds, because they do not want industry in the rural areas. It was openly stated in the conference committee on rural development that concessions had to be made to the same group. Here they descend on this building and tell us that we should impose on a filling station operator that hires two people, or a grocer that hires one member of his family, should be subject to a Federal law and there is no place he can buy a book or his lawyer can buy a book to find out what the law is.

When I had this stack of records before me, I could not get them all. The Department of Labor said they had one set but they could not loan them out. I made a request of the Library of Congress for all the supporting material that had the force of law behind regulation, and after a 2-days' search they said it was too big a job and they could not do it. I sent a staff man over there who went through their indexes and we got about one-third of it. The other portion I had, I had to get from private sources. We could not get it all.

Madam President, there is going to be a rollcall in a little bit—I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. CURTIS. Madam President, I do not know who will win, but I do know that if we are going to impose a law that can harass and penalize and fine small businesses of fewer than seven employees, it should be brief enough so that they can find out what the law is.

Mr. FULBRIGHT. Madam President, will the Senator from Nebraska yield?

Mr. CURTIS. I yield.

Mr. FULBRIGHT. I live in the Ozark Mountains in my State, where there are a number of small saw mills. They have been there traditionally and very often are family affairs. They have been the principal complainants in this matter. It is quite impossible for them to abide by the law, even to inform themselves on what the law is.

Some of the inspectors, in the beginning, in their eagerness, have been very harsh. But, after the law has been administered for a number of years, they are much less arbitrary in their attitudes.

I give the Senator one example. There is no way we know of yet, to operate a rotary saw in sawing a log that does not make quite a bit of noise. So the regulations require that one must put on ear muffs. Well, the people brought up in this business do not like ear muffs, especially in the summer, so the operators are threatened with a fine of $1,000. So they give up their sawmill and go off and find some other work to do. So this law does not accomplish its purpose. It is simply harassing people out of business.

There are many cases where they try to enforce the law, as the Senator has stated, and that is the complaint, the eagerness of the new people on the job to try to enforce the letter and not the spirit of the law. Eventually the people are going to abide by it, but it is unusually harsh on small operators. The larger ones can hire lawyers and accountants—we all know that. The Senator is quite right about small business.

Mr. CURTIS. I thank my distinguished colleague from Arkansas. After all, this is not a permanent exemption. This is an exemption written in the annual appropriation bill, and one-third of the year has already gone by. Yet we are asked to do an awful lot to keep our voting record with the union bosses. It is a ridiculous request. They should withdraw it.

Madam President, have the yeas and nays been ordered?

The PRESIDING OFFICER (Mrs. EDWARDS). Yes..

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

Several Senators addressed the Chair.

Mr. PASTORE. Madam President, will the Senator yield to me?

Mr. CASE. Madam President, does the Chairman yield? Would the Senator from Rhode Island like to address a question now? I will be glad to yield, if I have the time. Madam President, how much time remains to our side?

The PRESIDING OFFICER. Thirty minutes in opposition.

Mr. JAVITS. Madam President, who controls that?

The PRESIDING OFFICER. The manager of the bill, under the order.

Mr. CASE. Madam President, does the chairman want me to take the time?

Mr. MAGNUSON. Madam President, under the original amendment, time was under the control of the Senator from New Jersey (Mr. CASE). I ask unanimous consent that the time for this colloquy not be taken out of the time on the amendment because he presented his amendment and now the Senator from Nebraska (Mr. CURTIS) has presented an amendment, so obviously he controls the time for the amendment.

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

Mr. JAVITS. Madam President——

Mr. MAGNUSON. Madam President, in order to clarify this, the chairman will control the time against the amendment because he voted against the other amendment and will give this time. I yield 5 minutes to the Senator from Rhode Island (Mr. PASTORE).

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 5 minutes.

Mr. PASTORE. Madam President, this amendment brings me back to the days when I was Governor of the State of Rhode Island. When this matter first came to the Senate, I was one of those who said I regretted very much that a matter of this import should be delegated to the Federal Government, whereas I thought it was a matter that belonged under the control and supervision of the States.

When I was Governor of my State—and I am not bragging now—one of the prides of my administration was the fact that we had developed one of the best industrial safety records in the country, so much so that I was invited to come down here to Washington and address a symposium and tell it about our Rhode Island law.

I think maybe we did get off on the wrong foot in the beginning, when the Federal Government began to assume this responsibility. I quite agree with the Senator from Nebraska when he said that when we are talking about the little man we are not talking about General Motors, we are not talking about the ITT, we are not talking about the big industrial complexes of this country. But, after all, we have got to consider this: that when we talk about safety, we are talking about an individual human being.

I say that any man employed, or any woman employed in a factory that engages, let us say, five, six, or seven, is entitled to the same protection as a plant which employes maybe 1,000. Because we are talking about humanity here. We are not talking about the small businessman. That is not the purpose of this law. The purpose of this law is to institute those procedures which will protect life and limb of those who work for a living, whether it be one or two or 50 or 5,000. They are all entitled to the same protection.

Maybe the law is wrong in its constitution, because we are involving ourselves in something that belongs to the State, but the fact still remains that if I am to be for the protection of those who work in a factory employing 5,000, I have to have compassion for those who work in a little establishment as well which employs only seven.

The only trouble is that some of these men and some of these women who work for a bureaucracy in the Federal Government have gone a little haywire in the rules they have promulgated, so much so that now it has become ridiculous.

Why does an employer who has a woman and a man working in his establishment have to have two toilets? Maybe the regulations require that, but it must be that the spirit of the law is wrong because the enforcement of the law has gone haywire.

I say to my friends, that is the reason why I voted for the Case amendment and that is the reason why I shall vote against this one, because I do not want it to go on the record that I think less of the safety of a person who works in an establishment that employs 5 persons than for an establishment that employs 500. That is my argument. That is the reason for my position. When we talk about the safety of people who work, we are talking about an individual, whether it is one or one thousand. It does not make any difference. We have got to give them the equal protection of the law. That is the reason I shall vote against this amendment.

Mr. MAGNUSON. Madam President, I yield myself one-half a minute to say that one of the problems here that has got to be taken up by the legislative committees, is the instance where the Federal Government comes in, under present law with an inspector and sees something he thinks is wrong, he automatically must cite that person.

He cannot say to him—I guess he could, but he does not and did not in the beginning, because they were too eager as the Senator from Rhode Island pointed out—he could say "Why do you not fix

this up and 2 weeks from now I will come back?" He should be able to do that, but under existing law he cannot. However, we have to change it.

In the meantime, as the Senator from Rhode Island has said, I do not know whether eight employees in a place should not be safe or five, I think they all should be. That is why we have this. However, I think the Senator from Nebraska has probably done a great service in all of this, in his prior amendment and his amendment now, in calling attention to some of these inequities.

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

Mr. MAGNUSON. I yield.

Mr. PASTORE. Mr. President, many of these people working for the Federal Government become rather arrogant, autocratic, and despotic. And that is the reason for this amendment.

It is the administration of the law that is wrong. It is not the spirit of the law that is wrong. And that is the reason that I cannot stand up and say here today that a person who happens to work for an establishment that employs less than seven deserves less protection than a person who works in a factory that employs 1,000.

I think the whole thing boils down to the proposition that the law should be administered with fairness and reasonableness.

Mr. MAGNUSON. And part of the law should be changed.

Madam President, I yield 3 minutes to the Senator from New York, unless the Senator from Nebraska wants time.

Mr. CURTIS. Madam President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 1 minute.

Mr. CURTIS. Madam President, what the distinguished Senator from Rhode Island has said would be relevant if we were asking for a permanent exemption. We are just getting this law started. We do not have enough inspectors to send them all over. This is just until we can get the regulations clarified and find out what the law is. We start out with a place where most of the people are working, where there is the greatest hazard to employees.

Madam President, I yield 5 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 5 minutes.

Mr. HANSEN. Madam President, let me make several points clear. First of all, no one opposes protecting the health and safety of all people everywhere. I quite agree with the Senator from Rhode Island that the life and safety of an employee who works for an employer who employs only one or two persons is just as important as that of the person who works for an employer who employs 5,000 people. However, bear in mind that what we are talking about is a law that is unprinted. We cannot find out anything about it. I have tried at the Department of Labor and have requested to see the regulations on the law so that we could inform the people in my State of Wyoming as to what the law says.

By reference, as the Senator from Nebraska has pointed out, the best answer we can get is that if all of the material incorporated by reference into this act were piled up, one on top of the other, we would have a stack not less than 17-feet high.

There are a lot of jobs in this country that are affected. A lot of people work for employers who employ seven or less people. And let it not go unnoticed that in these types of jobs more than likely the employer, the boss, is working alongside of the man who is employed. And that employer knows what the conditions are far better than does a foreman working for General Motors or some big corporation, because he is right there every day, every hour, and every minute and very likely is working alongside of his employees, and his life is just as much on the line as is the life of his employee or employees.

Let us understand that is the situation, and let us understand that this injunction against the spending of funds appropriated under this law applies for only 8 months.

I quite agree with my dear and cherished friend, the Senator from Rhode Island (Mr. PASTORE), that these laws need to be spelled out. I hope they will be. And when this law became implemented early this year we went to the Secretary of Labor and tried to get some changes made in the law.

We also went to the distinguished chairman of the Labor and Public Welfare Committee and asked that hearings be held. And some oversight hearings were held. But there has been no change at all in the law. I think it makes pretty good sense that we recognize what the situation is now, and adopt a very simple, commonsense amendment and then say to the Department of Labor, "Come up with some recommendations for something realistic and recognize what the facts are."

Let us see that what actions we take now do jeopardize the jobs of a lot of people who are working for employers who employ seven or fewer people working for them, because it is just a simple matter.

If an employer thinks that an opportunity for making a little profit is exceeded by the chances that he may be fined because of his failure to comply with a law that is not even printed, he will very likely do what many are doing in America today, and that is simply to close up shop.

Madam President, I do not think that is in the interest of the people who are working in the little shops in this country. I would hope very much that this amendment, which makes such great, good sense, would be agreed to.

Mr. CURTIS. Madam President, I yield 5 minutes to the Senator from Iowa (Mr. HUGHES).

The PRESIDING OFFICER. The Senator from Iowa is recognized for 5 minutes.

Mr. HUGHES. Madam President, I rise in support of the Curtis amendment. I want to say in the beginning that I disagree with many of the things the Senator from Nebraska said in offering his amendment. I also happen to disagree with some of the things said by the distinguished Senator from Rhode Island in opposing the amendment.

At the request of the chairman of the subcommittee of the committee on Labor and Public Welfare, the Senator from Iowa chaired the oversight hearings regarding this particular subject matter. I want to state very clearly that I do not need to defend the rights of labor to lobby and work in this country to protect the lives and limbs and health of the employees of this Nation. Not only do they have that right, but they also have the obligation to do it. Whether it is one or 10,000 employees, that is their right and their obligation, and they should be doing it.

Madam President, the way the present law is and the examples that were brought before the subcommittee of the Committee on Labor and Public Welfare show that some of the inspectors the Labor Department has hired not only did not know what the law was and did not know how to enforce it, but the evidence also indicated that they were completely nutty in their responses. Much of the evidence brought before that subcommittee indicated the filing of violations against employers that were not only minor but never should have been filed.

Employers cannot request or get an inspection so as to tell them what is wrong in their places without having charges filed against them.

We have not done anything in the nature of seeing that this law is properly carried out.

I happen to support this type of law and believe in it. However, I also happen to believe additionally that there is no ill in saying that we will take seven employees for a period of 8 months until the subcommittee of the Committee on Labor and Public Welfare has a chance to look into the matter and see whether we ought to go down to zero or not.

I do not know what the situation in the other States has been. However, in the State of Iowa, the Senator from Iowa has dozens of letters from small employers protesting, complaining, and demanding that something be done in relation to this law.

I supported the amendment of the Senator from New Jersey to reduce this to zero. I want to explain the reason I supported it lest I appear to be in contradiction here. First of all, I was surprised to see that kind of amendment offered. I expected to find an amendment to raise it to 25 employers rather than to reduce it to zero because of the tremendous outcry in this Nation against this type of law and the way it has been enforced. I say it is right and just for both the Department of Labor, employees, and management to pick some sort of abritrary in-between line.

The Senator from Nebraska said seven. I want to endorse that; halfway between 15 and zero; and say that for the next 8 or 9 months, until somehow the matter is determined, we abide by that number seven. We will not go into every little grocery store and we will not go into every little hotel in this country, and small business, and there happen to be 944 of them in the State of Iowa. I

do not know how many tens of thousands of people it would involve, but let us not impugn the right that every employer's life and limb should be protected. We all believe that. Let us not impugn the right of labor to go out and work.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. CURTIS. I yield the Senator 2 additional minutes.

Mr. HUGHES. Madam President, I am willing, and the chairman of the Committee on Labor and Public Welfare is here if he wishes to take issue with me, to support further lowering this amendment next year if we can indicate the support that is needed in proper committee studies, but until that is done, I intend to support the amendment of the Senator from Nebraska.

Mr. PASTORE. The Senator has been very eloquent. Does he not believe that as far as small business is concerned that responsibility should be left in the States? Does the Senator not think the proper way to handle this is that we should reach a proper number of employees to constitute small business and leave that matter to the various States? I think we are getting mixed up a little too much in detail.

The point the Senator from Rhode Island wishes to make is this. If we are going to get into this field from the national level, you have to start from the top to the bottom, and there is no more logic in the number seven than there is the number 15, and the Senate voted against 15. This is a compromise, but what are we compromising? Is it supervision of the safety of an individual? That is my point. I agree with the Senator that the Federal Government is becoming too much involved in some of these matters and I think the Federal Government should keep its nose out of it.

If we want to protect small business I think we should have an amendment say that up to 50 employees, that responsibility of safety should be up to the various States because the States know what the responsibility is and every Governor knows what the responsibility is, and the people elected to the general assembly, as well.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. MAGNUSON. Madam President, I yield 2 minutes to the Senator from New Jersey.

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

Mr. WILLIAMS. In response to the last observation of the Senator from Rhode Island, the law provides the States an opportunity to offer a State plan for administering their own occupational safety and health programs. However, the reason the Federal Government was called upon to enact a law reaching out to assure safe and healthy conditions for our working people was that the States had defaulted. There were only a handful of States equal to Rhode Island in responding to this problem. That is why this measure was adopted to fill the vacuum.

Mr. PASTORE. I think the Senator implements the argument I made. The trouble is that Federal standards are predicated on General Motors, and General Motors standards should not apply to the little jewelry shop in Rhode Island only employing 10 people, because you are going to put him out of business. While General Motors has lots of money, that little fellow running the jewelry shop does not have that kind of money.

Mr. WILLIAMS. If that little jeweler is working with radium and if that radium is getting into his employee's system, and that employee of the jeweler is dying because of his employment, he should have a law protecting him.

Mr. PASTORE. Oh, they do not deal in radium in Rhode Island.

Mr. WILLIAMS. Let us get away from the jeweler, but that happens to be factual.

Here is another situation. The Senator from Iowa—and the committee is grateful to him—did undertake extensive oversight hearings and the Senator heard a lot of legitimate complaints about the administration of the act.

The PRESIDING OFFICER. The Senator's 2 minutes has expired.

Mr. MAGNUSON. I yield the Senator 2 additional minutes.

Mr. WILLIAMS. I understand how he reacts. I am not here to defend the administration except to say that out of the amendment offered by the Senator from Nebraska, and out of the oversight hearings we had, I hope this administration and its inspectors have learned something about the need to provide employers with more comprehensible information. I am told they have, and I am hopeful that as a result we will have greater assurance that the small guy with a brake relining business, who employs six people who are breathing asbestos, will change his method.

Mr. PASTORE. Does the Senator think the Governor of his State cares less about his State than the director of labor, whose name I do not know?

Mr. WILLIAMS. I do not get the point.

Mr. PASTORE. The point is that the Governor of a State is interested in that man whose health and safety they are trying to protect. What gives the Senator the idea that only Washington can do it?

Mr. WILLIAMS. I say each State can do that——

Mr. PASTORE. And we do not even know the name of the director of labor.

