We urge your strong support to deny the Soviet Union the trade terms it desires from the United States until and unless it changes its ransom decree which imposes exorbitant exit fees on Jews who wish to emigrate.

CHIEF JUDGE ANDREW M. HOOD

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1972

Mr. BYRON. Mr. Speaker, this summer Chief Judge Andrew McCaughrin Hood retired from the District of Columbia Court of Appeals. His retirement marked the end of a 30-year career on the citys' appellate court that began when the court was created in 1942 to review the work of the District's police, municipal, and juvenile courts.

Judge Hood was appointed to the bench by President Franklin D. Roosevelt, and reappointed or promoted by Presidents Truman, Eisenhower, Kennedy, and Johnson. He was designated chief judge in 1962, and was on the court as it grew from a lower level, three-man body, to a nine-judge panel whose decisions can be appealed only to the U.S. Supreme Court.

It was my pleasure to have served Judge Hood as a law clerk in 1954–55 and watch his contribution to the growth of the court as it matured from a very limited appeals court to the highest court in the jurisdiction following the implementation of the 1970 Court Reorganization Act.

Judge Hood has earned the respect of the judicial and legal professions and his wisdom and guidance has indeed inspired many people and citizens who have come in contact with him. He will be missed, but his years of service on the bench have left an imprint that will never be forgotten.

SENATE—*Wednesday, October 4, 1972*

The Senate met at 9 a.m. and was called to order by Hon. ERNEST F. HOLLINGS, a Senator from the State of South Carolina.

PRAYER

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

Eternal Father, in whose will is the destiny of the Nation, rekindle our faith in the ultimate triumph of Thy plan for the world Thou hast made. In spite of difficulties, disappointments, and fears, reassure us Thou art still in control and that in the end victory belongs to truth and justice. When we must accept less than the perfect program, or agree to partial solutions, or must yield to postponements, help us never to give up, knowing that Thou dost never give us up. Grant us patience, endurance, strength, and wisdom for today, knowing that all things work together for good to them that love Thee.

Through Jesus Christ our Lord. 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 4, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. ERNEST F. HOLLINGS, a Senator from the State of South Carolina, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. HOLLINGS 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 Tuesday, October 3, 1972, be dispensed with.

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

ORDER OF BUSINESS

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

AMERICAN PRISONERS OF WAR AND GENERAL AMNESTY FOR DRAFT DODGERS

Mr. WEICKER. Mr. President, in recent days, Americans have been involuntary participants in a cruel spectacle. The North Vietnamese, by attaching cunning and patently amoral conditions to the release of three American prisoners of war, succeeded in blackmailing our country into either accepting these humiliating conditions or jeopardizing the release of those prisoners—and the future release of prisoners. This was terrorism by government—terrorism in the same mold as practiced by individuals who threaten and kill the innocent. Yet while our Government struggled to respond according to convention, though allowing compassion to predominate, the Democratic candidate for President continued to play the politics of ambition at any price.

At the height of negotiating the prisoners' release, candidate MCGOVERN accused the administration of "playing politics with the three prisoners of war that Hanoi already has offered to release." He called on the President to "let these three men come home just as quickly as possible," thereby insinuating that the President's intention was something less than that goal.

Coming on the heels of his persistent advocacy of a general amnesty for all draft dodgers, this latest action is more deserving of a national flushing than believing.

The blind defense of Hanoi's exploiting the prisoner release and the promise of total amnesty to those who have broken the law denotes to me that the most patriotic of men, like GEORGE MCGOVERN, can become the most foolish of candidates.

American prisoners of war and their release are the responsibility of all Americans. No man—not GEORGE MCGOVERN, not Richard Nixon; and no party—not the Republican Party and not the Democratic Party, is or would be more representative of a nation yearning to have its sons home.

The draft dodger, too, is the responsibility of the American people. However, in this instance, national debate does not suffer the disadvantage of terrorism directed against the helpless.

Logic does not have to be muted and that is why Senator MCGOVERN loses on this issue. He keeps on saying that there is strong precedent for a general amnesty. In fact, there is none.

He claims President Coolidge provided amnesty after World War I and President Truman after World War II. He also cites President Lincoln as a proponent of unconditional amnesty. All are untrue.

None of the Presidents supported general amnesty and none granted it. Lincoln, in fact, insisted on a hard-line amnesty policy. Deserters returning to duty would have to finish out the unfilled portion of their term and, in addition, a period equivalent to their original term of enlistment.

Candidate MCGOVERN opposes any conditions on his amnesty promise. This is the same candidate who told the Veterans of Foreign Wars' convention:

A good Democrat doesn't run away from his party, any more than a good soldier runs away from his country.

How can we reconcile that statement with his apologia for the draft evaders?

Those who choose of their own volition to break the law, for whatever reason, must be ready to accept the consequences of their act.

There is an honorable tactic known as civil disobedience. Through the years, a few notable men of high purpose have employed it to advance their beliefs.

I do not recall Martin Luther King or Mahatma Gandhi ever whining for special consideration of their actions. They stood tall in defiance and in punishment. The essence of genuine civil disobedience is the deliberate invitation of society's penalty. If the provoker feels this is an unjust system, one of his purposes is to dramatize that injustice by undergoing its consequences.

Thus did such men as Gandhi and Dr. King help bring about monumental

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human and societal changes within their time.

I know of no one who went off to Vietnam with a light heart and a quick step. Yet thousands of Americans obeyed the laws of their country, even though they might be voting to see their Nation's policies changed.

To grant amnesty to those who substituted rationalization for duty would be to mock the sacrifices of those who served and ridicule the memory of those who died.

The issue of amnesty then is not a difference of philosophies between Republicans and Democrats but whether the Nation will look to anarchy rather than legislation for change.

I find it ironic that a U.S. Senator demogogs for the former. Fortunately it will be an election and not a riot that puts him down.

QUORUM CALL

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

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

The legislative clerk proceeded to call the roll.

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

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

At this time, under the previous order, the Senator from New Jersey (Mr. WILLIAMS) is recognized for not to exceed 10 minutes.

THE NIXON FAILURE ON AGING—I

Mr. WILLIAMS. Mr. President, I think most Members of this body would agree with me that one of our greatest national failings has been our failure to provide adequately for the needs of older Americans.

And I think most would also agree that it is encouraging to view the initiatives in this area which Congress has recently made.

Particularly noteworthy are the efforts of Senator CHURCH as chairman of the Senate Special Committee on Aging, as exemplified by his leadership in enacting this year's 20-percent increase in social security benefits.

However, the attention being given the needs of the elderly by Congress stands in sharp contrast to the inexplicable and inexcusable neglect shown by the Nixon administration.

As a matter of fact, it seems that this administration cannot even see the needs of the elderly.

It always seems to recognize the needs of the special interests and the superrich, but when it comes to Americans who really need help—like the elderly—the Nixon administration is blind.

As for the top men in charge of Richard Nixon's programs, they are clearly unfeeling and unmindful of this Nation's real needs.

They—especially Mr. Erlichman—have already said publicly that they will bleed several important programs to death, such as manpower training, should President Nixon be reelected.

Yet, they can always find rationales for the spending of billions and billions of dollars several thousand miles away for bombs and the support of a corrupt regime in Southeast Asia.

But the doors of the Treasury are slammed shut when human needs in America come to the surface.

Nowhere is this more evident than in the field of aging.

Almost from the very beginning of his administration, President Nixon showed a clear-cut indifference to older Americans.

It made precious little difference to him that these problems—such as higher property taxes, dwindling medicare coverage, and others—were not of the elderly's own making.

Instead of understanding, Richard Nixon looked for a rationale to justify cutting back Federal programs serving older Americans.

Perhaps the earliest indication that his administration was going to make a stepchild of aging came in his first budget message.

As the New York Times of April 16, 1969, summed up the situation:

> It is astonishing that the President wants to make his biggest single reduction in the domestic area by cutting the increase in Social Security recommended by the Johnson Administration from 10 percent to 7 percent.
>
> This "saves" more than $1 billion on paper, but it means that older persons who live on inadequate fixed incomes and who are hardest hit by inflation are to bear the heaviest burden in this anti-inflation effort.

When overruled by Congress on social security, the Nixon administration then began to play off one generation against another.

Instead of attempting to deal honestly with problems affecting young and old, the administration began to suggest that somehow youth was being shortchanged because of Federal spending on the elderly.

At the vanguard of this effort was Robert Finch, a trusted confident of Richard Nixon and his first Secretary of Health, Education, and Welfare.

Finch's job at HEW, one might think, was to be an advocate for the well-being of all Americans.

But he did no such thing.

Instead, he wanted to hold the line, or retreat, on aging, while paying lipservice to youth.

As Secretary of HEW, Robert Finch callously said:

> I'd like to see a great chunk of resources put in at the lower end of the age spectrum and hold (spending) at the top end.

Delegates at the 1969 annnal national conference at the University of Michigan took the unprecedented step of passing a resolution denouncing the Finch position.

His comments were also vigorously challenged by national leaders, by the press, and by Members of Congress.

In fact, Finch was accused of distortions and divisiveness.

I shall have more to say about that later.

And the demogoguery continues—the Nixon administration still attempts to suggest that somehow older Americans are receiving what might be regarded as a disproportionate share of Federal expenditures.

A good example was Richard Nixon's long overdue message on aging in March.

He said:

> One dimension of our efforts over the last three years is evident when we look at the Federal budget.
>
> If our budget proposals are accepted overall Federal spending for the elderly in fiscal year 1973 will be $50 billion, nearly 150 percent of what it was when the Administration took office.

But the major share of that so-called $50 billion outlay comes, of course, from payments made under social security, income maintenance, retirement income, and health programs.

In fact, that sum amounts to about $48.5 billion in all, and most of it comes from trust funds supported by employee-employer payments.

As for the $1½ billion left in the $50 billion outlay, there is good reason to suspect that a great deal of it is padded.

Much of it results from guesstimates of the dollars spent for the elderly in general-purpose programs meant to serve all age groups.

It is ironic that an administration which fought social security increases and other efforts to insure retirement security now uses trust fund expenditures to distort the facts on its overall record.