Mr. WILLIAMS. The Senator evidently did not hear me. If the State can demonstrate that it can do that effectively, it can go in with State inspectors, but where States have not done that then this Federal program applies.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PASTORE. But according to whose rules? According to Federal rules and they are predicated on the big complex. That is my point. Somehow Washington never understands the little man. They never did and they never will, and that is the problem in this country today.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WILLIAMS. I hope——

Mr. STENNIS. Madam President, I call for the regular order. I do not want to stop anyone from speaking but the Chair is entitled to respect.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. I did not understand the point of order made.

I can understand a great deal of what the Senator from Iowa said. I know the administration has been faulty. I know it is improving. For the reasons expressed by the Senator from Rhode Island I think every worker should be protected. It should not be divided between an employer of seven and the employer of eight.

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

Mr. MAGNUSON. I yield.

Mr. CURTIS. Why have a "nutty" inspector to try to protect them when the owner of the business is working right there exposing himself. He is going to be more interested than any inspector. Furthermore, the workmen's compensation rates, insurance rates, and everything else compel him to do it. This is not a case where there should be imposed Gestapo-type methods on people.

Mr. MAGNUSON. Mr. President, may I ask how much time I have remaining?

The PRESIDING OFFICER. The Senator has 18 minutes remaining.

Mr. MAGNUSON. How much time does the Senator from Nebraska have remaining?

The PRESIDING OFFICER. The Senator has 8 minutes remaining.

Mr. MAGNUSON. Mr. President, I yield 3 minutes to the Senator from New York.

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

Mr. JAVITS. Mr. President, I, too, like the Senator from Iowa (Mr. HUGHES) sat in on these hearings, not as many as he, but a good many. I have come to quite a different conclusion.

I would like to tell the Senate why, because we dealt in a good deal of general rhetoric. Let us deal with some facts.

The fact is that 7 percent of the employment in the United States, or roughly 5 million workers, is in establishments under seven. The fact is that of the 3.5 million reporting units in the United States, 20 percent of those units, to wit, about 700,000, employ workers under seven. The fact is, for example, that in an extremely hazardous business like logging camps in the country, 96 percent—the best figure I have at the present time has 20 employees, but their minimum wage exemption is 12 employees or less. The fact is that when you see the incidence of accidents—and I ask unanimous consent that the chart I have immediately available, which compares the general average with New York, Wisconsin, Maine, and Florida, may be made a part of my remarks—you find there is a heavy incidence of accidents and injury among very small firms, to wit, seven or under.

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

	Employment-size class							
	1 to 3	4 to 7	8 to 19	20 to 49	50 to 99	100 to 249	250 to 499	500 plus
Percent distribution of employment and reporting units by employment-size class, 1970 (County Business Patterns, U.S. Department of Commerce, Bureau of the Census):								
Reporting units (total, 3,422,034)	50	20	17	8	3	1	(1)	(1)
Employment (total, 56,830,198)	5	7	12	14	11	14	10	27

Note: By interpolation, about 74 percent of reporting units have 15 employees or less and 21 percent of employment is in reporting units of 15 employees or less.
[1] Less than 1 percent.

	1 to 3	4 to 7	8 to 19	20 to 49	50 to 99	100 to 249	250 to 499	500 to 999	1,000 to 2,499	2,500 plus
Injury-frequency rates, all manufacturing industries, New York State, 1970 ("Injury Rates in Factories," New York State Department of Labor, Division of Research and Statistics)	8.7			12.6	17.5	19.8	22.3	17.6	11.2	7.1
Injury-frequency rates in Maine manufacturing establishments, 1970 ("Maine Industrial Injuries," Maine Department of Labor and Industry, Division of Research and Statistics)	37.6			39.6	43.2	26.5	19.9	13.1	7.2	5.1

	1 to 3	4 to 9	10 to 19	20 to 49	50 to 99	100 to 249	250 to 499	500 to 999	1,000 to 2,499	2,500 plus
Wisconsin disabling work injury rates, 1970, all manufacturing ("Wisconsin Disabling Work Injury Rates," Wisconsin Department of Industry, Labor and Human Relations, Statistical Division)	14.4	17.9	21.9	27.8	30.4	33.3	25.0	16.6	11.6	7.8
Injury rates for manufacturing industries, 1970, Florida ("Florida Work Injuries," Florida Department of Commerce, Division of Labor)		18.5		22.6	25.6	21.3	22.1		10.6	

Note: As a generalization, rates for small manufacturing establishments are lower than those for medium-sized establishments, but higher than those for large establishments.

Mr. JAVITS. Now, Mr. President, we have to make our choice. Are we going to put an exemption in the law. You talk about small businessmen. What about the guy or girl who works for the small businessman? Is not he an even smaller person? How many millions of letters are we going to get if we take off this lid and people get hurt?

Talk about 17 feet of regulations or laws. What about the 150 feet of them that we are all subject to, whether we are small businessmen or not, and yet judges and lawyers expect everybody to know the law?

My friends, I am afraid we have gotten way off the beam. There was a crying need for this legislation. The States were not delivering. Altogether few States were. The fact that there were compensation laws and that the employer loved his employees was not, apparently, sufficient.

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

Mr. JAVITS. May I have 1 more minute?

Mr. MAGNUSON. I yield 1 minute.

Mr. JAVITS. So we had to pass a law. Let us give this law a chance. Sure, there are dumb inspectors. There are a few dumb people in Congress. We are not immune. But let us not throw out the baby with the bath water. Shall we ignore the whole law, which is a law of decency, because we have not the wit or ability to control the administration? We have appropriation bills to give them money.

The Labor Department has just authorized me to state that it opposes this amendment and it is authorized by the administration to oppose it, for the reasons I have given.

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

Mr. JAVITS. On the Senator's time.

Mr. CURTIS. Will the Senator produce something in writing for the administration authorizing the Department of Labor to say that?

Mr. JAVITS. The Under Secretary of Labor, I might say to my colleague, is outside——

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

Mr. MAGNUSON. I yield 30 seconds.

Mr. CURTIS. He is outside lobbying.

Mr. JAVITS. He is my authority. I feel he is a high enough official so that I had the right to state this to the Senate.

Mr. HUMPHREY. Mr. President, will the Senator from Washington yield 1 minute to me?

Mr. MAGNUSON. I yield 1 minute to the Senator.

Mr. HUMPHREY. Mr. President, I can clearly understand how my distinguished friends on the opposite side are somewhat dubious as to where the administration stands. This has been a matter of some complexity, but I would like at this particular moment to be an administration supporter. I think you have to rise above partisanship. I take the word of the Senator from New York, despite the comments of the Senator from Nebraska. I think it is time that we Democrats prove we can rise above partisanship, and since there is an official expression by the distinguished Secretary of Labor that this law must be kept intact, that there must not be exemptions, this time the man in the White House should know that the Senator from Minnesota will support him.

Mr. HANSEN. Mr. President, if the Senator would yield, does that go for the next 4 years?

Mr. HUMPHREY. Well, we will just take it day by day. This administration is too hazardous to predict anything like 4 years.

Mr. MAGNUSON. Madam President, may we have order?

I think we are getting pretty far off on this matter. As a matter of fact, this does not belong on the appropriations bill at all. It is a matter for the distinguished Labor and Public Welfare Committee to change the law. Despite the feelings of the Senator from Iowa, the Senator from New Jersey, and the Senator from New York, I wish that they, after this is over, would go back there and offer amendments to the law. It does not belong on this bill, and never was intended to be on this bill. We are writing legislation in this bill. I hope after this colloquy the Labor and Welfare Committee of the Senate will get the word, so that we will not have this same problem as we move along with future appropriations.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JAVITS. Thirty seconds. And so, Madam President, the issue is whether a broad and humane law shall be reduced in size, or whether we shall deal with the imperfections in its administration; and I believe that on that ground, the latter view is the right one, and the amendment should be defeated.

Mr. COTTON. Madam President, one-half second. I think we had better go back on the bill. This is a rather childish exchange.

Mr. CURTIS. Madam President, I yield myself 30 seconds.

It was not the defenders of small business who quoted the President on this floor. We did not bring that in.

Also, it was represented here that these amendments would take out the construction industry, and that is not true, because it does not apply to how many men are working on the job, it is how many are employed by the firm.

Madam President, I yield back the remainder of my time.

Mr. MAGNUSON. Madam President, how much time would the Senator from New Jersey like?

Mr. CASE. Madam President, I would like a quarter of a minute to say that MAGGIE—the distinguished Senator from Washington, I beg the Senator's pardon—with his usual ability to go to the heart of a problem, has pointed out the real trouble here. The trouble started with the Senator from Nebraska, when he put on an appropriation bill in the first place a matter that should have been handled in a legislative way. This

is legislation; it ought to go to the Committee on Labor and Public Welfare and be handled as such.

Mr. MAGNUSON. Madam President, I yield back the remainder of my time. Have the yeas and nays been ordered?

The PRESIDING OFFICER (Mrs. EDWARDS). The question is on agreeing to the amendment of the Senator from Nebraska (Mr. CURTIS). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SPARKMAN (when his name was called). On this vote I have a pair with the Senator from West Virginia (Mr. RANDOLPH). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withhold 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 Alaska (Mr. GRAVEL), the Senator from Mississippi (Mr. EASTLAND), the Senator from Oklahoma (Mr. HARRIS), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Virginia (Mr. SPONG) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

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

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER) 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 Tennessee (Mr. BROOK) and the Senator from Michigan (Mr. GRIFFIN) are necessarily absent.

If present and voting, the Senator from Colorado (Mr. ALLOTT) and the Senator from Texas (Mr. TURNER) would each vote "yea."

The result was announced—yeas 38, nays 43, as follows:

[No. 508 Leg.]

YEAS—38

Bellmon	Edwards	Long
Bennett	Ervin	McClellan
Bentsen	Fannin	Miller
Buckley	Fulbright	Nelson
Byrd, Harry F., Jr.	Gambrell	Packwood
	Gurney	Pearson
Cannon	Hansen	Saxbe
Chiles	Hatfield	Smith
Cook	Hollings	Stennis
Cotton	Hruska	Taft
Curtis	Hughes	Talmadge
Dole	Jordan, N.C.	Thurmond
Dominick	Jordan, Idaho	Young

NAYS—43

Aiken	Cooper	Magnuson
Allen	Cranston	Mansfield
Bayh	Eagleton	Mathias
Beall	Fong	Mondale
Bible	Hart	Montoya
Boggs	Hartke	Moss
Brooke	Humphrey	Muskie
Burdick	Inouye	Pastore
Byrd, Robert C.	Jackson	Percy
Case	Javits	Proxmire
Church	Kennedy	Ribicoff
Roth	Stevens	Weicker
Schweiker	Stevenson	Williams
Scott	Symington	
Stafford	Tunney	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Sparkman, for.

NOT VOTING—18

Allott	Gravel	Metcalf
Anderson	Griffin	Mundt
Baker	Harris	Pell
Brock	McGee	Randolph
Eastland	McGovern	Spong
Goldwater	McIntyre	Tower

So Mr. CURTIS' amendment was rejected.

Mr. PASTORE. Madam President, I move to reconsider the vote by which the amendment was rejected.

Mr. CASE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CURTIS. Madam President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

At the appropriate place, insert the following:

None of the funds appropriated by this Act shall be expended to pay the salaries of any employees of the Federal Government who inspect firms employing 4 persons or less for compliance with the Occupational Safety and Health Act of 1970.

Mr. CURTIS. Madam President, I am willing to release my time. I do yield myself just 1 minute to point out that this is not a ridiculous amendment. This is a very sensible amendment. This is preserving the family business or sending the Federal Gestapo in to tell them how many washrooms they must have in their own little family business.

I am prepared to yield back the remainder of my time.

I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DOMINICK. Madam President, will the Senator yield me 2 minutes?

Mr. CURTIS. I yield.

Mr. DOMINICK. Madam President, this debate has become spirited and very able all the way through. I was impressed with what the Senator from Nebraska, the Senator from Iowa (Mr. HUGHES) and the other Senators had to say in going into the history of the legislation. I think it is worthy.

When the bill came from the committee, I offered an amendment asking that a panel be set up so that we could establish through that panel a separate set of standards, so that people would know in each industry, in each area, what they were going to do. That amendment was rejected by three votes.

Since that time, we have had more trouble with the standards, as everybody knows, whether they voted for or against the Curtis amendment, than anybody can think of, the reason being that there has been no disposition to do anything about regions or size.

It does not matter where I have been, whether it has been in my own State or in Chicago, where I was yesterday, or whether it has been anywhere else, people I have talked to have said, "Why don't you do something about that OSHA law?" These are not people who are big people but those who have found themselves suddenly in jeopardy of their jobs because of OSHA regulations. The OSHA regulations are designed to be national consensus standard regulations. No one ever heard of them in the particular industry before, particularly if almost no one knows how to move against them.

The inspector who comes in will not tell them what they are. We are not trying to do something which will imperil the safety of people. What we are trying to do is to give a person a chance to keep on doing what he has been doing until such time as the committee, on which I have the honor to serve as the number two member below Senator JAVITS, has a chance to look into this and see what we can do to change the law.

The Senator from Rhode Island—and I heard him very clearly—said on three occasions that there is no opportunity whatsoever for anyone to do anything except to blame the bureaucrats.

Well, frankly, Senator PASTORE, with all due respect, you are wrong, plain wrong. You are wrong because the law does not give the bureaucrats a chance of flexibility. They have no chance. They have to come in on an inspection and when they see what they think is a violation of a rule or a regulation——

Mr. PASTORE. Madam President, will the Senator from Colorado yield?

Mr. DOMINICK (continuing). Which no one knows about, they have to go in and cite them.

Mr. PASTORE. Madam President, will the Senator from Colorado yield?

Mr. DOMINICK. I am happy to yield to the Senator from Rhode Island.

Mr. PASTORE. The Senator from Rhode Island has been predicting and sponsoring and advocating that we do give them flexibility——

Mr. DOMINICK. I know, but we cannot do it at this point.

Mr. PASTORE. Then why do we not amend the law and do it? Here we are passing all these amendments. Why does not the Senator suggest an amendment to give them flexibility?

Mr. DOMINICK. Because we cannot do it on an appropriation bill, as the Senator from Rhode Island well knows.

Mr. PASTORE. This is not legislation on an appropriation bill. It does not belong here.

Mr. DOMINICK. We cannot do it under this. We have already explored that effort in trying to go that way.

Mr. PASTORE. The Senator from Colorado is a member of the Committee on Labor and Public Welfare and he could have done it a long time ago. All the position the Senator from Rhode Island is taking is this, and there is a tremendous amount of logic to what the Senator from Nebraska said——

Mr. DOMINICK. Right.

Mr. PASTORE (continuing). The Senator from Rhode Island is very much disturbed about this despotism on the part of some of the bureaucrats——

Mr. DOMINICK. Right.

Mr. PASTORE (continuing). That walk into a plant, and they will not listen to the compassionate pleas made by

small business when they think they are only talking to the poor little guy.

Mr. DOMINICK. Right.

Mr. PASTORE (continuing). Who has a small jewelry factory in Rhode Island, say. They do not understand his problem. All the Senator from Rhode Island is saying is that this should be returned to the responsibility of the States.

Mr. DOMINICK. The Senator from Rhode Island, for whom I have great respect—and I still have the floor—when I said that we should have a panel to set up the standards so that the inspectors would not be bound by the so-called national standards, voted against me.

So, with all due respect to the Senator from Rhode Island, he built into the law the very situation we are faced with here. And on an appropriation bill he knows as well as I do that we cannot legislate. We tried to get hearings. We did get hearings. And so did the chairman of the Committee on Labor and Public Welfare, but we did not have them bring any bill in which would change anything in the fundamental law.

So what I am saying is, the least we can do is to allow five persons employed by an employer, or four employees, which I understand is the present limit, and I say, let us not go forward this way until we have an opportunity within the next 8 months to look over the situation and make the changes which are needed.

I have been all over the country recently, and have missed a lot of votes in the process. But that is my problem. What I am talking about is that unless we do this, we will have plenty of people angry, and I mean really outrageously angry at the Federal bureaucracy. They will say, "You are saying you did not do anything about the people of this country. All you did is set up there, like Moses yourself, and say this is the rule and edict and I am not going to move on it."