It is tragic that the administration, instead of juggling budgetary statistics, did not see fit to deal with the real issues on aging, including:

An increase in poverty among older Americans during 2 years of the Nixon administration. Now, about 1 out of every 4 persons age 65 and beyond lives in poverty.

A sharp rise during the Nixon years in the amount paid out by the elderly from their own pockets for health care.

The Federal outlay argument is as empty of meaning as the Nixon administration has been empty of genuine initiatives and concern on aging.

Having no substance to offer, the Nixon administration resorts to rigged bookkeeping.

As the immediate past chairman of the Senate Committee on Aging, I have long been concerned about the full range of problems and challenges facing aged and aging Americans.

Today, however, I shall focus on two subjects for which I have considerable responsibility in my capacity as chairman of the Senate Committee on Labor and Public Welfare and chairman of the Subcommittee on Housing for the Elderly for the Committee on Aging.

These two vital matters include pension reform and housing for the elderly.

PENSION REFORM

On pension reform, Richard Nixon has proposed a watered-down four-point program:

First. More generous tax deductions for pension contributions by self-employed persons—from 10 percent of earned income with a $2,500 ceiling to 15 percent with a $7,500 maximum deduction.

Second. Tax deductions—equal to 20 percent of earned income, but not greater than $1,500—to encourage employees to set up their own retirement plans.

Mr. President, the third part of the President's proposal is a "Rule of 50"—based upon years of employment and age—for workers' pension rights to become partially vested.

Fourth. A special study of pension plan terminations.

I do not have to indicate why that deserves a chuckle in this body when nearly 50 percent of the Membership of the Senate has cosponsored a meaningful pension bill that has been fully studied for nearly 3 years. It is a bill that includes pension plan termination insurance. This is the final, in my opinion, ridiculous feature in the proposal sent to the Congress by the administration.

Here again, Richard Nixon has failed older Americans.

Here again, Richard Nixon has raised their hopes with empty promises which fall far short of need.

His game plan would provide an additional $5,000 tax writeoff for self-employed persons who make $50,000 a year.

But the wage earner struggling on a $7,500 income 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" would still provide little or no protection for millions of persons.

In fact, it would probably intensify the reluctance of employers to hire older workers because the new rule would add to their pension costs.

Finally, another study on pension plan terminations is unlikely to shed any new light on this subject.

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.

I suppose we can understand why the President comes up with the program he has. He is very secure in probably the best pension plan that ever has been provided for anybody in this country. I understand his is a 60–60 plan—$60,000 a year at age 60, fully funded, and fully insured.

Mr. President, I would like to turn to another part of the discussion this morning on this administration and its failure to respond to the needs of older Americans.

HOUSING OLDER AMERICANS

Pension reform will help the elderly of tomorrow.

But for older Americans of today, few needs are greater than housing.

Housing, after all, is the No. 1 cost for older Americans.

Thirty-three percent of their income goes for shelter as compared to only 23 percent for younger persons.

Certainly 6.5 million persons over the age of 65 who are below or very near the poverty line cannot afford to pay one-third of their income for housing.

Despite a national policy to provide a "decent home and suitable living environment" for all Americans, it is estimated that almost one-third of the 20 million persons in this Nation who are 65 and over live in dilapidated deteriorating, or substandard housing.

This is not a statistic; this is a fact of life.

On Monday of this week the senior Senator from Massachusetts (Mr. KENNEDY) and I spent 2 hours with older people living in that kind of housing, housing which is dilapidated, deteriorating, substandard, and with another element, crime-infested. Those were two of the harshest hours I have ever spent in my life. This is a crying need.

But the Nixon administration's response to the housing needs of older Americans has been characterized by inaction, indifference, and by a lack of sensitivity.

The administration has attempted to kill off the most successful housing program ever enacted for the elderly—a program with not one failure during its 11 years of existence.

Yet, in 1969 the Congress made it crystal clear that it wanted the section 202 program to be continued, not phased out.

But Richard Nixon was not listening.

Instead, his bureaucrats impounded funds earmarked for section 202 when the Congress attempted to rescue the program in 1970.

Richard Nixon was also not listening when the delegates at the White House Conference on Aging called for a high level spokesman for older Americans at HUD.

Instead his administration went to work behind closed doors to sabotage congressional efforts to establish an Assistant Secretary for Housing for the Elderly.

And Richard Nixon has failed to develop any constructive proposals for the No. 1 problems for the elderly homeowner; the property tax which has risen by 33 percent since January 1969.

Yet, he promised the White House Conference that he would prepare "specific proposals to ease the crushing burden of property taxes for older Americans, and for all Americans."

Unfortunately, he did not say when his promises would become deeds.

And his administration has opposed positive congressional initiatives—such as Senator EAGLETON's proposal to provide a credit up to $300 for homeowners with adjusted gross incomes not exceeding $6,500.

What a sorry record, but somehow entirely appropriate for such a sorry grade of leadership.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the recognition of Mr. CHURCH and then Mr. EAGLETON be reversed.

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

Under the previous order, the Senator from Missouri is recognized for not to exceed 10 minutes.

Mr. EAGLETON. I thank the Chair, and I thank the Senator from West Virginia.

THE NIXON FAILURE ON AGING: III

Mr. EAGLETON. Mr. President, Mr. CHURCH and Mr. WILLIAMS have heard the administration say "no" many times when they ask for positive action on aging.

But perhaps I can claim some sort of distinction in this group today as the chairman to whom the administration said "no" more often than to anyone else during 1971 and 1972.

And they have been negative even on causes which—to anyone outside the administration—seemed to be "naturals" for support by the Department of Health, Education, and Welfare which is supposed to be the people's advocate.

As chairman of the Subcommittee on Aging within the Committee on Labor and Public Welfare, I have sat in some amazement as administration witnesses argue against such good causes as:

A stronger agency on aging within HEW and clearer direction on aging from above HEW;

Continuation of pilot nutrition programs which were serving 14,000 older persons, and establishment of a national meals program which would serve nearly 30 times that number;

Community service programs to enable older persons to work on behalf of others right in their own home communities;

Midcareer and training service for men and women who are unemployed, underemployed, or simply anxious to move from an uninteresting or low-paying job to a more satisfying one; and

Surprising as it may seem, the administration was even opposed to the establishment of a National Institute on Aging. They seemed to think that present research and training efforts are adequate, although every other witness told the subcommittee that just the opposite is true.

I am pleased to report today that the administration is taking a less hostile attitude toward a beefed-up agency on aging these days than it has in the past. Representatives of HEW have consulted with subcommittee staff at length over the past few weeks in discussions of the comprehensive older Americans amendments, legislation to continue the Older Americans Act programs and extend the life of the Administration on Aging. I hope that the administration will also lessen its opposition to a proposed 6-member Older American Advocacy Commission to act as an independent overseer and advocate for coordinated action by Federal departments and agencies.

The Senate voted yesterday on the Comprehensive Older Americans Services Amendments, Mr. President. I believe that the final tally of 90 to 0 should show the administration, once again, that Congress stands ready to take effective action on aging. But we could be even more effective if the administration were with us, instead of against us.

To illustrate my argument, I would like

to give some case histories of administration resistance.

HOW RICHARD NIXON THWARTED THE AGE DISCRIMINATION LAW

Richard Nixon has called 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."

But despite this high sounding rhetoric, the Nixon administration has consistently failed to enforce the age discrimination law in a vigorous manner.

It took his administration until late in 1969 to file its first suit under the act.

And when the Senate Committee on Aging insisted that action be taken, the response has still been timid. Only 116 suits have been filed, less than 30 a year.

Yet, more than 2,500 violations were found under the act in fiscal year 1971.

Complicating everything else, workers 40 and above have become the new scapegoat class for the Nixon administration. Thousands have already been pressured into retirement, against their will.

Now the Federal Government, which used to be a model employer, has become one of the leading offenders in discriminating against older workers.

NATIONAL SENIOR SERVICE CORPS

To older Americans, Richard Nixon has been a silent partner in banishing them from society—a society which they have worked most of their lives to build and improve.

For 2 long years, his administration has opposed legislation to create a national senior service corps which would mobilize the wealth of talent and skills with which older Americans are so richly endowed.

Yet, existing pilot projects under operation mainstream—such as green thumb, senior aids, and others—have proven that these programs are a smashing success not only for the aged but the localities being served.

But, Richard Nixon continues to say "no" to human needs. Instead, he is willing to allocate almost the same funding level for the mainstream demonstration programs as the Pentagon wants for publicity just to promote its own programs.

Instead, he is willing to continue mainstream on a pilot basis, even though he told 3,400 delegates at the White House Conference on Aging:

> We must move beyond this demonstration phase and establish these programs on a broader basis.

The Senate has moved to meet the needs in this area by including an expanded community service employment program in the Older Americans Act amendments.

MIDDLE-AGED AND OLDER WORKERS EMPLOYMENT ACT

The Nixon administration also opposed the Middle-Aged and Older Workers Employment Act, which would authorize training, counseling, and special supportive services for unemployed or underemployed persons 45 or older.

By whatever barometer one would choose to use, the mature worker has been grossly underrepresented in work and training programs conducted by the Nixon administration. Persons 45 and older now constitute 21 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. But they account for less than 4 percent of all enrollees in our manpower programs.

Again, we have acted responsibly in this area by including the Middle-Aged and Older Workers Employment Act as a part of the older American Act amendments.

NUTRITION PROGRAM FOR THE ELDERLY ACT

For 2 long years, the Nixon administration opposed the enactment of the Nutrition Program for the Elderly Act—even though 8 million older Americans may have diets insufficient for optimum health.

Only after the Senate approved the legislation by a vote of 89 to 0 did the administration reluctantly agree to the establishment of a national hot meals program for older Americans.

On aging, Richard Nixon has struck out.

On aging, he has failed nearly 21 million older Americans.

And 4 more years can only add to the frustration of the elderly.

The PRESIDING OFFICER (Mr. WILLIAMS). Under the previous order, the Senator from Idaho (Mr. CHURCH) is recognized for not to exceed 10 minutes.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. CHURCH. I yield.

Mr. ROBERT C. BYRD. Will the Senator from Missouri reserve his remaining 4 minutes and yield it to the Senator from Idaho?

Mr. EAGLETON. Mr. President, I ask unanimous consent that the 4 minutes I apparently did not use in my presentation be assigned to the Senator from Idaho.

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

THE NIXON FAILURE ON AGING

Mr. CHURCH. Mr. President, the people of the United States are confronted by an administration which is sitting on its promises, rather than standing on its record.

The President's surrogates—dispatched by the White House whenever a critic dares raise his voice—are shrill and defensive.

Just why is the Nixon Administration so jumpy, anyhow?

Why all this determination to attack, attack, attack, when—if we are to believe the polls—Mr. Nixon is so far ahead of Senator McGOVERN?

Where is that display of serenity one might expect of a President who can say to himself that he has done all he could for the people during the course of 4, well-spent years?

As chairman of the Senate Committee on Aging, I believe that older Americans have special reasons to ask those questions.

One of the major issues in this campaign, in fact, is the Nixon failure on aging, together with his attempt to cover up that failure with showmanship.

Faced with a negative record, the Nixon administration goes on the attack because it has no defense.

In its turn, Congress has a duty to search out the truth and tell it like it is to the Nation.

FAILURE ON RETIREMENT INCOME

The first hard truth about the Nixon failure on aging is that he has refused to face up to a retirement income crisis which actually worsened during his administration.

In 1969—when 200,000 older Americans were added to the poverty rolls—he was willing to settle for a puny 7-percent social security increase. Then he reluctantly upped his bid to 10 percent when prodded by a Democratic Congress.

But even this amount would not have kept pace with rising prices. Finally, a Democratic Congress approved a much-needed 15-percent raise. After first threatening a veto, Richard Nixon grudgingly tagged along.

The battle continued in 1970 and 1971. High-level administration spokesmen asked the Congress not to rock the boat by approving a social security increase in excess of 5 percent.

Once again, Richard Nixon was willing to thrust the elderly poor into the front ranks of the fight against inflation. Once again, the Congress had to reject his advice as too little and too late, and approve a stop-gap 10-percent raise to protect the elderly from inflation.

And it was the same old scenario in 1972. Richard Nixon was willing to settle for 5 percent, which again would have lagged behind rising prices.

When Congress stood ready to approve a 20-percent increase—a proposal which I sponsored—Richard Nixon threatened a veto. In fact, his press secretary called this proposal, which had the bipartisan support of two-thirds of the Senate, a political maneuver.

But, I say here and now: Is 20 percent too much when 5 million older Americans live in poverty?

Is 20 percent too much when social security payments for widows average about $1,400 a year, more than $500 below the official poverty index?

Is 20 percent too much when more than one-half of elderly persons struggle on less than $40 a week?

President Nixon thought so. He reluctantly signed the 20 percent raise, but only after it was evident that the Congress would decisively override his veto. Even then, he called the increase inflationary and fiscally irresponsible.

Now—a month before the presidential election—he is trying to deceive the elderly. He has enclosed a message with this month's social security check, implying that he was responsible for the enactment of the 20 percent raise.

Nothing could be further from the truth.

Older Americans should be told that their social security checks would be substantially smaller if Richard Nixon's policies had prevailed. In fact, the average retired worker would be receiving $600 less per year. And nearly 1.5 million more

persons 65 or older would be on the poverty rolls.

THE NIXON FAILURE ON MEDICARE

For the elderly, however, a grossly inadequate income strategy is not the only failure of this administration.

It is slashing medicare to the bone.

It fought for $290 million to rescue the SST, but sought to saddle every elderly patient with an extra $225 hospital bill through a new $7.50 copayment charge for the second month of hospitalization.

It stashed away $10 million in a secret campaign fund contributed by its rich patrons, but attempted to boost the deductible for doctor services by 20 percent.

It squanders billions on worthless military hardware, but actively blocks proposals to cover out-of-hospital prescription drugs for the elderly. Such coverage could now be achieved for three-fifths the going price of a nuclear submarine.

Apparently, the administration does not care that medical costs have gone up by 20 percent since Richard Nixon took office.

Apparently, it does not care that older Americans are now paying almost as much in out-of-pocket costs for medical treatment as they did before medicare was enacted.

THE NIXON FAILURE ON PROPERTY TAX

Richard Nixon seems to have no secret plan for reducing medical costs for the elderly.

But he claims to have a secret for easing spiraling property taxes. He talked about it at the White House Conference on Aging almost a year ago. He hinted at it in his message on aging in March.

Here we are in October still waiting for the details.

To millions of older Americans, however, the property tax is a daily threat to their security. That tax has increased by one-third since Richard Nixon took office. Many elderly persons—more than 70 percent of them own their own homes—now turn over as much as 30, 40, and sometimes even 50 percent of their meager incomes to the local assessors.

More empty promises can only dash the hopes of elderly homeowners, who now find themselves in a no-man's land. They are being driven from their homes by inflated property taxes. Yet, they cannot find suitable alternative housing at rents they can afford.

Property taxes now total over $40 billion. Yet, for one-half the cost of an aircraft carrier, aged homeowners and renters could be provided significant relief from the effects of this regressive tax.

OTHER FAILURES

The atrocious record of the Nixon administration on aging goes on and on. It has opposed, resisted or blocked legislation to:

Establish a national senior service corps to help low-income older Americans lift themselves out of poverty by serving others in their own communities;

Provide mid-career services to unemployed older workers, although more than 1 million persons, 45 or older, have now lost their jobs;

Create a national hot meals program for older Americans in conveniently located neighborhood centers;

Raise the retirement test under social security to $3,000; and

Increase railroad retirement payments by 20 percent.

LOST OPPORTUNITIES AND LOST CREDIBILITY

Mr. Nixon's failures on aging are all the more tragic because he had great advantages when he took office.

A responsive Congress—one which had enacted medicare, the Older Americans Act, social security increases, and other landmark bills—was ready to take the next steps.

Congress had even directed the President to hold a White House Conference on Aging in 1971.

Mr. Nixon almost turned that conference into a political circus, but he was stopped by indignant public opinion and an alarmed Congress.

Even then, he could have used the White House Conference recommendations to shape and implement a national action policy on aging.

Instead, he has given us a disturbing suspicion, a sense of disbelief about his motives and methods.

I have already mentioned the social security notice sent to 28 million Americans this month, but that is not all.

Millions of electioneering pamphlets disguised as official government publications, are in the mails to elderly people who never asked for them.

At Government expense, executive departments—Housing and Urban Development, Agriculture, Labor, as well as the ACTION Agency, and the Veterans' Administration—are competing in puffing up the shabby Nixon record.

An administration which has scuttled a loan program to build housing for the elderly tries, in the HUD publication, to make it look as if housing is actually getting better.

An administration which is already announcing that it would—if given another term in office—slash manpower programs out of existence, brags in the Department of Labor pamphlet that it is serving older Americans in their search for gainful employment.

An administration which treats grain dealers as insiders treats senior citizens as outsiders when it comes to letting them know what is really happening.

CONCLUSION

President Nixon has yet to offer a coherent, positive policy on aging.

Surely, he must realize that others see the need, even if he does not.

Surely a Nation with a trillion dollar economy has the wherewithal to:

Assure a decent retirement income for every American;

Guarantee quality health care for its elderly;

Provide decent housing and a suitable living environment; and

Put an end to a welfare system which demeans the aged and destroys their dignity.

This, of course, would require a new set of priorities.

And, new priorities cry out for new leadership in the White House.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. GAMBRELL). Under the previous order, the Senator from Massachusetts (Mr. KENNEDY) is recognized for not to exceed 10 minutes.

THE ADMINISTRATION'S NEGLECT OF THE NATION'S ELDERLY

Mr. KENNEDY. Mr. President, today in America there are more than 20 million Americans over 65. They are the men and women who have worked all of their lives to build this Nation. They are the men and women who have suffered through depression and war as citizens of this land. They are the men and women who have tried to make our cities, our towns and our rural communities better places for new generations to live.

And these are the men and women that this administration has ignored, neglected and forgotten for 4 long years. For 4 years, the legitimate needs and demands of older Americans have been swept into the hidden corners of this administration without response.

Nearly a year ago, the White House Conference on Aging met and issued a series of recommendations, recommendations that the President faithfully promised he would respond to.

Three months went by and the President's spokesmen testified before Senate committees that he had sent letters to 340 national groups asking their response to the White House Conference recommendations.

I asked him then, and I ask this administration today, where is your response? What resources and what legislation—is this—administration prepared to support to carry out the conference recommendations?

I have not received an answer. Congress has not received an answer. And the 20 million elderly have not received an answer.

The special interests of this land get answers from this administration. The grain exporters get answers from the Secretary of Agriculture even before the public knows. ITT gets answers from the highest law enforcement officials in the land. I think it is high time that 20 million elderly also get an answer.

But if the record of the past 4 years is any indication, the answer will be "no."

First, in nutrition, the White House Conference on Nutrition in 1969 issued a plea for a Federal program to provide food programs and nutrition education to the elderly.

Yet for 2 years, this administration opposed S. 1163, the nutrition for the elderly program that I introduced with a bipartisan list of cosponsors to fund programs to feed isolated elderly Americans. It opposed the bill in hearings. It opposed the bill in committee executive sessions. And then when the measure was passed 88 to 0 in the Senate, it blocked its immediate adoption in the House.

And so the record is clear, the administration opposed a vital nutrition program for the elderly for 2 years and then when it was passed over its opposition, the administration tried to claim credit.

For after its passage, the public relations pamphlets of this administration have consequently ballyhooed nutrition for the elderly as part of the administration initiative, falsifying the facts and masking its real policy of neglect toward older Americans.

Second, in employment, this administration has consistently adopted policies to deny adequate employment opportunities to the Nation's elderly.