I think you are wrong. Give them a break.

Mr. MAGNUSON. Madam President, I yield back the remainder of my time except for 1 minute to say that I still do not quite understand why members of the Committee on Labor and Public Welfare will not take this matter up and establish the policy. The Senator from Colorado is a member of that committee, and on the other side the Senator from New York (Mr. JAVITS). It does not belong here to begin with. But as long as it is here, we should start, I think, maybe from zero, and go up to 15, and see where we go from there. If this amendment carries we can go from two to 15. I do not know whether it will happen. Maybe two, seven, or 30, in a small business. But the legislative committee is the cause of all of this trouble and you put in the bill that the Federal inspector can cite a man when he finds something wrong.

Mr. DOMINICK. I will say to the Senator from Washington, in answer to his comments, that I have great respect for him and his position on the Appropriations Committee and the hard work he has put into it. I say that the legislative committee may have been wrong but we brought it to the floor. I have talked to others about the fact that you voted against it, and you put these in, and it is required as a matter of law—not in a bureaucracy. So it is not the committee. The committee did not agree with me, either. But the committee very seldom does. That is not your problem. But all I can say to you is that on the floor you voted against me.

Several Senators addressed the Chair.

Mr. CURTIS. Madam President, I yield myself 1 minute to say that I am not impressed by the idea of going to conference between zero and 15, because if they are resisting an amendment of only four, what hope do we have?

There is nothing unusual about this procedure. It is not legislation on an appropriation. It is a limitation. It is saying that for the next 8 months until you get your regulations for the people to read them and to carry them, to deal with the places where the most people are employed and where it is most hazardous and not in firms employing four or less.

Madam President, I realize that perhaps I have spoken unwisely and with too much feeling. But I feel strongly about this and I would hope that the Senate would accept this amendment.

I am willing to do away with a rollcall or anything else but I think it is right, it is just, and I do not believe that opposition to it can be defended.

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

The PRESIDING OFFICER. The question is on agreeing to the amendment of——

Mr. PASTORE. Madam President, I move to lay the amendment on the table.

Mr. HANSEN. Madam President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mrs. EDWARDS). The question is on agreeing to the motion of the Senator from Rhode Island (Mr. PASTORE) to table the amendment of the Senator from Nebraska.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), 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 Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Virginia (Mr. SPONG), the Senator from Louisiana (Mr. LONG), and the Senator from Maine (Mr. MUSKIE), are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE), is absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), the Senator from West Virginia (Mr. RANDOLPH), would each vote "yea."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

Also, the Senator from Tennessee (Mr. BROCK), the Senator from Michigan (Mr. GRIFFIN) is necessarily absent.

If present and voting, the Senator from Colorado (Mr. ALLOTT) and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 39, nays 41, as follows:

[No. 509 Leg.]

YEAS—39

Aiken	Hart	Pastore
Allen	Hartke	Proxmire
Bayh	Humphrey	Ribicoff
Beall	Inouye	Roth
Boggs	Jackson	Schweiker
Brooke	Javits	Scott
Burdick	Kennedy	Stafford
Byrd, Robert C.	Magnuson	Stevens
Case	Mansfield	Stevenson
Church	Mathias	Symington
Cooper	Mondale	Tunney
Cranston	Montoya	Weicker
Eagleton	Moss	Williams

NAYS—41

Bellmon	Edwards	McClellan
Bennett	Ervin	Miller
Bentsen	Fannin	Nelson
Bible	Fong	Packwood
Buckley	Fulbright	Pearson
Byrd, Harry F., Jr.	Gambrell	Percy
Cannon	Gurney	Saxbe
Chiles	Hansen	Smith
Cook	Hatfield	Sparkman
Cotton	Hollings	Stennis
Curtis	Hruska	Taft
Dole	Hughes	Talmadge
Dominick	Jordan, N.C.	Thurmond
	Jordan, Idaho	Young

NOT VOTING—20

Allott	Griffin	Mundt
Anderson	Harris	Muskie
Baker	Long	Pell
Brock	McGee	Randolph
Eastland	McGovern	Spong
Goldwater	McIntyre	Tower
Gravel	Metcalf	

So Mr. PASTORE's motion to lay Mr. CURTIS' amendment on the table was rejected.

Mr. CASE. Madam President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. The yeas and nays have already been ordered.

Mr. MAGNUSON. Madam President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MAGNUSON. Madam President, am I correct that we will now proceed to vote on the amendment of the Senator from Nebraska?

The PRESIDING OFFICER. The Senator is correct.

Mr. MANSFIELD. We are ready for the clerk to call the roll.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska. 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 Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), 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 Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Virginia (Mr. SPONG), the Senator from Louisiana (Mr. LONG), the Senator from Hawaii (Mr. INOUYE), the Senator from Maine (Mr. MUSKIE), are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE), is absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Hawaii (Mr. INOUYE), would each vote "nay."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER) 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 Tennessee (Mr. BROCK), the Senator from Michigan (Mr. GRIFFIN), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent. If present and voting, the Senator from Colorado (Mr. ALLOTT), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 39, nays 39, as follows:

[No. 510 Leg.]

YEAS—39

Bellmon	Edwards	McClellan
Bennett	Ervin	Miller
Bentsen	Fannin	Nelson
Bible	Fong	Packwood
Buckley	Fulbright	Pearson
Byrd, Harry F., Jr.	Gambrell	Saxbe
	Gurney	Smith
Cannon	Hansen	Sparkman
Chiles	Hatfield	Stennis
Cook	Hollings	Taft
Cotton	Hruska	Talmadge
Curtis	Hughes	Young
Dole	Jordan, N.C.	
Dominick	Jordan, Idaho	

NAYS—39

Aiken	Hart	Percy
Allen	Hartke	Proxmire
Bayh	Humphrey	Ribicoff
Beall	Jackson	Roth
Boggs	Javits	Schweiker
Brooke	Kennedy	Scott
Burdick	Magnuson	Stafford
Byrd, Robert C.	Mansfield	Stevens
Case	Mathias	Stevenson
Church	Mondale	Symington
Cooper	Montoya	Tunney
Cranston	Moss	Weicker
Eagleton	Pastore	Williams

NOT VOTING—22

Allott	Harris	Muskie
Anderson	Inouye	Pell
Baker	Long	Randolph
Brock	McGee	Spong
Eastland	McGovern	Thurmond
Goldwater	McIntyre	Tower
Gravel	Metcalf	
Griffin	Mundt	

So Mr. CURTIS' amendment was rejected.

Mr. CURTIS. Madam President, I offer an amendment, send it to the desk, and ask that it be read.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read the amendment, as follows:

At the appropriate place, insert the following:

None of the funds appropriated by this Act shall be expended to pay the salaries of any employees of the Federal Government who inspect firms employing 3 persons or less for compliance with the Occupational Safety and Health Act of 1970.

Mr. CURTIS. Madam President, I hope we will not need to take very much time. I have a message, personally delivered to me by Mr. Larry Silverman, Under Secretary of the Department of Labor, that says he supports my amendment. [Laughter.] Here it is. And he further reminds me that the original bill sent here by President Nixon did carry a small businessmen's exemption of three.

I do not claim that I have a letter from the President, but I have more support than anyone else has had on this floor, because he did send a bill here for an exemption of three.

Seriously, Madam President——

Mr. HANSEN. Madam President, will the Senator yield?

Mr. CURTIS. I yield.

Mr. HANSEN. Following the lead of a very prominent Democratic aspirant for high office, the Department of Labor wants to demonstrate how flexible we are.

Mr. CURTIS. Madam President, I am willing to yield back the remainder of my time.

Mr. MAGNUSON. Madam President, I yield back the remainder of my time——

Mr. HUMPHREY. Madam President, will the Senator yield? I wish to offer an amendment.

I move that the number be reduced from three to one.

Mr. CURTIS. Madam President, I rise in opposition to the amendment.

Mr. MANSFIELD. Madam President, will the Senator yield briefly, just a minute?

Mr. CURTIS. I yield.

Mr. MANSFIELD. I think we are getting into the silly season, and I wish we would recognize that this game, this charade, has gone on for too long. Let us get back to the business we are here for instead of playing games.

Mr. CURTIS. The Senator from Nebraska is not playing games.

Mr. HUMPHREY. Neither is the Senator from Minnesota.

Mr. CURTIS. I offered it in good faith and it was not allowed to be voted on its merits. It was not tabled. Now I offer an amendment for three, a little business of three, and it is ridiculed by suggesting that it be reduced to one.

After all, there are small enterprises in the country, and I make no apology for speaking for them. They need some protection from this octopus of a Federal Government. They are more interested in safety than all the bureaucrats in the world, because the boss is right there working. Chances are his son is working there, and he has very good economic reason for practicing safety, because of his insurance rates, his unemployment compensation, and everything else.

Madam President, I wonder if the distinguished Senator from Minnesota would let me have a vote on my amendment, and then he can offer his and let the Senate vote on it.

Mr. HUMPHREY and Mr. COOK addressed the Chair.

Mr. CURTIS. I yield to the Senator from Kentucky.

Mr. COOK. Madam President, I rise to a point of order. Does not the Senator's amendment have to be in writing?

The PRESIDING OFFICER. If the request is made, it must be in writing.

Mr. COOK. I ask that it be in writing.

Mr. CURTIS. Madam President, I ask for the yeas and nays.

Mr. HUMPHREY. Madam President——

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered.

Mr. HUMPHREY. Madam President, a Senator is permitted to offer an amendment from the floor. I know the rules of this body. If it has to be reduced to writing, I can write; and I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

Mr. HUMPHREY. And I am not playing games.

The assistant legislative clerk read as follows:

The Senator from Minnesota (Mr. HUMPHREY) proposes an amendment, in lieu of the number "3" insert "1".

The PRESIDING OFFICER. The question is on the amendment. Does the Senator yield himself any time?

Mr. MAGNUSON. Madam President, what is the time situation?

Mr. HUMPHREY. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second——

Mr. DOMINICK. Madam President, a point of order. Unless there is at least the requisite number of Senators who voted on the last rollcall asking for the yeas and nays, I suggest the yeas and nays are not in order.

Mr. MANSFIELD. Madam President, I ask for the yeas and nays, and there is a sufficient number.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CURTIS. Madam President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CURTIS. If the amendment to the amendment is voted down and the amendment the junior Senator from Nebraska has offered is likewise voted down, and an amendment to exempt a firm employing only two persons is voted down, will an amendment then be in order dealing with a firm employing only one?

Mr. MANSFIELD. It is in order now.

The PRESIDING OFFICER. If the Senate voted it down once, an amendment would not be in order again; the Senate would be voting on the same question.

Mr. HANSEN. Madam President, a parliamentary inquiry.

Mr. CURTIS. Madam President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CURTIS. Is there a rule against offering a frivolous amendment?

The PRESIDING OFFICER. The Chair does not determine whether an

amendment is frivolous or not. The Senate has to make that decision.

Mr. MANSFIELD. In other words, the answer is "No."

Mr. HANSEN. Madam President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HANSEN. Is not the amendment proposed by the distinguished Senator from Nebraska already an amendment in the second degree?

The PRESIDING OFFICER. No; that is an amendment in the first degree, and the amendment of the Senator from Minnesota is in the second degree.

Mr. HANSEN. An amendment, then, by the distinguished Senator from Minnesota is in order.

The PRESIDING OFFICER. Yes. It is already the pending question.

Do Senators yield time?

Mr. HUMPHREY. Madam President——

Mr. MAGNUSON. Madam President, the time situation is getting a little confusing to the manager of the bill. The Senator from Minnesota has offered an amendment; therefore he is in control of the time on his amendment.

The PRESIDING OFFICER. That is correct.

Mr. MAGNUSON. And the Senator from Washington is going to yield his time, if it is agreeable, to the Senator from New Hampshire and to those Senators who oppose the amendment; namely, the Senator from Nebraska, to those in charge of the time in opposition. I ask unanimous consent to do so.

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

Mr. HUMPHREY. Madam President——

The PRESIDING OFFICER. How much time does the Senator yield himself?

Mr. HUMPHREY. Five minutes.

Madam President, a parliamentary inquiry. Should the Senator from Minnesota move to table the amendment that is now before us, would that include both the amendment of the Senator from Nebraska and the amendment of the Senator from Minnesota?

The PRESIDING OFFICER. If the motion to table were made and carried, it would take both amendments.

Mr. HUMPHREY. I am not trying to be frivolous. I think this body tonight has had a bit of that. Any Senator is entitled to offer any amendment that he believes is relevant and worthy. We have had several votes before on whether or not this law for safety should be restricted in terms of numbers of employees.

I do not basically disagree with many of the things the Senator from Nebraska has said, or that the Senator from Iowa has said. As a matter of fact, I am deeply disturbed about it. I am one person in this body who runs a small business. It employs fewer than 10 people. I am responsible for that business. Regrettably, from my point of view at times, it is an absentee operation. But I know what it means to face Federal inspectors. Those Federal inspectors come into our drugstore just like they come into other places, and I do not like a lot of it, but I do not believe we ought to try to amend the law on an appropriation act. And while I realize that the amendment we are dealing with is within the Rules of the Senate—I have discussed this with the Parliamentarian—it is a backdoor way of amending the act.

I believe the law does need reexamination. I think a case has been made for it tonight. I am prepared to face that reexamination with objectivity.

The Senator from Nebraska knows I am very much concerned about the way the inspectors have operated. I have talked with him privately about it. I was in his State. I know he raises a point that is of critical importance to hundreds of people in his State and thousands across this country. I met some of those people when I was in Nebraska in the month of May.

So I know that the Senator from Nebraska is operating in good faith, but I say with all respect to all my colleagues, we have voted and voted and voted. The only reason why I raised this issue to put it at one is because otherwise the Senator will come down farther, 3 to 2 to 1. I do not mean to cut off debate here——

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

Mr. HUMPHREY. Yes.

Mr. CURTIS. Before the Senator makes his motion to table, and I hope he does not, I think we have a right to vote on an amendment where the Labor Department will have something to go on; and I hope before the Senator makes his motion to lay on the table he will give me an opportunity to yield to the distinguished minority leader.

Mr. HUMPHREY. Indeed I shall. I say to the distinguished Senator from Nebraska that I respect his words and his judgment, and I respect his argument. I just feel that we have argued it out and made our respective points. The Senator from Nebraska has been stalwart in fighting for what he believes is right. The votes have not been in his favor. I think to come down to three makes it really rather—I shall not say what I was about to say, but I do not think it matters very much, and therefore, to bring the issue to a conclusion, I shall move to table it at once, but I shall not cut off debate.

Mr. CURTIS. Madam President, I yield to the minority leader.

Mr. SCOTT. Madam President, at this juncture I do not know whether we may have two votes or may have three. I hope we will only have two. That could be accomplished by voting up or down on the amendment of the Senator from Minnesota, or, if that fails, voting up or down on the amendment of the Senator from Nebraska. But I have had the privilege of visiting the family drugstore of the distinguished Senator from Minnesta in Huron, S. Dak. It is an excellent drugstore, and well run. But it seems to me that in his absence he would be better protected if there were three people covered rather than just one, since the one sometimes has to run out to make some purchases or deliveries, and I really think he needs the people. I think the Senate wants to give that to him. Therefore, I hope the amendment of the Senator from Minnesota as well as his motion to table will be voted down, and that we can support the amendment of the Senator from Nebraska (Mr. CURTIS); and I am sure that I am speaking with some knowledge when I say that there are a good many Senators who are in favor of this figure of three.

I recognize, with my party, the importance of healthy drugstores and pharmacists generally, particularly my friend from Minnesota and his family with their excellent drugstore at Huron, S. Dak.

Mr. HUMPHREY. Madam President, may I say this is the first time the administration has helped our business, and for that I am exceedingly grateful. I am aware, of course, that that is only a promise, but I live on promises, as the Senator knows.

Mr. SCOTT. I might say that the Senator has been selling promises for many years in a falling market.

Mr. HUMPHREY. And I say that, in a Democratic administration, we have been able to survive.