In 1972, more than 1 million persons 45 and older are jobless, an increase of nearly 75 percent since Richard Nixon took office. In 1972, Federal employment programs continue to deny elderly Americans their fair share of available jobs. And in 1972, while 10 percent of the Nation's unemployed are 55 and older, only 1 percent of the job trainees are 55 and older.

A year ago at the White House Conference on Aging, the rhetoric of the President was magnificent, praising community service employment programs for the elderly and urging that they be made nationwide and permanent.

But the reality of the administration's actions are very different. For the spokesmen for the same President who spoke so affirmatively a year ago have been steadfastly opposed to the enactment of a permanent, nationwide community service employment program for the elderly for 4 long years, a program that will create 100,000 new jobs.

The opposition came in subcommittee hearings, and it came in letters from the administration to the Senate and it came in private statements from this administration to Senators.

But a Democratic Senate rejected those voices of neglect and passed the community service employment bill only a few weeks ago. Yesterday, it was included in the Older Americans Act extension and will, hopefully, be passed by the Congress before the session's end.

And if this administration continues its past record, as soon as this bill is signed into law, it will start claiming credit for an employment program that it had opposed every step of the way.

There is a third area of neglect and that is the area of health care. For it is here that this administration has permitted medicare to disintegrate to the point that the elderly pay almost as much for medical bills as they did before medicare became law.

It took Congress nearly two decades to win the historic battle for medicare. But it has only taken Richard Nixon 2 years to sabotage the program.

For this administration has boosted the medicare premium for part B doctor's insurance from $4 to $5.80 a month, for a 45-percent jump.

It has raised the deductible for hospital insurance by 55 percent, from $44 to $68.

It has proposed to saddle the elderly with a new $7.50 copayment charge for each day in the hospital from the 31st to the 60th day. This charge alone could add $225 to the hospital bill of an older American.

And the bitterest irony of all is that this very proposal would fall most heavily on the person medicare is supposed to help the most—the individual who is confronted with the costly health-care expenditures of a prolonged stay in the hospital.

Richard Nixon has sent a clear message to older Americans: "We'll help you with your doctor's visit." he says, "but if you're sick enough to require long-term hospital care, you're on your own."

At the very time we ought to be closing the gaps in medicare, the President is expanding them.

The Democratic platform supports a national health insurance proposal that closes the gaps by paying all hospital costs from the first day a patient enters until the day he leaves.

It closes the gaps by covering all health services for the prevention and early detection of disease, the care and treatment of illness and medical rehabilitation.

It closes the gaps by covering the cost of drugs and eyeglases and hearing aids.

None of these—not a single one—is covered by the administration bill.

Fourth, the administration consistently has shortchanged the funding of the only Federal agency devoted entirely to the needs and concerns of older Americans—the Administration on Aging.

For the past 3 years, the administration has requested less each year than Congress had appropriated the previous year for the Older Americans Act.

Each year the gap between what Congress had authorized and what the administration requested grew larger and larger.

Finally, with the delegates from the White House Conference in town last December, the administration reluctantly endorsed the amendment I introduced to raise the level of funding to $100 million. What had been the administration's proposed level of funding? Barely over $13 million.

That is the way this administration has neglected the Nation's elderly, denying them the services they deserve.

Finally, there is another area of neglect, an area of neglect that has exposed millions of elderly Americans to the threat of crime and vandalism and terrorism.

For 4 years, the statistics from the inner cities of America have pointed to increasing violence against the aged.

It is outrageous that in America today, elderly people in our largest cities fear to leave their homes to visit a neighbor, to cash their social security check or even to attend a place of worship.

I was in my home city of Boston Monday, and I walked along with Senator WILLIAMS through the Mission Hill public housing project. We saw the ripped-off screens, the broken windows, the jimmied mailboxes and we heard elderly women and men talk of the fear that surrounds them.

For one man told of being robbed four times in a single year and his wife twice.

Another told of a postman who had been stripped of his clothes and robbed of his mail on the day that the social security checks for the elderly residents arrived.

Supermarkets will not deliver groceries to these projects and taxis will not venture inside.

And this administration has denied not once but three times the request from Boston Housing Authority and the city of Boston for adequate funds to provide those elderly residents with adequate security.

And every other major urban area in this Nation has faced the same response from an insensitive administra- versed.

For this administration acts as if it is more important to the security of the United States to bomb Asian peasants than to provide adequate security to the elderly of America.

It is time for the priorities of this administration to be exposed and for the public to know how this administration has turned its back on older Americans.

It is time to know that this administration has refused funds for adequate security for the elderly. It is time to know that this administration has opposed nutrition programs for the elderly. It is time to know that this administration has opposed employment programs for the elderly.

It is time to know that this administration has ignored and forgotten and neglected the Nation's elderly, tarnishing their final years.

If we are to enrich the quality of life of all Americans and if we are to maintain the strength and vigor of this great land of ours, then we must provide the means for elderly Americans to find fulfillment and not frustration in these closing chapters of their lives.

It is not too much to ask of a society which owes them so much and which can still benefit from their wisdom and service.

Mr. President, I withhold the remainder of my time and ask unanimous consent that I may be able to yield it to the distinguished Senator from Minnesota (Mr. HUMPHREY) if he so desires.

The PRESIDING OFFICER (Mr. GAMBRELL). Without objection, it is so ordered. Under the previous order the distinguished Senator from Minnesota (Mr. HUMPHREY) is now recognized for not to exceed 15 minutes.

Mr. HUMPHREY. Mr. President, first, I want to compliment and heartily congratulate and thank the distinguished Senator from Massachusetts for outlining here today in precise and direct terms the failures and inadequacies of this administration to provide leadership and support for programs that relate to the urgent needs of our older Americans. The Senator from Massachusetts and the Senator from Idaho (Mr. CHURCH) have both, once again, made it clear that this administration has been not only reluctant but derelict when it comes to providing for the needs and the care and the health that older Americans so richly deserve.

THE ADMINISTRATION'S ECONOMIC RECORD—THE POLITICAL CAMPAIGN

Mr. HUMPHREY. Mr. President, I can capsule this administration's economic

record in just a very few words, and I would hope that my colleagues, as they go back to their constituencies, would recite these words as an incisive and clear-cut statement of economic and fiscal mismanagement on the part of the Nixon administration:

The highest unemployment in 10 years.

The highest inflation in two decades.

The highest budget deficits in four decades.

The highest trade deficit in eight decades.

The highest interest rate in 100 years.

That is the record of the Nixon administration in the economic field.

Right on the line—unemployment, inflation, budget deficits, trade deficits, and usurious interest rates.

Yet this administration would have the American people believe that they never had it so good.

Mr. President, just the other day, a constituent of mine from Stillwater, Minn., sent me a letter. I shall not read this party's name because this administration would undoubtedly set out to punish her, from other experiences I have had. The lady happens to be a civil servant.

She writes as follows:

DEAR SENATOR HUMPHREY: Since I find certain of its materials useful in my work, I am on one of the U.S. Department of State's mailing lists. By coincidence I happened to receive the two items enclosed in the same day's mail several days ago. Obviously they both originated from the same addressograph plates.

If government mailing lists are made freely available to the general public for any purpose whatsoever, I question the validity of such a policy as an unwarranted invasion of privacy. If the use of a mailing list such as the one my name is on with the State Department is not legitimate for partisan campaign purposes, I deeply resent the fact that it is being done.

Being subject to certain annoying Hatch Act restrictions probaby heightens my sensitivity about what is proper behavior and what is not in political campaigns.

Thank you for any light you may be able to shed on this matter.

This letter is duly signed.

Mr. President, I hold in my hand an envelope. I describe it as follows:

In the upper left-hand corner it says:

Department of State, U.S.A.
Washington, D.C. 20520

Underneath that it says:

Official Business
Penalty for Private Use, $300

Then it shows the name of my constituent, addressed to her at St. Paul, Minn.

I am going to ask that my colleagues take a look at this particular Addressograph plate. The identification reads:

PL–O
University of Minnesota 55101.

Over on the right it shows "PBR/D." That is from the State Department.

Mr. President, I hold in my hand a campaign letter sent out by a Leo Chance at 589 Fifth Avenue, New York, N.Y. It has the identical Addressograph plate with the identical markings which I have just referred to—obviously from the State Department mailing list. Of course, it relates entirely to the campaign and to the Democratic candidate's views on foreign policy.

Mr. President, it is clear and obvious that the State Department has made available this mailing list for partisan political purposes.

I am going to send this material to the General Accounting Office for appropriate investigation.

It is perfectly all right for any political party or candidate to mail to whomever they wish such partisan and campaign material, but the Government of the United States in its official duties has no right turning over to a private person the mailing list of a department of Government.

It is obvious here that that has been done.

I have held this mail since September 26 trying to find out the background of the use of State Department lists, and I find out that this has been going on in other Departments.

Just this morning, I received in my office a letter from a dear old friend of mine, Lou Lerman, and he is on the mailing list of the Veterans' Administration for partisan and political purposes.

Mr. President, I think that Senate and the Congress should insist that these lists be protected in terms of their official use and not be made available to the Nixon campaign or the committee to reelect the President.

By the way, there is no such thing as a committee to elect the President. There is no President running for office. There is a candidate. I believe that we should apply truth in labeling to the campaign. The man that is running for office is a Republican candidate that seeks reelection. He stands on his own. We do not have in this country any kind of divine right of kings or any such hereditary process of a committee to elect the President. Baloney.

A DOMESTIC GULF OF TONKIN

Mr. HUMPHREY. Mr. President, the so-called spending ceiling which the Nixon Administration is so eager to enact deserves the most careful scrutiny of the Congress and the people.

The press today reports statements made yesterday by John Ehrlichman and Caspar Weinberger attempting to assert that congressional passage of the $250 billion spending ceiling would constitute "insurance" against a tax rise next year.

Mr. President, it is clear that Mr. Richard Nixon is manufacturing the spending ceiling issue as a mechanism to get himself out of some election year hot water. The President promises that there will be no increase in taxes which of course, every citizen likes to hear in spite of the fact that the administration has a deficit that makes any Democratic deficit look like a widow's mite. The administration is responsible for a budget deficit that is beyond the wildest dreams of the most expensive spendthrift in years gone by.