I thank the Senator. I am going to make the motion, and I say, with all respect to my colleague from Nebraska, this is one way to get at the issue.

What is the difference whether it is three or four or one? We are really voting on the principle, and if we vote on three, the Senator from Nebraska has indicated that if that does not pass he will go to two. I do not think that is going to make much sense, with all due respect, and I say to the Senator from Nebraska he has fought hard. I think he has made his point. I hope the chairmen and the subcommittee chairmen of the committees have listened well. I hope the administration has listened well. As a matter of fact, I am glad that we have had some debate on this issue, because maybe the administration will listen. This law is being foolishly administered, no doubt about it.

Madam President, I move——

Mr. SCOTT. Before the Senator makes his motion, may I make a correction? I had said there would be three votes, and I do mean there would be three votes, because there is a way by which we could have a vote on another part of this section, and some Senators have that in mind. But if the Senator moves to table, I understand it would have the effect of tabling both his amendment and the amendment to which he has offered it.

Mr. HUMPHREY. Yes, with the wisdom of Solomon, in an effort to take a balance here, we are going to table both.

I now move, Madam President, to lay on the table——

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. HUMPHREY. I yield back the remainder of my time.

Mr. CURTIS. I yield back the remainder of my time.

Mr. HUMPHREY. I move to lay on the table the amendment of the Senator from Nebraska (Mr. CURTIS) as amended by the Humphrey amendment.

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

The yeas and nays were ordered.

The PRESIDING OFFICER (Mrs.

EDWARDS). All remaining time having been yielded back, the question is on agreeing to the motion of the Senator from Minnesota (Mr. HUMPHREY) to lay on the table the amendment of the Senator from Nebraska (Mr. CURTIS) as amended by the Senator from Minnesota.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE) the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Virginia (Mr. SPONG) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE) and the Senator from West Virginia (Mr. RANDOLPH) would each vote "yea."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

Also, the Senator from Tennessee (Mr. BROCK), the Senator from Michigan (Mr. GRIFFIN), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

If present and voting, the Senator from Colorado (Mr. ALLOTT), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 31, nays 47, as follows:

[No. 511 Leg.]

YEAS—31

Allen	Hartke	Pastore
Bayh	Humphrey	Pearson
Beall	Jackson	Proxmire
Brooke	Javits	Ribicoff
Burdick	Kennedy	Schweiker
Byrd, Robert C.	Magnuson	Stevenson
Case	Mansfield	Symington
Church	Mathias	Tunney
Cranston	Mondale	Williams
Eagleton	Montoya	
Hart	Moss	

NAYS—47

Aiken	Curtis	Hughes
Bellmon	Dole	Jordan, N.C.
Bennett	Dominick	Jordan, Idaho
Bentsen	Edwards	McClellan
Bible	Ervin	Miller
Boggs	Fannin	Nelson
Buckley	Fong	Packwood
Byrd, Harry F., Jr.	Fulbright	Percy
	Gambrell	Roth
Cannon	Gurney	Saxbe
Chiles	Hansen	Scott
Cook	Hatfield	Smith
Cooper	Hollings	Sparkman
Cotton	Hruska	Stafford
Stennis	Taft	Weicker
Stevens	Talmadge	Young

NOT VOTING—22

Allott	Harris	Muskie
Anderson	Inouye	Pell
Baker	Long	Randolph
Brock	McGee	Spong
Eastland	McGovern	Thurmond
Goldwater	McIntyre	Tower
Gravel	Metcalf	
Griffin	Mundt	

So Mr. HUMPHREY's motion to lay Mr. CURTIS' amendment on the table was rejected.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the Senator from Nebraska, as amended.

Mr. HUMPHREY. Madam President, I want to expedite the business of the Senate. The Senate has expressed its will. Would it be all right if I were to ask unanimous consent to withdraw the Humphrey amendment and the yeas and nays on the amendment and we proceed to vote?

Mr. CURTIS. Yes.

Mr. HUMPHREY. Madam President, I ask unanimous consent to so do.

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

The question is on agreeing to the amendment of the Senator from Nebraska. 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 Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Virginia (Mr. SPONG) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), and the Senator from West Virginia (Mr. RANDOLPH) would each vote "nay."

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

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

Also, the Senator from Tennessee (Mr. BROCK), the Senator from Michigan (Mr. GRIFFIN), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

If present and voting, the Senator from Colorado (Mr. ALLOTT), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 50, nays 28, as follows:

[No. 512 Leg.]

YEAS—50

Aiken	Dole	Miller
Allen	Dominick	Moss
Bayh	Edwards	Nelson
Bellmon	Ervin	Packwood
Bennett	Fannin	Pearson
Bentsen	Fong	Percy
Bible	Fulbright	Roth
Buckley	Gambrell	Saxbe
Byrd, Harry F., Jr.	Gurney	Scott
	Hansen	Smith
Cannon	Hatfield	Sparkman
Chiles	Hollings	Stafford
Church	Hruska	Stennis
Cook	Hughes	Taft
Cooper	Jordan, N.C.	Talmadge
Cotton	Jordan, Idaho	Weicker
Curtis	McClellan	Young

NAYS—28

Beall	Humphrey	Proxmire
Boggs	Jackson	Ribicoff
Brooke	Javits	Schweiker
Burdick	Kennedy	Stevens
Byrd, Robert C.	Magnuson	Stevenson
Case	Mansfield	Symington
Cranston	Mathias	Tunney
Eagleton	Mondale	Williams
Hart	Montoya	
Hartke	Pastore	

NOT VOTING—22

Allott	Harris	Muskie
Anderson	Inouye	Pell
Baker	Long	Randolph
Brock	McGee	Spong
Eastland	McGovern	Thurmond
Goldwater	McIntyre	Tower
Gravel	Metcalf	
Griffin	Mundt	

So Mr. CURTIS' amendment was agreed to.

Mr. CURTIS. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

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

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Now, Mr. President——

Mr. HARTKE. Mr. President——

Mr. MAGNUSON (continuing). I guess we can get on with the business of HEW, which is the major part of the bill.

Mr. MANSFIELD. Mr. President——

Mr. MAGNUSON. The Senator from Indiana (Mr. HARTKE), as I understand it, has two amendments to offer and I yield to him at this time.

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

The PRESIDING OFFICER (Mr. BURDICK). Does the Senator from Indiana yield to the Senator from Montana?

Mr. HARTKE. I yield.

Mr. MANSFIELD. Mr. President, would the distinguished Senator be susceptible to a limited time agreement on his two amendments?

Mr. HARTKE. I would like to say to my distinguished majority leader that I think we had better just not ask for any time. I feel that we will do it much more rapidly than if we are on limited time.

I do not intend to ask for a rollcall. I feel somewhat perplexed by the situation in view of the numbers game which got started here this evening.

I had yielded to the distinguished Senator from New Jersey (Mr. CASE) which permitted this numbers game to begin.

I yielded to him out of turn; otherwise I would have completed this business before now and brought it to a conclusion.

I ask, Mr. President, that the amendment I have at the desk be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 83, strike out all after line 16, over to and including line 6 on page 84.

Mr. HARTKE. Mr. President, the effect of this amendment would be to delete the provision in the Senate bill authorizing the President, at his discretion——

Mr. COTTON. Mr. President, may we have order in the Senate so that we can hear?

The PRESIDING OFFICER (Mr. BURDICK). The Senators will please take their seats. The Senate will be in order.

The Senator from Indiana may proceed.

Mr. HARTKE. Mr. President, the effect of the pending Hartke amendment would be to delete the provision in the Senate bill authorizing the President, at his discretion, to withhold from obligation an amount of $935,471,000, which is the amount the vetoed bill exceeds the new House bill. The Senate provision also states that, in the event the President should withhold any or all of the money from obligation, no single appropriation could be reduced by more than 10 percent from the level in the vetoed bill.

Now, the appropriations process should be a way for Congress to determine how national resources should be allocated. The Federal budget is supposed to reveal the essence of national policy. The provision in the pending bill, however, would be yet another in a long line of developments in the operational of our National Government which erode the powers of the legislative branch and contribute to the steady deterioration of the constitutional principles upon which this Nation rests.

Under the Constitution, all legislative power is vested in the Congress, including the power to appropriate money. Article I, section 9, provides that—

No money shall be drawn from the Treasury but in consequence of appropriations made by law.

The President, on the other hand, is given no role in legislation save for the power to recommend "such measures as he shall judge necessary and expedient" provided in article II, section 3, of the Constitution, and the power granted him under article I, section 7, to veto measures passed by the Congress, subject to being overridden by a two-thirds vote of both Houses. He does have the clear responsibility to "take care that the laws be faithfully executed," as required by article II, section 3. Certainly, the Founding Fathers did not intend to give the President any discretion when they imposed that duty upon him.

On the contrary, they intended that he execute all laws passed by the Congress, irrespective of any personal, political, or philosophical views he might have. He has no authority under the Constitution to decide which laws will be executed or to what extent they will be enforced.

Yet, by allowing the President to cut the budget 10 percent at his discretion, he is able to do just that.

In this era, the powers of the executive branch have become dominant in the operation of the governmental structure. The power of the purse is one of the few remaining tools which Congress can use to oversee and control the burgeoning Federal bureaucracy. Congress is constitutionally obligated to make legislative policy and is accountable to the citizens for carrying out that obligation. This provision seriously interferes with the successful operation of that principle and places Congress in the paradoxical and belittling role of having to lobby the executive branch to carry out the laws it passes.

Mr. President, during the past year, I have urged this body to reassert its prerogative in the treatymaking process. For more than 30 years, there has been a trend to make Congress a mere appendage of the executive branch—a nodding head of automatic approval to executive policy decisions. It took the Gulf of Tonkin and its bloody aftermath to make Congress realize that we must share with the executive the responsibility for leadership.

Ours is the responsibility for establishing programs to meet the needs of the Nation. Ours is the responsibility to appropriate funds to make those programs work. Through the appropriations process, we express the national commitment to better schools, quality health care, and more job opportunities. That is our responsibility, and I strongly oppose any effort to turn over even one-tenth of that responsibility to the executive branch.

During the past few years, President Nixon has impounded millions of dollars appropriated by Congress. I believe that his action is a violation of the spirit and the substance of the separation of powers doctrine embodied in our Constitution. This Congress cannot give the President even greater authority to fly in the face of the Constitution.

Mr. President, I urge the adoption of the pending Hartke amendment because I believe that the programs listed in the Labor-HEW appropriations bill are already funded and should not be subjected to further cuts and because I believe that the future vitality and effectiveness of the Congress is at stake.

Mr. President, I know full well what the argument on the other side is. I understand full well that what this does is place the Senate in the position of going to the House of Representatives in conference on this matter. In my opinion that is far better than coming in on our hands and knees and allowing the President of the United States to control 10 percent of the Labor-HEW appropriations bill.

It is for this reason that I offer this amendment.

I hope that there will be enough voice votes to take the amendment to conference. I will not make any judgment on that. I ask for this in great seriousness. Otherwise, why do we not go ahead and abolish the Congress.

Mr. MAGNUSON. Mr. President, I yield myself 1 minute. I appreciate what the Senator from Indiana has stated. I think that maybe we should abolish the veto. We would not be in this trouble that we are in with this bill. But we are doing the best we know how to get a bill. I wish we could pass the bill over his veto. However, it turned out that we could not. So, we have to work our way through this. And the reason we did this is that if we did not do it in this way, all of the Senate programs are out and we will have a conference with the House. They put in all of theirs and threw out all of ours. And is that not some conference? That is like the situation on public works. We take all of their items and put their items in, and they want a conference on the other items. Congress had better adjust itself.

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

This is not said with any feeling of disrespect for what the Senator from Indiana has said. However, I would hope that the amendment would be rejected.

Mr. HARTKE. Mr. President, all I can say is that I understand again that what we are saying is that we give up. I am ready to vote.

Mr. COOK. Mr. President, will the Senator yield me 5 seconds?

Mr. HARTKE. Mr. President, I yield to the Senator from Kentucky.

Mr. COOK. Mr. President, I ask for the 5 seconds only for the purpose of saying that regardless of how the voice vote comes out, I would like to be recorded as voting "yea."

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

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

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Indiana (putting the question).

The amendment was rejected.

Mr. HARTKE. Mr. President, I call up amendment No. 1673 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 51, line 12, strike out "$798,046,000" and insert in lieu thereof "$801,296,000".

Mr. HARTKE. Mr. President, the pending Hartke amendment adds $3.25 million for health care for migrant and seasonal farmworkers.

No single group in our Nation is as exploited as migrant workers who harvest the food we eat. There is no working group in the United States which lives in worse housing than migrants. Wages received by migrants are among the lowest of the working poor. Federal child labor laws do not apply to migrants.

Constant mobility itself damages the physical and mental health of migrants. These people suffer from malnutrition. In fact, 25 percent of migrant children have anemia. Statistics document that infant mortality is 25 percent higher among migrants than the national average. Mortality rates for tuberculosis and other infectious diseases among migrants are 2½ times the national rate.

Mr. President, the per capita expenditure for migrant health is $12 compared

to the national average of $250 per person. With all of the horrible living and working conditions which migrants must endure, the plain fact is that we are not spending enough money on health services for migrant workers. A November 1969 task force of the Department of Health, Education, and Welfare concluded that few States provide any medical assistance under medicaid for migrants. A 1971 report of the Office of Economic Opportunity found only 3.2 percent of migrants throughout the Nation covered by medicaid, with very few eligible for either medicare or private health insurance benefits.

Because of inadequate funding, the Federal migrant health program reaches less than 10 percent of the eligible migrant population. Present law authorizes a mere $30 million for migrant health. If that were distributed on a per capita basis among every migrant worker and dependent, it would come to only $30 per person per year in health expenditures for migrants. That is less than one-fourth the national average.

As meager as this expenditure is, the pending Senate bill appropriating funds for migrant health provides for only $26.75 million. The pending Hartke amendment would bring that appropriation up to the full authorization level of $30 million.

Mr. President, at this time I ask unanimous consent that an article from the Washington Post describing the plight of hungry migrant children be printed in the RECORD.

Mr. President, we have made many promises to the migrant workers of this Nation. The least we can do is to provide full funding for the one program we have to meet their health needs.

Mr. President, the pending amendment deals with migrant and seasonal farmworkers. It would add $3,250,000, up to the full amount of the authorization. In other words, what we do here is deal with those members of society who are our most poorly treated.

I ask unanimous consent to have printed in the RECORD an article published in the Washington Post of May 1, 1972, entitled "United States Bungling Food Aid for Migrants," written by Austin Scott.

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

AFTER MANY PROMISES, KIDS GO HUNGARY: UNITED STATES SEEN BUNGLING FOOD AID FOR MIGRANTS

(By Austin Scott)

A food program specialist who quit the Agriculture Department as a "matter of conscience" charges that, largely through internal bungling, the department has made well-intentioned child nutrition programs "especially detrimental to migrant children, and probably . . . to most other needy children."

Marvin Levin, scheduled to fly to hunger-plagued Bangladesh Tuesday to set up food programs for CARE, is to testify before a joint session today of the special Senate committees on migrant workers and on nutrition and human needs. In prepared testimony, he draws a picture of hungry migrant children waiting in vain for help which the department should give, and could if it weren't constantly stumbling over its own philosophy and procedures.

Its failure to do what existing legislation and appropriations already allow, Levin said, has forced other government agencies to fill the gap, spending money on food that was supposed to educate or train poor families.

He estimated that $5.3 million to $7 million was diverted to food from its intended purposes in 1971.

The result, he said, has been detrimental to migrant worker programs run by other agencies, primarily Health, Education and Welfare, the Office of Economic Opportunity, and the Department of Labor.

Some of Levin's charges have been supported in the past few weeks by outside groups that reported on special summer feeding and school breakfast programs.

Levin worked for USDA from February, 1971, until last Friday, after spending five years in India with CARE, administering state child nutrition programs.

"The most obvious indication that the Food and Nutrition Service is not meeting the food needs of migrant children is that other U.S. agencies, concerned with non-food aspects of the migrant child, are diverting large portions of their budgets . . . into the food program," he said.