What is the President trying to do? He says that it is not the President's fault, that it is the fault of Congress because we are appropriating too much. He knows it is a lot of hogwash. If he does not know that, he ought not to be President. A man who is President ought to be able at least to add. He does know how to divide, but he ought to know how to add.

It is obvious that the administration has increased the budget in every single year since Richard Nixon has been in the White House. Not one single time have we appropriated more than he asked for.

Mr. President, the President has the story going over the airwaves that it is a democratically controlled Congress that is spending the people's money. We know that is a lie. We know that it is to deceive the people.

I say to the President, "Mr. President, it is you and your surrogates who are out spreading this nonsense."

Congress has reduced the President's budget. Congress has been frugal. The Congress has changed priorities, and that is what the President and his administration do not like. We have not spent more than the President has asked. And the spending ceiling has nothing to do whatsoever with what Congress is doing.

What is wrong in this country is that the revenues are short simply because the economy has been in a recession, no matter what Mr. Nixon and his surrogates say.

He has had this country in a recession since 1969. Therefore, the revenues have been down.

Officials of his administration have issued contradictory statements on the necessity of a tax increase next year. Now the President is saying to the public that unless the Congress goes along with his spending ceiling proposal we will have a tax increase next year.

He will have it both ways. If we do not pass his spending ceiling proposal, he says that there will have to be a tax increase. He says that if we pass the spending ceiling proposal, there will not be a tax increase. There is no more truth in the allegation that we have overspent the budget than there is reason to believe that the moon is made of Wisconsin cheese.

In other words, the President is trying to use the Congress as a scapegoat for his own fiscal mistakes. But I do not believe he can fool the voters by blaming Congress for his administration's poor planning and management.

The Nixon spending ceiling is not only a partisan strawman. It also fundamentally threatens the constitutional power and responsibility of the Congress to control appropriations. If passed it could prove to be the domestic equivalent of the Gulf of Tonkin Resolution—a license for the administration to attack and make war on health, education, and other programs benefiting the average citizen without congressional approval.

The Congress should and does reduce the President's budget requests. It is our responsibility to set priorities on behalf of the people, and the people should insist on it.

I ask unanimous consent that an article I wrote which appeared in the Washington Post of October 2, along with the Post and New York Times reports I

have referred to and an editorial from the Minneapolis Tribune be printed in the RECORD.

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

THE SPENDING CEILING—IS IT A DOMESTIC "TONKIN GULF"?

(By HUBERT H. HUMPHREY)

After nearly four years of fiscal mismanagement, the Nixon administration is now preparing an election year argument to tell the American people that a Democratic Congress is to blame.

The scenario has been carefully constructed. Here it is: The Congress has been on an inflationary spending spree. The President courageously calls the nation's attention to this and then demands a halt to carefree congressional spending. He proposes a $250 billion ceiling on federal expenditures and then asks the Congress to give him blank check authority to cut any programs above this limit. He knows that he has 535 members of Congress over a barrel. Either they consent to his plan and hand over to the White House unprecedented authority to control appropriations or he will label them all "spendthrifts." In an election year, being labeled a spendthrift is to be blamed for inflation, budget deficits, and high taxes.

Richard Nixon dispatches his Treasury Secretary to the influential Ways and Means Committee to make them an offer they can't refuse. They don't refuse. The spending ceiling seems on its way to approval. White House lobbyists are already walking the halls of Congress spreading the word that a vote against the ceiling is a vote for a tax increase. But the plain fact is that, on the contrary, the administration's spending ceiling is an election year ploy; a perversion of prudent fiscal management; a cover-up of a failure to halt inflation; a protective shield for an oversized military budget; a way to erase the social progress of the 1960s; and an outright theft of congressional authority.

Perhaps the greatest danger a spending ceiling poses is not what it will do to individual programs and millions of people that it will affect, but what it will do to the relationship between Congress and the Executive Branch. A spending ceiling places unprecedented power in the hands of the Chief Executive. In effect, it tells Congress: There is no need to scrutinize the budget, there is no need to appropriate funds, indeed, there is little or no need for Congress. The public has been alarmed at the erosion of congressional authority in the field of foreign policy. Now the President asks us for a domestic Gulf of Tonkin resolution.

The Nixon request is a natural outgrowth of the way the administration conducts this nation's fiscal affairs. Consider for a moment the growing power and influence of the Office of Management and Budget over budgetary decisions which were formerly the prerogative of Congress. The spending ceiling is nothing more than a device to augment this power and place it in the hands of persons not responsible to any electorate.

How well does the charge that Congress has overspent stand up to examination? The answer is: not at all. For the past four years the Congress has cut the President's budget requests by over $16 billion. This year alone Congress has already eliminated $4.4 billion of presidential spending. This represents careful, prudent budget review by Congress—not a spending spree. In fact, the Congress has never failed in the past 25 years to cut a President's budget.

The public must not forget that the President has the initial responsibility for the creation of the budget. Whether the presidential budget will be lean or fat is his decision to make. The Congress has the right not only to reduce a President's budget, but to change his budgetary priorities. This is what members of Congress are elected to do and this is certainly what this Congress has done.

Do we need a spending ceiling to fight inflation? There are more effective ways, I believe, to control inflation. We should have begun inflation control four years ago—instead of on August 15, 1971—with wage and price guidelines that had bite. Since we did not, inflation control can best be achieved now through a truly effective wage-price mechanism covering those large firms that have a significant impact on the economy. A spending ceiling is only a ruse and cannot substitute for the needed mechanisms to halt inflation. Much of the reason for deficit financing and inflation is the slow-down of the economy, causing reduced revenues and higher welfare costs.

If the Nixon administration were serious about controlling inflation it would move forcefully in such areas as ending wasteful procurement practices, improving inadequate anti-trust enforcement and revising weak regulatory practices.

If a spending ceiling were to be enacted what programs would likely be eliminated? Just looking at Richard Nixon's veto record gives the clearest indication of what programs this administration considers expendable: education, health care, job creating and training programs and other social service programs that benefit the poor, the hungry and the elderly. It is clear that the spending ceiling offers the administration a convenient way to eliminate or cripple programs relating to human needs without leading a politically unpopular frontal assault on them.

To be sure, the Nixon administration has its budgetary sacred cows such as military procurement and defense spending that won't be cut one nickel. Added to this list must be other generally recognizable untouchables such as interest on the public debt, Medicare, social security and some subsidies. Aside from the vulnerable social service programs, it is likely that the brunt of any cutbacks would be in grants to state and local governments—badly needed programs like water and sewer grants, anti-pollution control funds and transportation aid. It would be ironical if the spending ceiling and revenue sharing came into effect at approximately the same time. The Nixon administration would then be a promoter of a federal funny money game giving revenue with the right hand and taking it back with the left.

It is the responsibility of the Congress to be frugal with the taxpayer's dollar, to search out waste and not to overspend. I am confident that it can continue to do these things without Executive Branch interference or handing the President an item veto over our appropriations.

HILL TO GET BLAME IF TAXES RISE

(By Peter Milius)

The White House said yesterday that the coming vote in the House on President Nixon's proposed $250 billion spending ceiling is, "in a real sense, a vote on whether or not there will be higher taxes next year."

The statement marked the closest the President's spokesmen have yet come to conceding that a tax increase may be in the offing. They sought to suggest a month ago that the President would not propose a tax increase if elected to a second term.

Their modified position was set out at a press conference on the spending ceiling by presidential assistant John D. Ehrlichman. The presidential adviser also told reporters that the administration is not willing to tell Congress in advance what specific spending cuts it will make if the overall ceiling is adopted.

House Democrats, led by Speaker Carl Albert, have insisted that the President say what he wants to cut before they will give him the cutting power.

Ehrlichman's remarks thus firmed up party lines for a likely pre-election showdown on the spending-and-taxes issue when the proposed ceiling reaches the House floor, which it may do as early as Wednesday.

Ehrlichman said the White House would not submit a list of proposed spending cuts because the vote on the spending ceiling would then become "a vote on the pros and cons of a number of fractioned proposals, and that is not the way this kind of a decision should be made in our opinion."

As sent to the Hill by the White House, and approved last week by the House Ways and Means Committee, the proposed spending ceiling would empower the President to cut back or impound whatever congressional appropriations he chose, in order to hold overall outlays to $250 billion in the current fiscal year.

Albert and other opponents say it would cede to the President Congress' constitutional power of the purse.

Beyond that, they object to giving the President a free ride on the spending issue this close to the election. They don't want him to be able to say he is against spending without saying which spending. They say he is as responsible as the governing Democrats in Congress for the current spending level. No spending bills have been passed over his veto, they note.

Ehrlichman did not quite say, at yesterday's press conference, that there will have to be a tax increase if Congress fails to approve the spending ceiling.

Instead, he said that "there are basically only three ways to avoid higher taxes."

"One," he said, "is through great restraint on the part of the Congress," and "I might say parenthetically we have seen very little evidence of such restraint in this Congress."

"Secondly," he went on, "the President would be required to veto authorizations and appropriations which substantially exceed his budget, and third, as an alternative, is the route which the Congress has under consideration this week . . . an overall limitation on spending. . . ."

He was then asked, "If the Congress fails to pass this spending ceiling, can the President, or will the President veto enough bills to avoid a tax increase or is it inevitable that if the spending ceiling does not pass, we are going to have a tax increase?"

"That is a very hypothetical question at this point," he replied. "We just don't know."

Ehrlichman was one of the spokesmen who sought to suggest last month that the President would not propose a tax increase in a second term. By contrast, the White House has asserted that Democratic presidential candidate George McGovern's spending plans would force a major tax increase.

All that was meant last month, Ehrlichman said yesterday, was "that the President will do nothing to cause a tax increase . . . There are obviously forces in the three coordinate branches of the federal government beyond the President's control, and the Congress is one of those . . . That was implicit in what we said here. . . ."

With Ehrlichman at the White House yesterday was Caspar W. Weinberger, director of the Office of Management and Budget.