LEAD-ON TECHNIQUE

He estimated that 8 to 20 per cent of such budgets wind up being used for food, primarily because USDA lures program administrators right up to the last moment into thinking they will get the money they need.

"You lead them and you give them every indication, but you don't quite make that final commitment," Levin said.

He told of a series of meetings on migrant programs run primarily by HEW last summer, at which USDA's Food and Nutrition Service told state and federal agencies "Don't spend your own money (for food), put your money into education . . . We have plenty of money to pick up your needs."

"But we didn't have that money," Levin said in an interview, adding that he was one of the officials making such promises.

"We did not know the money wasn't there," he said. "We honestly thought at the time that the problem was non-participation, that they weren't applying (for food money). At no time were we ever corrected."

One complicating factor is that sometimes the money is there even when USDA thinks it isn't, Levin said.

Last October, his testimony said, the Texas Migrant Council headquartered in Laredo, applied to USDA's Texas regional office for money to fund a program.

"Although the regional office determined that the council was eligible, and needed assistance, it did not approve participation because they thought they had committed their $816,000 appropriation," he said.

Not until five months later, late last March, did USDA notify the regional office that the office had only committed $607,000 and therefore did have the money, he said.

"Thus for five months we withheld approval for a necessary program because we did not know how much money we were spending." About 650 migrant children were affected, he said.

"INSENSITIVITY" SEEN

Levin said he could give dozens more examples. He blamed such problems on the department's "insensitivity to the special problems of migrant children," its inadequate data, internal problems and attempts to serve the administration rather than the hungry.

But, he said, they produce "extremely adverse effects," such as:

In California, 22,000 migrant children paid 30 cents for lunches in 1971 instead of getting them free because their parents had not gone through USDA's required procedure of signing income statements, a procedure Levin called "not feasible" for migrant workers.

In New York, 5,500 migrant children were fed by diverting Title 1 funds intended for their education.

In Florida, about $160,000 last year, and an estimated $260,000 this year, will be diverted from Title 1 educational funds to pay for food that the Food and Nutrition Service should be paying for.

"The Food and Nutrition Service has been repeatedly advised that the parents of migrant children, in most cases, are functionally illiterate," Levin's testimony said, "that the parents do not know what their yearly income is . . .

"Therefore the department should authorize categorical (automatic) certification for migrant children."

"Migrancy is an occupational grouping with known income levels," he commented, but "the response from FNS has been silence."

By not recognizing migrants as a special group, he said, "the department has placed an extremely heavy administrative burden on migrant sponsors. Last year one local sponsor applied to 11 state and/or regional offices."

The department also frustrates attempts to learn more about its programs, Levin said:

"In August, 1971, I attempted to formally gather data on the number of migrant children participating in state programs . . . the information would have allowed us to plan a program based on probable needs.

"The letter requesting the data never left the department because, as the note attached to the letter indicated, 'the time is not right.' "

The note was signed by Herbert Rorex, chief of the Division of Child Nutrititon, Levin said.

His testimony offered several recommendations for USDA, including categorizing migrants "as a special target group," automatically certifying migrant children eligible for free school lunches, and submitting to Congress "a plan of operation specifying where it is, where it is going, how it plans to get there. . . ."

So far, Levin said, repeated criticism from inside and outside the department on its food programs has resulted only in patchwork, temporary fixes that don't prevent the problem from recurring.

What is needed, he said, is a basic change in the systems within the department.

Mr. HARTKE. Mr. President, I am fully aware again of what the end result of the amendment will be on the floor. All I can say to my distinguished chairman is that I do not think the Congress of the United States should just idly sit by and permit the President to tell us how the country should be run. It is a divided responsibility.

Not to exercise our responsibility to the Nation's most underprivileged group is just one more step down that road. I do not think, after we pass this bill and kick all of these people in the teeth, as we will do, that it would be proper for Congress to go back to ask for any impounded funds to be released again. We have solved our responsibility to the migrant workers by our action here, much to their detriment.

I know that the hour is late, and I will be satisfied with a voice vote out of respect for the Senator from West Virginia who asked me to cut off the debate. And I do so.

Mr. MAGNUSON. Mr. President, I yield myself 1 minute.

Mr. President, I do not want the RECORD to show that we did not do anything for the migrant workers. We have. There is a great deal of money in the bill for them. We can go back to the vetoed bill.

This is almost a 50-percent increase over last year.

I do not want to be here, and I do not think anyone else wants to be here much longer. But adding money above the level of the vetoed bill is unrealistic. We have to accommodate ourselves to a veto. Otherwise, it should be abolished.

I think we have tried to do that and retain the integrity of the Senate's decision on these items.

Mr. HARTKE. We are going back to the vetoed bill, but not the Senate-passed bill which contained only a portion of this amendment in spite of the need for an authorization level of $100 million as documented by the Labor and Public Welfare Committee's recent report.

Mr. MAGNUSON. Oh, well.

Mr. HARTKE. Yes.

Mr. MAGNUSON. The Senate-passed bill had to go to conference. The Senator would not abolish the conference would he?

Mr. HARTKE. If we have no more power with the House than we have with the President, I suggest that we let the President run the country, and the Senate adjourn sine die and abolish itself.

Mr. MAGNUSON. You cannot do business without a conference. The Senator from Indiana has been in many conferences with the House. I think we came out way on top in conference, and we are going back to conference maintaining the integrity of the Senate decisions and priorities.

Mr. President, unless another Senator wishes to speak I am ready to yield back my time.

Mr. COTTON. Mr. President, I yield myself 1 minute.

Mr. MAGNUSON. Excuse me.

Mr. COTTON. In the beginning when we took up the bill there was to be 3 hours on the bill equally divided between the chairman and me. The Senator from Washington made the necessary observations from his point of view, but the Senator from New Jersey was in a hurry to get to a vote on his amendment and Senators wanted to leave. I said I would wait and say what I had to say later. The result is that I would not for one moment keep one Senator here tonight to listen to anything. However, in view of some of the observations and some matters that went into the RECORD, and particularly in view of some of the observations made by my distinguished friend from Indiana, I would like to make the request of the leadership that I might have a special order for the day after tomorrow morning. At that time I would like to review the conduct of the President of the United States with regard to these matters, because I think I would not want to leave the inferences that I think are in the RECORD now.

Mr. MANSFIELD. The Senator will have a special order on Thursday morning.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. HARTKE. I yield back my time.

Mr. MAGNUSON. I yield back my time.

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

The amendment was rejected.

Mr. COTTON. Mr. President, third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

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

The bill (H.R. 16654) was read the third time.

Mr. COTTON. I would like to raise the issue of brain disease and violent behavior with my distinguished colleague.

I want to reassure the Members of the Senate that any funds in this bill added by the Senate committee for research into brain disease and violent behavior will be awarded to competent scientists and only after such scientists meet the high ethical and medical science standards demanded by the established NIH peer review process which is used in awarding all the grants at NIH. Is that not correct, Mr. Chairman?

Mr. MAGNUSON. The Senator has stated it very well. At this point, Mr. President, I ask unanimous consent to place in the RECORD some pertinent correspondence with the Director of the National Institutes of Health which I believe will serve to further clarify the issue and reassure my colleagues in this matter.

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

U.S. SENATE,
Washington, D.C., September 22, 1972.

Dr. ROBERT Q. MARSTON,
Director, National Institutes of Health, Bethesda, Md.

DEAR DR. MARSTON: This is to call your attention to a passage on page 55 of the Senate report (92–894) accompanying the first 1973 Labor-HEW appropriation bill. The report had earmarked $1 million to continue and expand studies of violent behavior related to brain disease.

Subsequent to Senate action on the first 1973 Labor-HEW bill, the Committee has received several disturbing published reports regarding the use of an earlier appropriation of $500,000 for this work. Consequently, it would be appreciated if NIH would delay the funding of this work at this time. It is the desire of the Committee that, as a condition precedent to the award of any funds to continue such work, the NIH should thoroughly study the earlier work conducted with appropriated funds and determine that the adverse reports regarding this project are without merit.

In the interim, the Committee would also appreciate receiving from you a statement on NIH policy concerning research into the relationships between brain disease and violent behavior.

Thank you for your cooperation.

Sincerely,

WARREN G. MAGNUSON,
Chairman, Subcommittee on Labor-Health, Education, and Welfare.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Bethesda, Md., October 2, 1972.

Hon. WARREN G. MAGNUSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MAGNUSON: Thank you for your letter of September 22 about the funding of research on the relationship of brain disease to violent behavior.

We are well aware of the criticism that has been directed toward earlier research projects in this field which were supported by other agencies. We are also, of course, anxious to ensure that there shall be no valid basis for similar criticism in any future work that NIH might support through the appropriation for the National Institute for Neurological Diseases and Stroke.

The policy of NIH, briefly stated, is as follows:

1. There is evidence that some kinds of uncontrolled violence and other forms of unacceptable human behavior are due to abnormal brain development or brain disease. However, the evidence is fragmentary, scattered, and equivocal. We believe that further research is necessary but that a first step should be to collect, correlate, and assess the evidence currently available in order to determine what direction further research should take.

2. Consequently, the National Institute of Neurological Diseases and Stroke has established a task force, as a subcommittee of its Advisory Council, to plan a series of workshops on brain disease in relation to violence. The National Institute of Mental Health—which is not part of NIH but which has previously supported research in this field—has set up a similar task force to study the more restricted topic of psychosurgery. Close liaison is being maintained between these two task forces.

3. Research projects on abnormal behavior and on the physiological factors affecting behavior in animals, including non-human primates, will be supported if they are of high scientific merit and appear to be relevant to the elucidation of behavioral problems in man.

4. Research projects on the genetic, hormonal, biochemical, and neurological factors in abnormal human behavior will be considered only if they conform to the established guidelines governing all research involving human subjects. These guidelines will be most rigorously enforced. The conditions include (a) a thorough initial review and continued surveillance by a multi-disciplinary committee at an institution of high repute that can, and does, accept responsibility for the protection of the subjects involved; and (b) specific grant or contract terms providing for the protection of human subjects including the right of privacy, and requiring their informed consent.

I can give you a firm assurance that no commitment to fund research projects using human subjects for the study of the relationship between brain disease and violent behavior will be made until the results of the discussions now being initiated by the NINDS task force have been completed and considered.

Please be assured of my personal concern in this matter and of my full appreciation of the committee's interest in it.

Sincerely yours,

ROBERT Q. MARTSON, M.D.,
Director.

Mr. BEALL. Mr. President, I wish to thank the distinguished chairman of the Appropriations Committee's Subcommittee on Labor, Health, Education, and Welfare, and Related Agencies, Mr. MAGNUSON, and the distinguished ranking minority member, Mr. COTTON, for engaging in a most fruitful colloquy designed to clarify the intentions of the committee with regard to the language appearing on page 55 of Senate Report No. 92–894—June 21, 1972.

I recently had an opportunity to meet with Dr. Peter R. Breggin who has, as many of us know, become an active and prominent spokesman in opposition to the use of brain surgery as a device to

regulate behavior. As a layman, I am unable to pass judgment on a medical matter as complex and as specialized as psychosurgery, but I do share some of the concerns expressed by Dr. Breggin and his colleagues. Because nerve cells do not regenerate, psychosurgery produces a permanent and irrevocable change in the behavior of the individual. For this reason, Mr. President, I believe that we should move carefully and cautiously in this area. I would hope that the National Institute of Neurological Diseases and Stroke will not assume that the report language accompanying this bill constitutes a congressional directive that would override their normal peer review procedures. I believe that the remarks by the distinguished senior Senator from Washington and the distinguished senior Senator from New Hampshire have helped to still my concerns and clarified the congressional intent with regard to this matter.

Mr. CASE. I would like to direct a question to the manager of this bill. Is my understanding correct that, in its present form, the bill would provide funds for the impacted aid program for public housing students and that the amount provided could not be less than 90 percent of the $10 million that was provided in the vetoed bill?

Mr MAGNUSON. The Senator from New Jersey is correct.

Mr. COTTON. Mr. President. I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. MAGNUSON. I yield back the remainder of my time.

Mr. COTTON. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Virginia (Mr. SPONG), and the Senator from Florida (Mr. CHILES) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH) would each vote "yea."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

Also, the Senator from Tennessee (Mr. BROCK), the Senator from Kansas (Mr. PEARSON), the Senator from South Carolina (Mr. THURMOND), and the Senator from Michigan (Mr. GRIFFIN) are necessarily absent.

If present and voting, the Senator from Colorado (Mr. ALLOTT), the Senator from South Carolina (Mr. THURMOND) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 75, nays 1, as follows:

[No. 513 Leg.]

YEAS—75

Aiken	Edwards	Montoya
Allen	Ervin	Moss
Bayh	Fannin	Nelson
Beall	Fong	Packwood
Bellmon	Fulbright	Pastore
Bennett	Gambrell	Percy
Bentsen	Gurney	Proxmire
Bible	Hansen	Ribicoff
Boggs	Hart	Roth
Brooke	Hartke	Schweiker
Buckley	Hatfield	Scott
Burdick	Hollings	Smith
Byrd, Harry F., Jr.	Hruska	Sparkman
Byrd, Robert C.	Hughes	Stafford
Cannon	Humphrey	Stennis
Case	Jackson	Stevens
Church	Javits	Stevenson
Cook	Jordan, N.C.	Symington
Cooper	Jordan, Idaho	Taft
Cotton	Kennedy	Talmadge
Cranston	Magnuson	Tunney
Curtis	Mansfield	Weicker
Dole	Mathias	Williams
Dominick	McClellan	Young
Eagleton	Miller	
	Mondale	

NAYS—1

Saxbe

NOT VOTING—24

Allott	Griffin	Mundt
Anderson	Harris	Muskie
Baker	Inouye	Pearson
Brock	Long	Pell
Chiles	McGee	Randolph
Eastland	McGovern	Spong
Goldwater	McIntyre	Thurmond
Gravel	Metcalf	Tower

So the bill (H.R. 16654) was passed.

Mr. MAGNUSON. Mr. President, on that hearty vote, I shall not ask to reconsider the vote or lay it on the table.

I move that the Senate insist on its amendments and requests a conference with the House of Representatives on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. MAGNUSON, Mr. STENNIS, Mr. BIBLE, Mr. ROBERT C. BYRD, Mr. PROXMIRE, Mr. MONTOYA, Mr. HOLLINGS, Mr. MCCLELLAN, Mr. COTTON, Mr. CASE, Mr. FONG, Mr. BOGGS, Mr. BROOKE, Mr. STEVENS, and Mr. YOUNG conferees on the part of the Senate.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any technical corrections in the Senate bill that may be necessary.

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

Mr. MANSFIELD. Mr. President, the passage this evening of the Labor-HEW appropriations marks the second time this year that the Senate has labored with a measure appropriating $30 billion to the health, education, and welfare of this country. Moneys appropriated by this bill affect the daily lives of every person living in this country. The laws are numerous and complex and it takes one with the mastery of the senior Senate from Washington (Mr. MAGNUSON) to shepherd a measure of this magnitude to such a swift decision. This measure represents in large measure the priorities of the U.S. Senate in allocating the resources of this country, including the added emphasis to these programs ratified today by the overwhelming vote of the Senate.

As I mentioned on the floor earlier today, the Senate in the past 2 days has eliminated over $5 billion from the President's request for appropriations for the Department of Defense. This measure represents less than a 25-percent reallocation of that saving over and above the President's request in fields such as health, hospital construction, and education. It has been under the leadership of the Senator from Washington (Mr. MAGNUSON) and the ranking Republican member of this committee, the distinguished Senator from New Hampshire (Mr. COTTON) that the Senate has ventured forth to add the emphasis in these fields over and above the President's budget request.

To all Members of the Senate the leadership wishes to express its thanks for the cooperation in expediting the consideration of this measure for a second time this year. Progress of this nature demonstrates that an adjournment by the latter part of next week can be a reality.

TRIBUTE TO SENATOR CURTIS

Mr. HARRY F. BYRD, JR. Mr. President, the hour is late, and I shall not detain the Senate except for a few moments. I do want to say a few words, however, about a colleague for whom I have long had great admiration and for whom tonight I have even greater admiration. I am referring to the distinguished Senator from Nebraska (Mr. CURTIS).