Weinberger was less equivocal about a tax increase. "In case there is the slightest question in anyone's mind," he said, "the President does not intend to propose any new taxes next year."

He was asked whether he meant to include in that assertion a value-added tax, or national sales tax, which the White House has occasionally held out as a possible partial replacement for local property taxes.

Weinberger replied, "That is my understanding, yes."

Ehrlichman, however, said that what Weinberger meant was that "there would be no way that (a value-added tax) could be put into place and into operation in the coming fiscal year, just mechanically and physically."

"I don't want to preclude the possibility of its being considered as an option," Ehrlichman said, "because no decision has been made."

[From the New York Times, Oct. 3, 1972]

TAX VOW IS TIED TO DEBT CEILING

(By Eileen Shanahan)

WASHINGTON.—Key officials linked today the Nixon Administration's pledge not to increase taxes with Congressional enactment of the $250-billion ceiling on Federal spending this year.

John D. Ehrlichman, assistant to the President for domestic affairs, and Caspar W. Weinberger, director of the Office of Management and Budget, said that enactment of the spending ceiling would constitute "insurance" against a tax increase next year.

The statements were milder than some of those made earlier by Mr. Ehrlichman and by Ronald L. Zeigler, the White House Press Secretary, in which they promised that the President would not propose any tax increase throughout a four-year second term.

Today, Mr. Ehrlichman and Mr. Weinberger not only linked avoidance of a tax increase next year to enactment of the spending ceiling, but they also avoided most forecasts of tax policy beyond next year.

Mr. Ehrlichman did say that there was no chance whatever that a value-added tax—a type of national sales tax—could be enacted and put into effect next year.

His reason was simply that "mechanically and physically, it would be impossible to impose a complex tax of that kind within such a short time span."

He said that no decision had been reached on whether such a tax should be imposed for use after next year.

The prospects for Congressional passage of the spending ceiling continued to be uncertain.

The House Ways and Means Committee, which last week approved such a ceiling in precisely the no-exceptions form requested by the Administration, was scheduled to meet tomorrow to reconsider their action.

A growing number of House members have expressed doubts about the wisdom of the ceiling, primarily because it would give the President unlimited authority to cut spending in whatever programs he chose, to get total outlays down to the $250-billion figure. The ceiling would apply to the current fiscal year, which began July 1.

Opponents of the Ways and Means version of the ceiling want to add a requirement that President Nixon report in advance to Congress on where he will make the spending cuts to give Congress a chance to veto his plans.

It was not immediately clear whether Ways and Means would actually rewrite the ceiling proposal. The committee's chairman, Wilbur D. Mills of Arkansas, said that he opposed such a step.

Another possibility was that the committee would approve a change in the restrictive parliamentary procedure under which its bills are considered in the House. Ordinarily, no amendments are permitted.

POSSIBLE AMENDMENT

In this case, however, it appeared possible that the committee might decide to propose that a single amendment be allowed—an amendment that would substitute the opposition version of the spending ceiling and thus give Congress some control over where the spending cuts were made.

Neither side seemed confident of the outcome.

Mr. Ehrlichman, obviously seeking to allay Congressional fears that some social programs would be cut to nothing if the President got the power he seeks, said that what would be involved "is not drastic elimination of programs but simply a limitation of excessive growth of Federal programs."

He noted that the ceiling "is designed to hold expenditures to an $18.5-billion increase over the prior fiscal year. So it really isn't all that much of a starvation program."

Mr. Weinberger said that enactment of the spending ceiling would not only provide insurance against a tax increase between now and next June 30—the end of the current 1973 fiscal year—but also "would enable us to get a good start with respect to '74 so that we could have the same kind of offer of insurance against a higher taxation for that and succeeding fiscal years."

[From the Minneapolis Tribune, Sept. 27, 1972]

WILL CONGRESS ABDICATE ON FINANCE?

Considering the usual jealously with which the Congress views its authority in relation to presidential powers, the House Ways and Means Committee made an astounding decision Monday. It approved, on a 20-to-5 vote, a bill that would give President Nixon unlimited authority to cut whatever programs he desires in order to keep federal spending below $250 billion during the fiscal year ending June 30.

If this bill becomes law, it will mark the broadest delegation (or surrender, if you will) ever made of Congress's constitutional authority over spending levels—a kind of Gulf of Tonkin measure in domestic affairs. The one-sided committee vote indicates the degree to which many representatives believe there may be no other way to keep spending under $250 billion this fiscal year, according to one analysis. If this is true, it suggests that Congress, with its two houses, multiple specialized committees, numerous special interests and frequent need for compromises and trade-offs, is no longer capable of making difficult decisions on economic matters. We don't believe that's necessarily the case.

For one thing, the bill reflects the weak leadership exhibited by the majority and minority leaders in both houses, it seems to us. For another, policitics is an important behind-the-scenes factor.

A White House aide already has declared that if the President gets the unlimited authority he wants, he'll simply end (by not funding) what's left of the Office of Economic Opportunity programs. Congressmen who would like to see that happen, but don't want to vote outright for it, can be expected to favor the bill. The Democrats who control Congress, faced with election-year charges of high spending from a Republican administration, are looking for ways to force the President to make politically unpopular cuts in programs. In addition, the bill would allow all incumbent congressmen to campaign as fiscally responsible while avoiding the need to vote on specific reductions—reductions that nearly always offend one affected group or another.

The bill also creates a new joint committee to recommend procedures under which Congress could improve its control of "budgetary receipt and outlay totals." That may be a good step, although it seems to us that the need is less for new "procedures" than for congressmen to make hard decisions. Although no formal procedures exist for joint House-Senate review of the over-all result of spending bills, which are approved independently, this responsibility in practice is vested in two committees—Senate Finance and House Ways and Means.

Those committees, and congressional leaders of both parties, should discipline themselves and begin to decide priorities on programs and spending, not abdicate their constitutional responsibility by granting additional authority to the White House, whose power has grown enormously in the post-World War II years.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia (Mr. ROBERT C. BYRD) is recognized for not to exceed 10 minutes.

Mr. ROBERT C. BYRD. Mr. President, I yield 5 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 5 minutes.

Mr. BENTSEN. Mr. President, I thank the distinguished assistant majority leader.

Mr. President, I congratulate the distinguished Senator from Minnesota for his very articulate presentation on the inconsistent statements of the administration concerning its economic policies.

THE AGED, THE CONGRESS, AND THE ADMINISTRATION

Mr. BENTSEN. Mr. President, on April 9, 1970, President Nixon proclaimed the following month as Senior Citizens Month and said:

> For too long we have lacked a national policy and commitment to provide adequate services and opportunities for older people.

I believe most of us would agree with that statement and I believe the Congress has taken it seriously.

I submit, Mr. President, that it is the Congress that has provided the commitment. The administration has provided much rhetoric, but it could be much more progressive and aggressive in providing actual support.

The President waited almost 3 years before sending Congress his message on the aging, and I welcome the message even though it was late in coming.

The administration waited 2 years before ending its opposition to congressional initiatives to increase funds for the Administration on Aging. Again, I welcome the change of heart.

The administration waited 2 years before dropping its opposition to a program initiated by the Congress to provide adequate nutrition programs for the elderly. I welcome the belated support.

And the administration to this day opposes my bill outlawing age discrimination in Government employment despite an 86-to-0 vote for it in the Senate. I would welcome another change of heart.

The record of this Congress on matters affecting the elderly offers evidence of genuine concern and commitment on the part of legislators to improving the lives of older Americans.

This Congress passed—over administration opposition—a 20-percent increase in social security.

This Congress passed—over initial administration opposition—a program to provide nutritional programs for the elderly.

This Congress passed the Emergency Employment Act to direct added funds to areas of high unemployment, with a special provision that middle-aged and older persons were to be equitably represented in new employment opportunities.

This Congress extended the gold eagle passport program which allows senior citizens free entrance to our national parks and reduces substantially the charges they must pay for using their facilities.

This Congress approved my amend-

ment to the Economic Stabilization Act, which encouraged the growth of private pension plans by exempting them from the guidelines for wages and salary increases allowable in the period of economic controls.

And this Congress has passed a comprehensive set of amendments to the Older Americans Act, which will give emphasis to our most successful programs at the local level to aid our elderly citizens.

Those amendments, I am pleased to say, contain a bill which I authored, which will give Federal incentives for public libraries to expand their services to older Americans.

All of those measures, Mr. President, and more, have been the result of congressional commitment and concern. I am hopeful for such commitment on the part of the administration.

I must say that the administration is not at all hesitant to seek credit for legislation it has originally opposed. I understand that in this election year.

It is, of course, unfortunate that legislation to improve the lives of older Americans should become a political football. And I am pleased that much of the legislation I have mentioned has passed by unanimous vote, with Republicans and Democrats supporting it.

But the efforts to politicize the efforts to aid the elderly have not come from the Congress; they have come from the administration.

It was the administration which branded the 20-percent social security increase "irresponsible" and then made plans to include a laudatory message from the President in every new social security check to be mailed in October.

The administration opposed the program to provide nutrition programs for the elderly and then hailed it after it passed the Senate by a unanimous vote.

The President said in December that—

I am preparing specific proposals to ease the crushing burden of property taxes for older Americans.

We have not yet seen his proposal to the Congress.

The President said 10 months ago that he would be making recommendations very shortly to extend medicare coverage to include prescription drugs, while the Senate Finance Committee was taking the action and including such a proposal in H.R. 1.

Mr. President, this Congress owes no apologies for its efforts to improve the lives of older Americans.

This Congress has made major strides for the elderly. I believe it is incumbent upon us to set the record straight and to tell our elderly constituents where the real leadership lies—in this Congress.

ORDER OF BUSINESS

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. ROBERT C. BYRD. I have 1 minute left which I would be happy to yield to the Senator from Texas.

Mr. BENTSEN. I thank the Senator. I yield the floor.

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. 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.

Under the previous order the Senator from Pennsylvania is recognized.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and I ask that the time be charged against the Senator from Pennsylvania.

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. SCOTT. 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 RECORD OF THE ADMINISTRATION ON ASSISTANCE TO OLDER AMERICANS

Mr. SCOTT. Mr. President, I imagine that today's guerrilla foray against the strong fortress of the administration on its position of interest and assistance for older Americans is occasioned by the fact that the social security checks are coming out with a 20-percent increase, which this administration is happy to note is being made available to our older Americans.

Perhaps it is occasioned by the fact that the fight against inflation is succeeding, a fight which is a fight for survival, and for security, for our older Americans particularly. And perhaps it is simply their want to anything else to talk about since most of the other subjects have been discussed so frequently here. I would not say that points have been scored, although some of the more eminent Senators have posited their criticism chiefly upon allegations that the administration has allegedly "slammed the door of the Treasury shut when human needs in America come to the surface." That is not meritorious, Mr. President.

The President's message on older Americans of March 23 of this year summarizes the President's objectives as containing five major elements: One, improving the income position of older Americans; two, upgrading the quality of nursing homes; three, helping older Americans lead dignified, independent lives in their own homes; four, expanding opportunities for involvement of older Americans in community life; five, organizing the Government to meet the changing needs of older Americans.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks the White House fact sheet on this message.

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

(See exhibit 1.)

Mr. SCOTT. Mr. President, in considering administrative initiatives for older Americans in line with this comprehensive strategy, let us consider what has been done. The President, first of all, signed into law social security increases amounting to more than a 50-percent rise since 1969, a $17 billion annual increase in income for the elderly, the largest increase during any 2½ year period. Now, for those who complain, "Where was this increase during the Kennedy administration or the Johnson administration?" the answer is that it was not voted although the majority was as much in control of the Congress as they are now, and that answer applies to each of the acts of nonfeasance of the critics and their supporters in Congress and elsewhere.

The second thing the President initiated and signed into law was legislation making social security benefits inflation proof.

The President proposed the first national income floor for older Americans and a modified earnings test to allow individuals to earn more after their retirement without losing social security benefits, and I might add that a bill has been offered here along those lines which I strongly supported, and I hope that it becomes law. In fact, I have offered similar measures over a period of years.

The administration has proposed increased benefits for delayed retirement and special minimum benefits for people who work 15 or more years under social security, all of which are being considered before us now in H.R. 1, which is, I would say, not being considered as well or as favorably as some of us would like.

The President has proposed a program to recompute military retired pay on the basis of January 1971, military pay scales, and improving the protection of survivors of retired personnel.

There obviously is not time to include all the list of comprehensive initiatives, but they include improved benefits for veterans; the reform and expansion of private pension programs; improved benefits for retired Federal employees; management of pension funds exclusively in the interest of beneficiaries; a new economic policy to help reduce inflationary pressures; a commitment to relieve the burden of property taxes; changes in income tax laws to provide special help for older persons—which is also being presently considered in the Congress. Continuing, the President has advocated strong action by the Office of Consumer Affairs to aid senior citizens; strong action to upgrade the quality of nursing homes, national nutrition programs, provisions for homemaker transportation, nutrition and community services; priority to requests in the Department of Transportation for capital grants to help the elderly from the urban mass transportation funds, on which we are still hopeful for congressional action; make housing money more readily available for older Americans, and that means 66,000 units of HUD-subsidized housing units in fiscal 1972 alone, and 14,000 units under the nursing home and intermediate care facilities program; and a number of other actions.

In other words, the President has sub-

stituted performance for promises, and no allegation of nonperformance could possibly hold water, notwithstanding the best efforts of the critics.

Mr. President, I ask unanimous consent to include as an exhibit, also, at the end of my remarks, a statement entitled "Administration Initiatives for Older Americans."

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

(See exhibit 2.)

EXHIBIT 1

MESSAGE ON OLDER AMERICANS

In his message, the President outlines a comprehensive strategy for the complex problems faced by older Americans.

There are 5 major elements:

1. Improving the income position of older Americans.

2. Upgrading the quality of nursing homes.

3. Helping older Americans lead dignified, independent lives in their own homes.

4. Expanding opportunities for the involvement of older persons in community life.

5. Organizing the Government to meet the changing needs of older Americans.

In 1973, the Federal Government will spend an estimated $50 billion on behalf of older Americans, nearly 50% more than in 1969. One example of increased concern for the elderly is the increase in overall Federal spending under the Older Americans Act; spending under this Act has risen from $32 million in 1969 to a proposed $157 million as announced in the 1973 budget. The President is recommending a further increase of $100 million for nutrition and related services. This will bring total spending in 1973 to $257 million—an eight fold increase.

1. IMPROVING THE INCOME POSITION OF OLDER AMERICANS

The President has signed into law social security increases amounting to more than a 26 percent rise since 1969—a $10 billion annual increase in income for the elderly. When the proposed 5% benefit increase in H.R. 1 is enacted, the increase in a 2½ year period would be one-third, the largest such in the history of social security.

In his message the President urges Congress to enact the new income benefits for older Americans contained in H.R. 1, which would total $5½ billion when fully effective. This includes $3 billion in increased social security benefits and $2½ billion in new benefits for the needy elderly.

Other important reforms contained in H.R. 1 include the first national income floor for older Americans; guaranteed inflation-proof social security benefits; a modified retirement earnings test to allow an individual to earn more after retirement without losing social security benefits; increased benefits for delayed retirement; and special minimum benefits for people who have worked for 15 or more years under social security.

The President will propose a program to increase the incomes of military retirees and improve the military retirement system. This includes recomputing retired pay on the basis of January, 1971 military pay scales, and improving the protection of survivors of retired personnel.

Older veterans are benefiting from improved medicare care for veterans. In fiscal year 1973, 844,000 veterans will be treated in VA hospitals, and approximately one-forth of these veterans will be over age 65. Veterans' pensions were increased by an average of 10 percent in calendar year 1971 and are being increased by another 6½ percent in 1972.

Benefits for retired Federal employees and their families have been improved by increasing annuities as the cost of living rises, and by liberalizing health and other retirement benefits.

The President has submitted a program to reform and expand private pension programs, through:

Tax deductions to encourage independent savings toward retirement;

More generous tax deductions for self-employed persons;

Vesting of pensions to insure that persons who have worked for an employer for a significant period will retain their pension rights;

Management of pension funds exclusively in the interest of beneficiaries; and

A one-year study of pension plan terminations by the Departments of Labor and Treasury.

The President announced (August 1971) a New Economic Policy to help reduce inflationary pressures that are so harmful to older Americans receiving relatively fixed incomes.

The President reaffirmed his commitment to relieve the burden of property taxes.

Recent and pending changes in income tax laws would provide special help to older persons (a single person aged 65 or older would be able to receive up to $5,100 of income without paying any Federal income taxes, while a married couple with both husband and wife 65 or older would be able to earn up to $8,000 of such tax free income.)

The President directs his Office of Consumer Affairs to develop recommendations for further action to make older citizens aware of their legal rights under the Interstate Land Sales Full Disclosure Act and to help the State develop consumer education programs specifically designed for older citizens.

The President's comprehensive health proposals also can reduce the burden of health costs on the elderly: He has:

Requested that the monthly $5.80 Medicare supplementary premium fee be eliminated, yielding older persons $1.5 billion.

Urged several measures contained in H.R. 1 to reduce health costs for older Americans, including extending Medicare to many of the disabled who have been forced to retire early, enabling Medicare beneficiaries to enroll in Health Maintenance Organizations, and clarifying coverage for extended care facilities after hospitalization.

2. UPGRADING THE QUALITY OF NURSING HOMES

The President announced an 8-point plan to upgrade the quality of nursing homes in August of 1971. The Administration has:

Trained almost 450 State nursing home inspectors in Federally-sponsored programs;

Submitted legislation to provide 100 percent Federal funding of State Medicaid inspections of nursing homes;

Established an Office of Nursing Home Affairs in the Office of the Secretary of Health, Education and Welfare;

Increased Medical Services Administration personnel by 142 positions to enforce Medicaid standards and regulations;

Funded a short-term training program for nursing home personnel (20,000 in fiscal year 1972; 21,000 in fiscal year 1973.);

Designated Social Security district offices to receive and investigate nursing home complaints;

Initiated a comprehensive analysis of the issues related to long-term care; and

Improved the enforcement of nursing home standards, including the decertification of 13 substandard nursing homes.

3. ENHANCING THE INDEPENDENCE OF OLDER AMERICANS

To help older Americans lead dignified, independent lives in their own homes, the President:

Increased the 1972 budget of the Administration on Aging to $100 milion for 1973—to provide homemaker, transportation, nutrition and community services. He will request an additional $100 million for funding of increased nutrition and related services.

Called for indefinite extension of the Older Americans Act and proposed amendments to strengthen service delivery:

HEW would increase its financial support for the State Agencies on Aging and fund up to 90% of services costs and up to 75% of the administrative costs of new Area Planning Agencies on Aging.

State and Area Planning Agencies would plan to mobilize wide range resources—public and private—to enhance the independence of older citizens.

Announced new procedures for interagency coordination of Federal resources which aid older persons. Under these procedures Federal agencies will identify each year that portion of their resources they expect to spend the next year to help older persons meet their needs. State Agencies on Aging will use this information for more effective planning and delivery of services.

Set up a system whereby nearly 800 Social Security district offices will provide information on benefits available to the elderly;

Asked the Domestic Council Committee on Aging to examine ways to use other government offices—such as the General Services Administration's Federal Information Centers and the Agricultural Extension Service's local offices—to expand the information and complaint centers;

Will launch an outreach campaign (Project FIND) to increase the participation of eligible older persons in the food assistance programs of the Department of Agriculture (i.e., food stamps and surplus commodities). The campaign will be conducted through a network of existing Federally operated or funded field offices and outreach workers;

Urged action on the recent legislative proposal of the Secretary of Transportation that some of the Highway Trust Fund be used to finance mass transportation and asked the Secretary of Transportation to develop specific suggestions for helping States and localities use a portion of these resources for the elderly.

Announced that the Department of Transportation will give priority to community requests for capital grants that aid the elderly from the Urban Mass Transportation Fund. The President urges States and localities to move immediately to take advantage of available resources.