For the past 3 hours Senator CURTIS has been on this floor fighting an uphill battle. He has been fighting for his convictions. He has been fighting for the small businessmen of his State and of the United States.

The Congress of the United States passed legislation several years ago, which legislation was too stringent, and it has been handled by the Washington bureaucracy to the detriment of the small business people throughout our Nation.

I do not blame the Washington bureaucracy, any more than I blame the Congress of the United States, because it is Congress that writes the laws, even though sometimes the administrators in Washington interpret those laws in a way which was not intended.

But Senator CURTIS stood here on this

floor tonight, late as it was, and tried to help the small business people with the great problem that they face in regard to the regulations which have been issued by the Federal Government with respect to the way they operate their businesses.

Senator CURTIS was beaten down on a number of votes, and each time he lost a vote, he would submit another amendment, in an effort to help the small businessman. In fighting tonight, he fought against great odds, including the leadership of his own party and the Secretary of Labor, who issued a letter in opposition to the cause for which Senator CURTIS was fighting.

The Senator from Virginia respects Senator CURTIS as one of the ablest Members of the Senate, and one of the most dedicated Members of the Senate, and one of the most courageous Members of the Senate. I salute tonight the distinguished Senator from Nebraska, and I applaud his courage in fighting as he has tonight in behalf of what he believes to be in the best interest of the citizens of our Nation and the small businessman who is trying to make a living and trying to give employment to his fellow citizens.

I salute Senator CURTIS, and I am very proud to be his colleague.

Mr. CURTIS. Mr. President, will the distinguished Senator yield?

Mr. HARRY F. BYRD, JR. I yield to the Senator from Nebraska.

Mr. CURTIS. I want to thank my distinguished colleague and very good friend. I do not believe I deserve his glowing words of praise, but being human, I do appreciate them very much; and I appreciate the thought that he has expressed.

If it were just one avenue of government that was descending upon small business, they could withstand it; but the small businessman has his problems with so many different branches of the government, including the State government and local government—inspections for this, reports for that, a special tax for something else, to meet the standards of another law, that the Occupational Safety and Health Act is just one more burden, and it could well be the straw that breaks the camel's back.

We have so much government, so many regulations, so much taxes, so many reports, that we could well be on the verge of driving out small businesses operated by individuals, by families, by small partnerships, and by fathers and sons, because they cannot cope with it. They cannot maintain the accounting departments, they cannot maintain the necessary computers, they cannot hire industrial engineers and engineers in sanitation and hygiene, and they cannot hire a battery of lawyers. With this tremendous plunge of the government just piling on regulations, requirements, and inspections, we could well drive from the American scene the thing that has made this country great: A great number of small businesses; and then we would hear a great cry about monopoly, lack of competition, and excessive power.

The antidote to excessive power on the part of big business is to create an atmosphere where small and middle-sized businesses can flourish, and they will give the large ones some real competition.

Again I thank the Senator for his kind words. I do appreciate them.

Mr. HARRY F. BYRD, JR. What the Senator from Nebraska has said about small business and medium-sized business is what the Senator from Nebraska was fighting for tonight. He was fighting for big business. He was fighting for small business. He was fighting for the small businessman, for the little man, that is who he was fighting for.

These regulations can be coped with, these regulations which are put on by the Government in Washington, and the oppression, in a sense, that is placed on the businessman from Washington can be coped with by the big businessman, by these big companies, by the conglomerates. It is the little guy employing 15 people or fewer who is having to fight for his life to survive.

The Senator from Nebraska stood here on this floor tonight for 3 hours and tried to help them, and he was voted down most of the time. But while he may have been voted down in the Senate, he is going to stand high, in my judgment, in the admiration and affection of small people all over our country, and in the hearts of his fellow citizens in Nebraska who, I feel sure, hold him in the same high esteem that we here in the Senate hold Senator CARL CURTIS.

H.R. 1

Mr. HARRY F. BYRD, JR. Mr. President, the Senate tomorrow or the day after—I would like to see it tomorrow, but tomorrow or the day after—will have an opportunity hopefully to vote on what is known as H.R. 1, the administration's welfare proposals.

Today the Senate was very wise, in my judgment, in defeating by a vote of 52 to 34 the proposal of the senior Senator from Connecticut (Mr. RIBICOFF) to expand the welfare program initiated by the administration. It seems clear that the Senate is overwhelmingly opposed to the Ribicoff approach and the Ribicoff proposal. Now, what I hope we will get a vote on is the proposal offered by the administration under the leadership of the Secretary of Health, Education, and Welfare, Mr. Elliot Richardson.

The chief architect of this proposal was Dr. Daniel Moynihan, special counsel to the President in the White House; and his proposal was submitted to Congress. It was passed twice by the House of Representatives. It has been considered by the Senate Finance Committee. It was considered in 1970, 1971, and 1972, and it was rejected.

I feel that there should be welfare reform, but the proposal submitted by the administration is not welfare reform; it is welfare expansion. I cannot support this proposal. I opposed this proposal in the Finance Committee for 3 years, and I am going to oppose it on the floor of the Senate as long as it is before the Senate.

I cannot support this proposal because it is lacking in work incentives, it writes into law the principle of a guaranteed annual income, it will cost at least $5 billion more than the present program, it will require 80,000 new Federal employees to administer, and it will double the number of people on welfare. I submit that you do not get welfare by doubling the number of people on welfare.

It seems that what we want to do in this country is to encourage people to work. We want to get people off welfare. We want to get them into jobs. That is the approach the Finance Committee took.

The bill reported by the Finance Committee is known as workfare. It encourages people to work. Instead of guaranteeing an annual income, it guarantees job opportunities; and I think that is what the people in this country want Congress to do—to guarantee our fellow citizens jobs, not to guarantee them an income whether they work or whether they refuse to work.

There are too many in this country who refuse to work and want to live off the taxpayers; and I think the time has come when Congress, when it considers legislation in regard to welfare, must enact legislation which will encourage people to work.

I think we need welfare reform. We need to change the outmoded system we have. But in changing it, let us be sure that we go to something better.

We are better off staying where we are than to go to something that is twice as bad. In my judgment, H.R. 1, the administration's welfare proposal, is twice as bad as the present system; and one reason is that it doubles the number of people who will be drawing public assistance.

I am very anxious that we get a vote on the proposal submitted by Secretary Richardson, because I want to see how many people in the U.S. Senate are willing to vote for a proposal which its chief architect, Dr. Daniel Moynihan, Special Counsel to the White House, when he was lobbying for this proposal, said:

> This bill provides a minimum income to every family, united or not, working or not, deserving or not.

When it comes time for the Senate to vote, I will be most interested to see how many Senators want to vote for a minimum income to every family, united or not, working or not, deserving or not.

Mr. President, I think this is one of the most far-reaching proposals that has ever been submitted to Congress. Once we embark on the course of a guaranteed annual income, once we say that Congress, that the Government of the American people, owes everyone a guaranteed annual income, then, as I see it, there is no stopping.

We know now that we have one proposal by the Nixon administration for a $2,400 guaranteed annual income. Senator RIBICOFF, whose proposal was defeated today, wants to start at $2,600 but go immediately to $3,000, and then go up to $6,100. The Senator from Oklahoma (Mr. HARRIS) has advocated a $4,000 minimum income, and the Senator from South Dakota (Mr. MCGOVERN) has advocated a $6,500 minimum income.

I say that once we embark upon that path, there is no turning back. I submit that there is not enough money in the

Federal Treasury, and there is not enough money in the pockets of the hardworking wage earners of this country, to pay the bill once we embark on a policy of guaranteeing everybody in this country an income, even though they refuse to work.

I want to close by citing again Dr. Daniel Moynihan, who is a very brilliant man. I wish I had his brilliance. He is able to put into one sentence the gist of a very complicated bill. He sized it up well in one sentence:

This bill provides a minimum income to every family, united or not, working or not, deserving or not.

Also a very smart administrator in Washington is Mr. Elliot Richardson, the head of the Department of Health, Education, and Welfare; and he summed up the bill in three words. He said in his official testimony before the Finance Committee:

It is revolutionary and expensive.

So the Senate will have an opportunity, I hope tomorrow or the next day, to vote as to whether it wants a program which its chief sponsor, the Secretary of Health, Education, and Welfare, says is "revolutionary and expensive" and which one of the chief architects of the program says will guarantee a minimum income "to every family, united or not, working or not, deserving or not."

SUBSTITUTION OF A CONFEREE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on S. 1852, Mr. BUCKLEY be substituted as a conferee in lieu of Mr. HANSEN.

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

REPORT OF A COMMITTEE

The following report of a committee was submitted:

By Mr. SPARKMAN, from the Committee on Banking, Housing, and Urban Affairs, with an amendment:

H.J. Res. 1301. A joint resolution to extend the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages under the National Housing Act) Rept. No. 92-1261).

SOCIAL SECURITY AMENDMENTS OF 1972—AMENDMENT

AMENDMENT NO. 1686

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

Mr. STEVENSON submitted an amendment intended to be proposed by him 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.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 3785

At the request of Mr. MATHIAS, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 3785, a bill to promote the development of American arts and handcrafts.

SENATE JOINT RESOLUTION 243

At the request of Mr. MATHIAS, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of Senate Joint Resolution 243, providing U.S. support to the U.N. Office of Disaster Relief Coordination.

CONSUMER PROTECTION ORGANIZATION ACT OF 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of the unfinished business.

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business, which will be stated by title.

The 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.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I present a motion signed by 16 Senators to invoke cloture on S. 3970.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair without objection, directs the clerk to read the motion.

The 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.

Abraham Ribicoff.
Fred R. Harris.
Robert C. Byrd.
Warren Magnuson.
John O. Pastore.
Mike Mansfield.
Birch Bayh.
Edward Kennedy.
Thomas F. Eagleton.
Gaylord Nelson.
Charles H. Percy.
Edward W. Brooke.
Jacob K. Javits.
Mark O. Hatfield.
James B. Pearson.
Richard S. Schweiker.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the 1 hour under rule XXII begin running on Thursday next at 10 a.m.

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

Mr. ROBERT C. BYRD. Mr. President, the time for the vote on the motion to invoke cloture on Thursday morning next, would, under the request I have proposed and which has been agreed to, occur at around 11:15 a.m. following the establishment of a quorum.

However, this time may be changed on tomorrow.

I have merely proposed this time without discussing it with Senators on either side of the aisle. It may very well be that, on tomorrow, it would be deemed advisable to change the hour for the vote.

So the hour at the moment is tentative unless, on tomorrow, it is determined that it shall stand.

ALLOCATION OF TIME FOR A CLOTURE MOTION ON THURSDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time for debate on the motion to invoke cloture be equally divided on Thursday morning next between the distinguished Senator from North Carolina (Mr. ERVIN) and the distinguished Senator from Connecticut (Mr. RIBICOFF).

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

READING REQUIREMENT OF AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all amendments at the desk at the time the vote occurs on the motion to invoke cloture on Thursday morning next be considered as having met the reading requirements under rule XXII.

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

FLOOD CONTROL ACT OF 1972

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 4018.

The PRESIDING OFFICER (Mr. BURDICK) laid before the Senate the amendment of the House of Representatives to the bill (S. 4018) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes, which was to strike out all after the enacting clause, and insert:

That sections 201 and 202 and the last three sentences in section 203 of the Flood Control Act of 1968 shall apply to all projects authorized in this Act. The following works of improvement for the benefit of navigation and the control of destructive floodwaters and other purposes are hereby adopted and authorized to be prosecuted by the Secretary of the Army, acting through the Chief of Engineers, in accordance with the plans and subject to the conditions recommended by

the Chief of Engineers in the respective reports hereinafter designated.

MIDDLE ATLANTIC COASTAL AREA

The project for hurricane-flood protection at Virginia Beach, Virginia, authorized by the River and Harbor Acts approved September 3, 1954, and October 23, 1962, as amended and modified, is hereby modified and expanded substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 92–365, at an estimated cost of $17,010,000.

WATER RESOURCES IN APPALACHIA

The plan for flood protection, navigation, and other purposes in Appalachia is hereby authorized substantially in accordance with the recommendations of the Secretary of the Army in his report on the Development of Water Resources except that the Secretary of the Army, acting through the Chief of Engineers, shall modify the project for Whiteoak Dam and Reservoir on Whiteoak Creek, Ohio, Ohio River Basin, to conform substantially to the physical works of plan A in the Report for Development of Water Resources in Appalachia, Office of Appalachian Studies, Corps of Engineers, November 1969, part III, chapter 14. Not to exceed $25,000,000 is authorized for initiation and partial accomplishment of the plan.

PASCAGOULA RIVER BASIN

The project for flood protection and other purposes on Bowie Creek, Mississippi, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 92–359, at an estimated cost of $32,410,000.

PEARL RIVER BASIN

The project for flood control and other purposes on the Pearl River, Mississippi, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 92–282, at an estimated cost of $38,146,000.

GULF COASTAL AREA

The project for flood control and other purposes on the Blanco River in the Edwards Underground Reservoir Area, at Clopton Crossing, Guadalupe River Basin, Texas, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 92–364, at an estimated cost of $42,271,000.

SPRING RIVER BASIN

The project for flood control and other purposes on Center Creek near Joplin, Missouri, is hereby authorized substantially in accordance with the recomendations of the Chief of Engineers in House Document Numbered 92–361, at an estimated cost of $14,600,000.

FALL CREEK BASIN

The project for flood control and other purposes on Fall Creek in the vicinity of Indianapolis, Indiana, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in his report dated September 25, 1972 at an estimated cost of $57,930,000.

UMPQUA RIVER BASIN

The project for Days Creek Dam, on the South Umpqua River, Oregon, for flood protection and other purposes, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in his report dated September 15, 1972, except that not to exceed $30,000,000 is authorized for initiation and partial accomplishment of such project.

LOWER MISSISSIPPI RIVER

The West Tennessee tributaries feature, Mississippi River and Tributaries project (Obion and Forked Deer Rivers), Tennessee, authorized by the Flood Control Acts approved June 30, 1948, and November 7, 1966, as amended and modified, is hereby further amended substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 92–367, at an estimated cost of $6,600,000.

The Cache River Basin feature, Mississippi River and tributaries project, Arkansas, authorized by the Flood Control Act approved October 27, 1965, is hereby amended substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 92–366, at an estimated cost of $5,232,000.

SEC. 2. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to remove from Manistee Harbor, Michigan, the sunken steamer *Glen*.

SEC. 3. (a) The costs of operation and maintenance of the general navigation features of small boat harbor projects shall be borne by the United States.

(b) The provisions of this section shall apply to any such project authorized under the authority of this Act, section 201 of the Flood Control Act of 1965, or section 107 of the River and Harbor Act of 1960, and to each project which heretofore was authorized in accordance with the policy set forth in this section, and to any such project hereafter recommended for authorization.

SEC. 4. (a) Section 116(a) of the River and Harbor Act of 1970 (Public Law 91–611) is amended by inserting before the period the following: ", and thereafter to maintain such channel free of such trees, roots, debris, and objects".

(b) Section 116(c) of the River and Harbor Act of 1970 (Public Law 91–611) is amended by inserting before the period the following: "to clear the channel, and not to exceed $150,000 each fiscal year thereafter to maintain such channel".

SEC. 5. The Secretary of the Army, acting through the Chief of Engineers, is authorized to operate and maintain the San Francisco Bay-Delta Model in Sausalito, California, for the purpose of testing proposals affecting the environmental quality of the region, including, but not limited to, salinity intrusion, dispersion of pollutants, water quality, improvements for navigation, dredging, bay fill, physical structures, and other shoreline changes which might affect the regimen of the bay-delta waters.

SEC. 6. The requirement in any water resources development project under the jurisdiction of the Secretary of the Army, that non-Federal interests hold and save the United States free from damages due to the construction, operation, and maintenance of the project, does not include damages due to the fault or negligence of the United States or its contractors.

SEC. 7. Section 113 of the River and Harbor Act of 1968 (82 Stat. 731, 736) is hereby amended to read as follows:

"SEC. 113. Those portions of the East and Hudson Rivers in New York County, State of New York, lying shoreward of a line within the United States pierhead line as it exists on the date of enactment of this Act, and bounded on the north by the north side of Spring Street extended westerly and the south side of Rutgers slip, extended eastwardly, are hereby declared to be nonnavigable waters of the United States within the meaning of the laws of the United States. This declaration shall apply only to portions of the above-described area which are bulkheaded and filled, or are occupied by permanent pile-supported structures. Plans for bulkheading and filling and permanent pile-supported structures shall be approved by the Secretary of the Army, acting through the Chief of Engineers, on the basis of engineering studies to determine the location and structural stability of the bulkheading and filling and permanent pile-supported structures in order to preserve and maintain the remaining navigable waterway. Local interests shall reimburse the Federal Government for any engineering costs incurred under this section."

SEC. 8. The McClellan-Kerr Arkansas River navigation system, authorized by the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved June 28, 1938 (52 Stat. 1215), as amended and supplemented, is hereby further modified to include alteration at Federal expense of the municipal water supply facilities of the city of Conway, Arkansas, by the construction of water supply impounded facilities at a location outside the flat flood plain of Cadron Creek, together with interconnecting pipeline and other appurtenant work, so that the water supply capacity of the resultant municipal facilities is approximately equivalent to that existing prior to construction of the navigation system.

SEC. 9. (a) The Secretary of the Army is hereby authorized and directed to cause surveys to be made at the following locations for flood control and allied purposes, and subject to all applicable provisions of section 217 of the Flood Control Act of 1970 (Public Law 91–611):

East Two Rivers between Tower, Minnesota, and Vermilion Lake.

Alice, Texas.

Buffalo River Basin, New York (wastewater management study).

(b) The Secretary of the Army is hereby authorized and directed to cause surveys to be made at the following locations and subject to all applicable provisions of section 110 of the River and Harbor Act of 1950:

Miami River, Florida, with a view to determining the feasibility and advisability of dredging the river in the interest of water quality.

Port Las Mareas, Puerto Rico, with a view to determining the feasibility and advisability of assumption of maintenance of the project by the United States.

Corpus Christi Ship Channel, Texas, with particular reference to providing increased depths and widths in the entrance channels from the Gulf of Mexico to a deeper draft inshore port in the vicinity of Harbor Island, Texas.

Saint Marys River at and in the vicinity of Sault Sainte Marie, Michigan, with a view to determining the advisability of developing a deep draft navigation harbor and international port.

SEC. 10. (a) As soon as practicable after the date of enactment of the section and at least once each year thereafter, the Secretary of the Army, acting through the Chief of Engineers, shall review and submit to Congress a list of those authorized projects for works of improvement of rivers and harbors and other waterways for navigation, beach erosion, flood control, and other purposes which have been authorized for a period of at least eight years and which he determines, after appropriate review, should no longer be authorized. Each project so listed shall be accompanied by the recommendation of the Chief of Engineers together with his reasons for such recommendation. Prior to the submission of such list to the Congress, the Secretary of the Army, acting through the Chief of Engineers, shall obtain the views of interested Federal departments, agencies, and instrumentalities, and of the Governor of each State wherein such project would be located, which views shall be furnished within sixty days after requested by the Secretary and which shall accompany the list submitted to Congress.

(b) Such list shall be delivered to both Houses on the same day and to each House while it is in session. A project on such list shall not be authorized at the end of the first period of one hundred and eighty calendar days of continuous session of Congress after the date such list is delivered to it unless between the date of delivery and the end of such one hundred and eighty-day period, either the Committee on Public Works of the House of Representatives or the Committee on Public Works of the Senate adopts a res-

olution stating that such project shall continue to be an authorized project. For the purposes of this section continuity of session is broken only by an adjournment of Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the one hundred and eighty-day period. The provisions of this section shall not apply to any project contained in a list of projects submitted to the Congress within one hundred and eighty days preceding the date of adjournment sine die of any session of Congress.

(c) Nothing in this section shall be construed so as to preclude the Secretary from withdrawing any project or projects from such list at any time prior to the final day of the period provided for in subsection (b).

(d) This section shall not be applicable to and project which has been included in a resolution adopted pursuant to subsection (b).

SEC. 11. Section 207(c) of the Flood Control Act of 1960 (33 U.S.C. 701r–1(c)) is hereby amended to read as follows:

"(c) For water resources projects to be constructed in the future, when the taking by the Federal Government of an existing public road necessitates replacement, the substitute provided will, as nearly as practicable, serve in the same manner and reasonably as well as the existing road. The head of the agency concerned is authorized to construct such substitute roads to the design standards which the State or owning political division would use in constructing a new road under similar conditions of geography and under similar traffic loads (present and projected). In any case where a State or political subdivision thereof requests that such a substitute road be constructed to a higher standard than that provided for in the preceding provisions of this subsection, and pays, prior to commencement of such construction, the additional costs involved due to such higher standard, such agency head is authorized to construct such road to such higher standard. Federal costs under the provisions of this subsection shall be part of the nonreimbursable project costs."

SEC. 12. The project for the Sandridge Dam and Reservoir, Ellicott Creek, New York, for flood protection and other purposes as authorized by the Flood Control Act of 1970, is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to undertake the minor channel improvements, or portions thereof, recommended by the Chief of Engineers in his report dated November 25, 1970, independently of the investigation of alternative methods called for by such Act, such work to be subject to the items of local cooperation required for similar projects and such work to be limited to areas downstream from Maple Road in the town of Amherst, New York, and such other areas as such Secretary may deem necessary.

SEC. 13. The project for flood protection at Saint Louis, Missouri, authorized by the Act of August 9, 1955 (69 Stat. 540), is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to reconstruct the existing service and access roads along the line of protection so as to adequately carry present and anticipated traffic loads, at an estimated cost of $1,300,000. The conditions of local cooperation recommended by the Chief of Engineers in Senate Document Numbered 57, Eighty-fourth Congress, shall be applicable to the reconstructed access roads.

SEC. 14. (a) The comprehensive plan for flood control and other purposes in the White River Basin, as authorized by the Act of June 28, 1938 (52 Stat. 1215), and as modified and amended by subsequent Acts, is further modified to provide for a free highway bridge built to modern standards over the Norfolk Reservoir at an appropriate location in the area where United States Highway 62 and Arkansas State Highway 101 were inundated as a result of the construction of the Norfolk Dam and Reservoir. Such bridge shall be constructed by the Chief of Engineers in accordance with such plans as are determined to be satisfactory by the Secretary of the Army to provide adequate crossing facilities. Prior to construction the Secretary of the Army, acting through the Chief of Engineers, shall enter into an agreement with appropriate non-Federal interests as determined by him, which shall provide that after construction such non-Federal interests shall own, operate, and maintain such bridges and approach facilities free to the public.

(b) The cost of constructing such bridge shall be borne by the United States except that the State of Arkansas shall, upon completion of such bridge, reimburse the United States the sum of $1,342,000 plus interest for the period from May 29, 1943, to the date of the enactment of this Act. Such interest shall be computed at a rate determined by the Secretary of the Treasury to be equal to the average annual rate on all interest-bearing obligations of the United States forming a part of the public debt on May 29, 1943, and adjusted to the nearest one-eighth of 1 per centum.

SEC. 15. The projects for Melvern Lake and Pomona Lake, Kansas, authorized as units of the comprehensive plan for flood control and other purposes, Missouri River Basin, by the Flood Control Act approved September 3, 1954, are hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to improve surface roads in the vicinity of such projects which he determines to be necessary for appropriate utilization of such projects. There is authorized to be appropriated to the Secretary not to exceed $500,000 to carry out this section.

SEC. 16. The project for Tuttle Creek Reservoir, Big Blue River, Kansas, authorized as a unit of the comprehensive plan for flood control and other purposes, Missouri River Basin, by the Flood Control Act approved June 28, 1938, as modified, is hereby further modified to authorize the Secretary of the Army, acting through the Chief of Engineers, in his discretion to improve that portion of FAS 1208 extending from the intersection with Kansas State Highway 13 in section 5, township 9 south, range 8 east, thence north and west to the intersection with county road in section 14, township 8 south, range 7 east, approximately 5.78 miles, and there is authorized to be appropriated to the Secretary not to exceed $500,000 to carry out this section.

SEC. 17. (a) The project for flood control below Chatfield Dam on the South Platte River, Colorado, authorized by the Flood Control Act of 1950 (64 Stat. 175), is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to participate with non-Federal interests in the acquisition of lands and interests therein and in the development of recreational facilities immediately downstream of the Chatfield Dam, in lieu of a portion of the authorized channel improvement, for the purpose of flood control and recreation.

(b) Such participation shall (1) consist of the amount of savings realized by the United States, as determined by the Secretary of the Army, acting through the Chief of Engineers, in not constructing that portion of the authorized channel improvement below the dam, together with such share of any land acquisition and recreation development costs, over and above that amount, that the Secretary of the Army determines is comparable to the share available under similar Federal programs providing financial assistance for recreation and open spaces, (2) in the instance of the aforementioned land acquisition, be restricted to those lands deemed necessary by the Secretary of the Army for flood control purposes, and (3) not otherwise reduce the local cooperation required under the project.

(c) Prior to the furnishing of the participation authorized by this Act, non-Federal interests shall enter into a binding written agreement with the Secretary of the Army to prevent any encroachments in needed flood plain detention areas which would reduce their capability for flood detention and recreation.

SEC. 18. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to convey to the Andrew Jackson Lodge Numbered 5, Fraternal Order of Police, of Nashville, Tennessee (hereafter in this section referred to as the "lodge"), all right, title, and interest of the United States in and to that real property consisting of thirty-eight acres, more or less which is located within the Old Hickory lock and dam project and which is presently leased to the lodge under lease numbered AA–40058–CIVENG–60–431, dated December 1, 1959.

(b) The cost of any surveys necessary as an incident of the conveyance authorized by this section shall be borne by the lodge.

(c) Title to the property authorized to be conveyed by this section shall revert to the United States, which shall have the right of immediate entry thereon, if the lodge shall ever use, or permit to be used, any part of such property for any purpose other than as a youth camp facility for disadvantaged children.

(d) The conveyance authorized by this section shall be made upon payment by the ledge to the Secretary of the Army of an amount of money equal to the fair market value of this property. The fair market value of such property shall be determined by an independent qualified appraiser acceptable to both the Secretary of the Army and the lodge. No conveyance may be made pursuant to this section after the close of the twelfth month after the month in which this section is enacted.

SEC. 19. The project for flood protectior on the North Branch of the Susquehanna River, New York and Pennsylvania, authorized by the Flood Control Act of 1958 (72 Stat. 305, 306) is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to pay J. P. Ward Foundries, Incorporated, of Blossburg, Pennsylvania, such sum as he determines equitable to compensate said foundry for long-term economic injury through increased costs as the result of the abandonment or cessation of rail transportation to the foundry due to the construction of the Tioga-Hammond Lakes project. Such payment shall be made only on condition that such foundry continues to do substantial business at such location. The Secretary of the Army shall pay such sum in five annual installments as determined equitable by him, including an initial payment sufficient to cover the costs of converting from rail to truck shipment facilities. There is authorized to be appropriated not to exceed $1,100,000 to carry out the purpose of this section.

SEC. 20. Subsection (f) of section 221 of the Flood Control Act of 1970 is amended by striking out "January 1, 1972" and inserting in lieu thereof "January 1, 1974".

SEC. 21. Section 213 of the Flood Control Act of 1970 (84 Stat. 1824, 1829) is hereby amended by (1) inserting before the period at the end of the first sentence the following: ", at an estimated cost of $11,400,000" and (2) striking out the last sentence.

SEC. 22. The project for flood protection on the Minnesota River at Mankato and North Mankato, Minnesota, authorized by the Flood Control Act of 1958 and modified by section 207 of the Flood Control Act of 1965, is hereby further modified to authorize the

Secretary of the Army, acting through the Chief of Engineers, to relocate at Federal expense that portion of the existing Mankato interceptor sewer extending approximately two thousand feet upstream of the Warren Creek Pumping Station. Such relocated interceptor sewer shall be designed and constructed in a manner which the Secretary of the Army determines best serves present and future municipal needs.

SEC. 23. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to cooperate with any State in the preparation of comprehensive plans for the development, utilization, and conservation of the water and related resources of drainage basins located within the boundaries of such States and to submit to Congress reports and recommendations with respect to appropriate Federal participation in carrying out such plans.

(b) There is authorized to be appropriated not to exceed $2,000,000 annually to carry out the provisions of this section except that not more than $200,000 shall be expended in any one year in any one State.

SEC. 24. The project for flood protection on the Pequonnock River, Connecticut, authorized by section 203 of the Flood Control Act of 1966 (80 Stat. 1405) is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to advance to the town of Trumbull, Connecticut, such sums as may be necessary to provide, prior to construction of the project, municipal sewage disposal service to the St. Joseph's Manor Nursing Home. Such advance, less the amount determined by the Secretary of the Army as representing increased costs resulting from construction of such service out of the planned sequence, shall be repaid by the town within ten years of the date of enactment of this Act.

SEC. 25. The project for flood protection on the Rahway River, New Jersey, authorized by the Flood Control Act of 1965 (Stat. 1073, 1075) is hereby modified to provide that the costs of relocations of utilities within the channel walls shall be borne by the United States.

SEC. 26. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to make a complete study of the items of local cooperation involving hold and save harmless provisions which have been required for water resources developed projects under his jurisdiction, and his reasons for such requirements, and to report thereon to the Congress not later than June 30, 1974, together with recommendations as to those items of local cooperation which should appropriately be required for various types of water resources development projects.

SEC. 27. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to study land use practices and recreational uses at water resource development projects under his jurisdiction, and to report thereon to the Congress not later than June 30, 1974, with recommendations as to the best use of such lands for outdoor recreation, fish and wildlife enhancement, and related purposes.

SEC. 28. Section 208 of the Flood Control Act of 1954 (68 Stat. 1256, 1266) is hereby amended by striking out "$2,000,000" and inserting in lieu thereof "$5,000,000", and by striking out "$100,000" and inserting in lieu thereof "$250,000".

SEC. 29. Section 14 of the Act approved July 24, 1946 (60 Stat. 653), is hereby amended by striking out "$1,000,000" and inserting in lieu thereof "$5,000,000", by inserting after the words "public works", "churches, hospitals, schools, and other nonprofit public services," and by striking out "$50,000" and inserting in lieu thereof "$250,000".

SEC. 30. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to provide a perimeter access road, utilizing existing roads to the extent feasible, surrounding Lake Texoma, Texas and Oklahoma. There is authorized to be appropriated not to exceed $3,000,000 to carry out this section.

SEC. 31. The project for Kehoe Lake located on Little Sandy River and Tygarts Creek, Kentucky, authorized by the Flood Control Act of 1966, is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to acquire, as a part of such project, in fee simple an area consisting of approximately four thousand acres extending from the presently authorized project to Interstate Highway 64; to maintain such area in its natural state; and to conduct environmental investigations and provide access control facilities to assure appropriate protection and enhancement of this unique resource. Acquisition of these lands shall not be commenced until an agreement satisfactory to the Secretary of the Army has been entered into with the appropriate non-Federal interests to manage the area.

SEC. 32. The project for enlargement of Lavon Reservoir on the East Fork of the Trinity River, Texas, authorized by the Flood Control Act of 1962, is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to provide a crossing and approaches at Tickey Creek and suitable surfacing to permit all-weather use of Collin County Road 115, at a cost not to exceed $600,000.

SEC. 33. Clause (3) of subsection (b) of the first section of the Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946 (33 U.S.C. 426e(b)), is amended to read as follows: "(3) Federal participation in the cost of a project providing significant hurricane protection shall be, for publicly owned property, 70 per centum of the total cost exclusive of land costs.".

SEC. 34. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to provide bank protection works along the Ohio River from New Matamoras to Cincinnati, Ohio, to protect public and private property and facilities threatened by erosion. Prior to construction, local interests shall furnish assurances satisfactory to the Secretary of the Army that they will provide without cost to the United States lands, easements, and rights-of-way necessary for construction and subsequent operation of the works; hold and save the United States free from damages due to construction, operation, and maintenance of the works, and operate and maintain the works upon completion.

SEC. 35. The flood control project for the Scioto River, Ohio, authorized by section 203 of the Flood Control Act of 1962, as modified, is hereby further modified (1) to permit the construction of local protection works at Chillicothe, Ohio, prior to commencement of construction of the Mill Creek Reservoir, and (2) to permit the plan for such works to be revised by the Chief of Engineers so as to provide a degree of protection substantially equivalent to that provided by the project as originally authorized.

SEC. 36. The Secretary of the Army, acting through the Chief of Engineers, is authorized to initiate the second phase of the bank erosion control works and setback levees on the Sacramento River, California, authorized by the Flood Control Act of 1960, and not to exceed $10,000,000 is authorized for such purpose.

SEC. 37. The project for Newburgh lock and dam, authorized under authority of section 6 of the River and Harbor Act approved March 3, 1909, is hereby modified to direct the Secretary of the Army, acting through the Chief of Engineers, to perform bank protection works along the Ohio River at Newburgh, Indiana. Prior to construction, local interests shall furnish assurances satisfactory to the Secretary of the Army that they will provide without cost to the United States lands, easements, and right-of-way necessary for construction and subsequent United States free from damages due to construction, operation, and maintenance of construction, operation, and maintenance of the works, and operate and maintain the works upon completion.

SEC. 38. The project for flood control and improvement of the lower Mississippi River, adopted by the Act of May 15, 1928 (45 Stat. 534), as amended and modified, is hereby further amended to authorize the Secretary of the Army, acting through the Chief of Engineers, to undertake a demonstration pilot study program of bank stabilization on the delta and hill areas of the Yazoo River Basin, Mississippi, substantially in accordance with the recommendations of the Chief of Engineers in his report dated September 23, 1972, at an estimated cost of $9,500,000.

SEC. 39. Section 222 of the Flood Control Act of 1970 (Public Law 91–611) is amended by inserting at the end thereof the following: "The Secretary may also provide for the cost of construction of a two-lane, all-weather paved road (including appropriate two-lane bridges) extending from Old United States Highway 40, near Weimar across the North Fork and Middle Fork of the American River to the Eldorado County Road near Spanish Dry Diggings, substantially in accordance with the report of the Secretary entitled, 'Replacement Alternative Upstream Road System, Auburn Reservoir—June 1970'."

SEC. 40. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to review the requirements of local cooperation for the Santa Cruz Harbor project, Santa Cruz, California, authorized by the River and Harbor Act of 1958, with particular reference to Federal and non-Federal cost sharing, and he shall report the finding of such review to Congress within one year after the date of enactment of this section.

SEC. 41. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to review the requirements of local cooperation for the project for Anaheim Bay, California, authorized by the River and Harbor Act of 1954 for Seal Beach, California, with particular reference to Federal and non-Federal cost sharing, and he shall report the finding of such review to Congress within one year after the date of enactment of this section.

SEC. 42. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake such emergency bank stabilization works as are necessary to protect the Sacred Heart Hospital in Yankton, South Dakota, from damages caused by bank erosion downstream of Gavins Point Dam, Missouri River.

SEC. 43. The project for navigation at Port San Luis, San Luis Obispo Harbor, California, authorized by the River and Harbor Act of 1965, Public Law 89–298, is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to accept in annual installments during the period of construction the required local interest's share of the cost of constructing the general navigation features of such project.

SEC. 44. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to make a detailed study and report of the total benefits and costs attributable to the water resources development projects undertaken in the Ohio River Basin by the Corps of Engineers. The evaluation of benefits and costs attributable to such projects shall include consideration of the enhancement of regional economic

development, quality of the total environment, the well-being of the people, and the national economic development.

(b) The Secretary, acting through the Chief of Engineers, shall report the finding of such study to Congress within two years after funds are made available to initiate the study.

(c) There is authorized to be appropriated to the Secretary not to exceed $2,000,000 to carry out this section.

SEC. 45. The comprehensive plan for flood control and other purposes in the Missouri River Basin authorized by the Flood Control Act of June 28, 1938, as amended and supplemented, is further modified to provide for emergency bank stabilization works in that reach of the Missouri River between Gavins Point Dam and Sioux City, Iowa, as determined to be necessary by the Secretary of the Army, acting through the Chief of Engineers. Such determination shall be made in cooperation with the Governors of South Dakota and Nebraska with regard to priority of locations to be protected and the nature of the protective works. Provisions (a), (b), and (c) of section 3 of the Act of June 22, 1936, shall apply to the work undertaken. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to prepare and submit to the Congress a report recommending such additional bank stabilization measures as he deems necessary for construction below Gavins Point. There is hereby authorized $5,000,000 to carry out this section.

SEC. 46. The project for the Beaver Brook Dam and Reservoir, Keene, New Hampshire, authorized by the Flood Contol Act of 1968 (82 Stat. 739) is hereby modified to provide that the cash contribution required of local interests, as their share of the costs of lands, easements, rights-of-way, and relocations allocated to flood control, shall be 13.9 per centum of the total project cost.

SEC. 47. The Cave Run Lake project authorized by the Flood Control Act approved June 22, 1936 and June 28, 1938, is modified to provide that the construction of any proposed road to the Zilpo Recreation Area shall not be undertaken until there is full opportunity for public review and comment on the environmental impact statement pertaining to such proposed road.

SEC. 48. That portion of the Hudson River in New York County, State of New York, bounded and described as follows is hereby declared to be not a navigable water of the United States within the meaning of the laws of the United States, and the consent of Congress is hereby given to the filling in of all or any part thereof or the erection of permanent pile-supported structures thereon: Beginning at a point on the United States bulkhead line lying southerly one hundred forty feet from the intersection of said bulkhead line and the northerly line of West Forty Seventh Street extended westerly; thence westerly along a line perpendicular to said bulkhead line to a point one hundred feet easterly of the United States pierhead line; thence southerly along a line parallel to said bulkhead line eight hundred eighty-six feet three inches; thence easterly along a line perpendicular to said bulkhead line to a point on said bulkhead line; thence northerly along said bulkhead line to the point of beginning. This declaration shall apply only to portions of the above described area which are bulkheaded and filled or occupied by permanent pile-supported structures. Plans for bulkheading and filling and permanent pile-supported structures shall be approved by the Secretary of the Army, acting through the Chief of Engineers, on the basis of engineering studies to determine the location and structural stability of the bulkheading and filling and permanent pile-supported structures in order to preserve and maintain the remaining navigable waterway. Local interests shall reimburse the Federal Government for any engineering or other costs incurred under this section.

SEC. 49. (a) Subject to the provisions of subsection (b) of this section, the Secretary of the Army is authorized and directed to lease to the Mountrail County Park Commission of Mountrail County, North Dakota, the following described tracts of land:

TRACT NUMBER 1

All of the land which lies landward of a line, which line is 300 feet above and measured horizontally from contour elevation 1850 mean sea level of old Van Hook Village in the northwest quarter of section 32, township 152, range 91 west of the fifth guide meridian.

TRACT NUMBER 2

All of the land which lies landward of a line, which line is 300 feet above and measured horizontally from contour elevation 1850 mean sea level of Olson's first addition, part of the southwest quarter of section 29, township 152, range 91 west of the fifth guide meridian.

TRACT NUMBER 3

Hodge's first addition, part of the northeast quarter of section 32, township 152, range 91, west of the fifth guide meridian.

(b) (1) The lease of such portion of the lands described in subsection (a) as is being used by the North Dakota State Game and Fish Department for wildlife management purposes shall not become effective until the termination of the license granted to such department for such use either in accordance with its original terms on October 31, 1980, or at any time prior thereto.

(2) The lands leased pursuant to this section shall be used by the Mountrail County Park Commission, Mountrail County, North Dakota, solely for public park and recreational purposes, and if such lands are ever used for any other purpose, such lease shall immediately terminate.

(3) The lease authorized by this section shall be for such period, at such rental and subject to such other terms and conditions as the Secretary of the Army deems to be in the public interest.

SEC. 50. (a) Section 252 of the Disaster Relief Act of 1970 (Public Law 90-606, 84 Stat. 1757) is amended by adding at the end thereof the following:

"(d) For the purposes of this section, 'net cost' and 'net costs' of repairing, restoring, reconstructing, or replacing any such facility shall include the costs actually incurred in replacing the facility's services with services from other sources during the period of repair, restoration, reconstruction, or replacement of such facility, to the extent such costs exceed the costs which would have been incurred in providing such services but for the disaster."

(b) The amendment made by section (a) of this section shall take effect as of August 1, 1969.

SEC. 51. (a) "Policies, Standards and Procedures in the Formulation, Evaluation, and Review of Plans for Use and Development of Water and Related Land Resources" approved by the President on May 15, 1962, and published by the Senate in Senate Document 97 on May 29, 1962, and the interest rate formula amendment issued by the Water Resources Council effective December 24, 1968, shall remain in effect until December 31, 1973, unless changed prior to that date by an Act of Congress.

(b) No action by the President, the Water Resources Council, or by any other officer or employee in the executive branch of the Government after September 26, 1972, to establish principles, standards, or procedures for the formulation and evaluation of Federal water and related land resources projects pursuant to section 103 of the Water Resources Planning Act (Public Law 89-80; 79 Stat. 244; 42 U.S.C. 1962 et seq.), or pursuant to any other provision of law shall be effective prior to December 31, 1973.

SEC. 52. This Act may be cited as the "Flood Control Act of 1972".

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished Senator from West Virginia (Mr. RANDOLPH), I move that the Senate disagree to the amendment of the House and agree to the request for a conference with the House thereon and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer (Mr. BURDICK) appointed Mr. JORDAN of North Carolina, Mr. BENTSEN, Mrs. EDWARDS, Mr. DOLE, and Mr. COOPER conferees on the part of the Senate.

PRIVILEGE OF THE FLOOR ON H.R. 1

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent on behalf of the distinguished Senator from Arizona (Mr. FANNIN), that a staff member, George Fritz be permitted the privilege of the floor during debate on H.R. 1.

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

TWO-MINUTE RECESS

The PRESIDING OFFICER (Mr. BURDICK). The Senate will stand in recess for 2 minutes.

Whereupon, at 10:02 p.m., the Senate took a recess for 2 minutes.

The Senate reassembled at 10:04 p.m., when called to order by the Presiding Officer (Mr. BURDICK).

ORDER FOR RECOGNITION OF SENATORS WEICKER, WILLIAMS, CHURCH, EAGLETON, KENNEDY, HUMPHREY, ROBERT C. BYRD, AND SCOTT TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, following the remarks of the two leaders under the standing order, the following Senators be recognized, each for not to exceed the time indicated and in the order stated:

Senator WEICKER, for 15 minutes.
Senator WILLIAMS, for 10 minutes.
Senator CHURCH, for 10 minutes.
Senator EAGLETON, for 10 minutes.
Senator KENNEDY, for 10 minutes.
Senator HUMPHREY, for 15 minutes.
Mr. ROBERT C. BYRD of West Virginia, for 10 minutes.
Senator SCOTT, for 10 minutes.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, following

the remarks of the Senators aforementioned, there be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 3 minutes.

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

ORDER TO LAY BEFORE THE SENATE H.R. 1 AT AN HOUR TOMORROW TO BE DETERMINED BY THE MAJORITY LEADER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, at the close of routine business on tomorrow, the Chair lay before the Senate H.R. 1, and that the unfinished business be temporarily laid aside and remain in a temporarily laid aside status until an hour during the day to be determined by the distinguished majority leader or his designee.

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

Mr. ROBERT C. BYRD. Mr. President, I believe that takes care of the various requests.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9 a.m. After the two leaders have been recognized under the standing order, the following Senators will be recognized, each for not to exceed the time indicated and in the order stated:

Senator WEICKER, for 15 minutes.

Senator WILLIAMS, for 10 minutes.

Senator CHURCH, for 10 minutes.

Senator EAGLETON, for 10 minutes.

Senator KENNEDY, for 10 minutes.

Senator HUMPHREY, for 15 minutes.

Mr. ROBERT C. BYRD of West Virginia, for 10 minutes.

Senator SCOTT, for 10 minutes.

There will then be routine morning business for not to exceed 15 minutes, with statements therein limited to 3 minutes.

At the conclusion of routine morning business, the Senate will resume consideration of H.R. 1, with the unfinished business, S. 3970, being temporarily laid aside and remaining in a temporarily laid aside status until an hour during the day to be determined by the distinguished majority leader.

Yea-and-nay votes may occur on amendments to H.R. 1. Tabling motions will, of course, be in order.

Conference reports, being privileged matters, can be called up and yea-and-nay votes could occur thereon.

ADJOURNMENT TO 9 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 a.m. tomorrow.

The motion was agreed to; and at 10:07 p.m. the Senate adjourned until tomorrow, Wednesday, October 4, 1972, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 3, 1972:

IN THE ARMY

The following-named officers to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Joseph Miller Heiser, Jr., [redacted] Army of the United States (major general, U.S. Army).

Lt. Gen. Charles William Eifler, [redacted] Army of the United States (major general, U.S. Army).

Lt. Gen. John Macnair Wright, Jr., [redacted] Army of the United States (major general, U.S. Army).

Lt. Gen. Fillmore Kennady Mearns, [redacted] Army of the United States (major general, U.S. Army).

CONFIRMATIONS

Executive nominations confirmed by the Senate October 3, 1972:

DEPARTMENT OF STATE

Kenneth Franzheim II, of Texas, now serving as Ambassador Extraordinary and Plenipotentiary of the United States of America to New Zealand, to Western Samoa, and to Fiji, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Tonga.

IN THE DIPLOMATIC AND FOREIGN SERVICE

Diplomatic and Foreign Service nominations beginning Karl E. Sommerlatte, to be a Foreign Service Officer of class 2, and ending Paul B. Sullivan, Jr., to be a Consular Officer of the United States of America, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 19, 1972.

U.S. CIRCUIT COURTS

Frederick Pierce Lively, of Kentucky, to be a U.S. circuit judge, sixth circuit.

HOUSE OF REPRESENTATIVES—*Tuesday, October 3, 1972*

The House met at 12 o'clock noon.

Rev. Edgar E. Ferrell, Jr., First Baptist Church, Black Mountain, N.C., offered the following prayer:

Our Heavenly Father, we lift our hearts in gratitude for another day that brings opportunity to praise Thy name before men. We bow in earnest and sincere prayer to thank Thee for Thy blessing that we have known, as individuals and as a nation. We are grateful for the spiritual uplift that is ours as we rely upon Thee each day.

We recognize our shortcomings as we stand before Thee, that we are not always what we should be. We have neglected Thee; we have trusted in our own wisdom and strength; we have disobeyed Thy laws. For this we ask Thy forgiveness.

We remember the past as we look to the future, and we pray for Thy help to be able to build wisely upon the solid foundations of those who have gone before us. May that which we would claim for ourselves always be in subjection to Thy law, and may we seek in all things the righteousness of God that will exalt a nation.

In Thy holy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On September 26, 1972:

H.R. 6503. An act for the relief of Capt. Claire E. Brou;

H.R. 7701. An act to amend the act of August 9, 1955, to authorize longer term leases of Indian lands located outside the boundaries of Indian reservations in New Mexico.

H.R. 10702. An act to declare that certain federally owned land is held by the United States in trust for the Fort Belknap Indian Community;

H.R. 13025. An act to amend the act of May 19, 1948, with respect to the use of real property for wildlife conservation purposes.

H.R. 14896. An act to amend the National School Lunch Act, as amended, to assure that adequate funds are available for the conduct of summer food service programs for children from areas in which poor economic conditions exist and from areas in which there are high concentrations of working mothers, and for other purposes related to expanding and strengthening the child nutrition programs;

H.R. 15495. An act to authorize appropriations during the fiscal year 1973 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to authorize construction at certain installations in connection with the Safeguard antiballistic missile system, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes; and

H.R. 15577. An act to give the consent of Congress to the construction of certain international bridges, and for other purposes.

On September 29, 1972:

H.R. 2185. An act to declare that certain federally owned land is held by the United States in trust for the Lac du Flambeau Band of Lake Superior Chippewa Indians;

H.R. 2589. An act to amend section 1869 of title 28, United States Code, with respect