Made housing money more readily available for older Americans. In fiscal year 1972 and fiscal year 1973 HUD will reach an all-time record in producing specially designed, subsidized and insured housing and nursing homes.

66,000 units of HUD-subsidized housing units specially designed for the elderly are planned for fiscal year 1972 and an estimated 82,000 for fiscal year 1973.

14,000 units under the Nursing Home and Intermediate Care Facility Program, are planned in fiscal year 1972 and an estimated 18,000 in fiscal year 1973.

HUD has also issued guidelines to make the Section 236 subsidized rental program more responsive to the needs of the elderly and to provide technical assistance to nonprofit sponsors under the Section 106(a) program.

Announced that HUD will extend the mortgage maturity for the FHA insured nursing home program to a maximum of 40 years—enabling sponsors to "package" residential and nursing home complexes more easily.

Requested HUD to work with the Administration on Aging to develop training programs in the management of housing for the elderly.

Directed the Secretary of HUD to encourage more space for senior centers in subsidized housing projects for the elderly.

4. EXPANDING OPPORTUNITIES FOR INVOLVEMENT

To expand opportunities for more older Americans to make meaningful contribu-

tions in all facets of society, the President:

Proposed legislation to expand ACTION's person-to-person volunteer programs to permit low-income elderly persons to work with children of special need in community settings and with older Americans in nursing homes and in the community.

Supported a national effort of volunteer organizations designed to help the elderly to remain in their own homes.

Tripled the Retired Senior Volunteer Program, to $15 million, to involve 75,000 volunteers.

Doubled the Foster Grandparents Program to $25 million, providing for 11,500 foster grandparents to serve 23,000 children per day.

Doubled the special job projects for older persons, such as Green Thumb and Senior Aides, to $26 million, to involve as many as 10,000 older persons.

Will propose legislation to broaden the coverage of the Age Discrimination in Employment Act to include the fastest growing area of employment—the State and local governments.

Directed the Secretary of Labor to work on expanding employment opportunities for persons over 65 by urging the States and local communities to include older Americans in jobs provided by the Emergency Employment Act of 1971 and working with public employment offices to help open job opportunities in both the public and private sectors.

Will send a directive to heads of Federal departments and agencies to emphasize the policy that age shall be no bar to a Federal job which an individual is otherwise qualified to perform.

5. ORGANIZING THE GOVERNMENT

To better coordinate present and future efforts for older Americans, the President has:

Created a new Domestic Council cabinet level committee on aging, chaired by HEW Secretary Richardson.

Created the position of Special Assistant on Aging, John Martin.

Appointed a Special Consultant on Aging, Arthur Flemming.

To augment these efforts the Administration will:

Strengthen the Secretary of HEW's Advisory Committee on Older Americans—providing it with permanent staff to support its increased responsibilities.

Arrange to have the Chairman of the Advisory Committee report directly to the Secretary of Health, Education and Welfare.

Create a Technical Advisory Committee on Aging Research reporting to the Advisory Committee to develop a comprehensive plan of social, psychological, health, education, and economic research in HEW affecting the aged.

EXHIBIT 2

ADMINISTRATION INITIATIVES FOR OLDER AMERICANS AS OF AUGUST 15, 1972, A COMPREHENSIVE SUMMARY

The President has adopted a comprehensive strategy for the complex problems faced by Older Americans. There are 5 major elements: (1) improving the income position of Older Americans; (2) improving health and long term care; (3) helping Older Americans lead dignified, independent lives in their own homes or residences; (4) expanding opportunities for older persons to continue their involvement in the life of their communities; and (5) organizing the government to better meet the changing needs of Older Americans.

INITIATIVE AND CURRENT STATUS

1. To improve the income position of older Americans, the President:

a. Signed into law social security increases amounting to more than a 51 percent rise since 1969—a $17 billion annual increase in income for the elderly. This represents the largest increase during any 2½ year period.—H.R. 15390 signed into law July 1, 1972. Action completed.

b. Make social security benefits inflation-proof.—Included in H.R. 15390, now law. Action completed.

c. Proposed the first national income floor for older Americans; a modified retirement earnings test to allow an individual to earn more after retirement without losing social security benefits; increased benefits for delayed retirement; and special minimum benefits for people who have worked for 15 or more years under social security.—H.R. 1 Pending on Senate floor.

d. Proposed a program to recompute military retired pay on the basis of January, 1971 military pay scales, and improving the protection of survivors of retired personnel.—Recomputation legislation was submitted in April as S. 14545, S. 3410. Referred to Armed Services Committee.

e. Has improved benefits for veterans. Older veterans are benefiting from improved medicare services for veterans. In fiscal year 1973, 844,000 veterans will be treated in VA hospitals, and approximately one-fourth of these veterans will be over age 65. Veterans' pensions were increased by an average of 10 percent in calendar year 1971 and are being increased by another 6½ percent in 1972.—Action Completed.

f. Has improved benefits for retired Federal employees and their families by increasing annuities as the cost of living rises, and by liberalizing health and other retirement benefits.—Action Completed.

g. Submitted a program to reform and expand private pension programs through:

1. Tax deductions to encourage independent savings toward retirement.

2. More generous tax deductions for self-employed persons.

3. Vesting of pensions to ensure that persons who have worked for an employer for a significant period will retain their pension rights.—Legislation submitted to Congress December 1971 as S. 3012, H.R. 12272. S. 3012 is pending in Senate Finance. H.R. 12272 received hearings in May. No further action scheduled by House Ways and Means. Senate parallel S. 3598, (Williams-Javits) is pending on Senate floor.

4. Management of pension funds exclusively in the interest of beneficiaries.—Submitted as S. 3024, H.R. 12337 to Labor committees. No hearings scheduled.

5. A one-year study of pension plan terminations by the Departments of Labor and Treasury.—Final report due in December, 1972.

h. Announced (August 1971) a New Economic Policy to help reduce inflationary pressures that are so harmful to older Americans receiving relatively fixed incomes.—Continuing Action.

i. Reaffirmed his commitment to relieve the burden of property taxes.—Continuing investigation.

j. Proposed changes in income tax laws to provide special help to older persons (a single person aged 65 or older would be able to receive up to $5,100 of income without paying any Federal income taxes, while a married couple with both husband and wife 65 or older would be to earn up to $8,000 of such tax free income.—Revenue Act of 1971 (passed) H.R. 1.

k. Has directed his Office of Consumer Affairs:

1. To develop recommendations for further action to make older citizens aware of their legal rights under the Interstate Land Sales Full Disclosure Act.—Series of hearings coast to coast this summer. Publication out September 1.

2. To develop guidelines for adult consumer education programs with particular emphasis on the needs of the elderly.—Guidelines developed by early October.

3. To work with HEW to develop a program of technical assistance to help the States create consumer education programs specifically designed for older citizens.—Action expected by early October contingent upon development of above guidelines.

l. Requested that the monthly $5.80 medicare supplementary premium fee be eliminated, yielding older persons $1.5 billion. (H.R. 1)—H.R. 1.

m. Urged several measures contained in H.R. 1 to reduce health costs for older Americans, including extending Medicare to many of the disabled who have been forced to retire early, enabling medicare beneficiaries to enroll in Health Maintenance Organizations, and clarifying coverage for extended care facilities after hospitalization.—H.R. 1.

2. To improve health and long term care, the President:

a. Announced an 8-point plan to upgrade the quality of nursing homes in August of 1971. Since then, the Administration has:—Continuing Action.

Trained almost 700 of the 1,100 state nursing home inspectors in federally sponsored programs.—Remainder to be reached within the year.

Submitted legislation in October 1971 to provide 100 percent federal funding of state medicaid inspections of nursing homes.—Passed in House, H.R. 1.

Established an Office of Nursing Home Affairs in the Office of the Secretary of HEW; appointed Mrs. Marie Callender as Special Assistant for Nursing Home Affairs.—Action completed.

Increased Medical Services Administration personnel by 142 positions to enforce Medicaid standards and regulations.—Action completed.

Funded a short-term training program for nursing home personnel (20,000 in FY 72 and 20,000 in FY 73).—Program being developed under private contract in 4 areas. Additional contracts to be signed in FY 73.

Designated social security district offices to receive and investigate nursing home complaints.—Interim mechanism established in 885 SSA offices. 2,000 complaints acted upon to date. 5 models for permanent units under study.

Initiated a comprehensive analysis of the issues related to long-term care.—Exhaustive study initiated by Office of Nursing Home Affairs. Report due in 1 year.

Improved the enforcement of nursing home standards, including the decertification of 579 substandard facilities.—4,766 facilities have 6 months to correct deficiencies; 244 are in the process of certification with final action expected by August 15. 1,469 found in full conformity.

b. Signed S. 1163 initiating a new national nutrition program for the elderly; requested an additional $100 million in his FY 73 budget for nutrition and related purposes to be administered by AOA; and asked that public and private resources be marshalled in this effort. (i.e., space at federally assisted housing projects, skilled personnel from school lunch program.—S. 1163 became law March 22, 1972. Senate action on $100 million. AOA preparing state wide planning.

c. Launched Project FIND to locate and enroll those elderly who are eligible for but not participating in federal food assistance programs (i.e., food stamps and surplus commodities). The campaign will be conducted through use of a social security mailing and follow-up by the Red Cross.—Social Security mailed out in August. Red Cross training volunteers.

3. To enhance the independence of older Americans, the President:

a. Increased the 1972 budget of the Administration on Aging to $100 million for 1973—to provide homemaker, transportation, nutrition and community services.—H.R. 13925 passed House. Senate version passed Oct. 3.

b. Called for indefinite extension of the

Older Americans Act and proposed amendments to strengthen service delivery.—Ibid.

1. HEW would increase its financial support for the State Agencies on Aging and fund up to 90% of services costs and up to 75% of the administrative costs of new Area Planning Agencies on Aging.—Ibid.

2. State and Area Planning Agencies would plan to mobilize wide range of resources—public and private—to enhance the independence of older citizens.—Ibid.

c. Announced new procedures for interagency coordination of Federal resources which aid older persons. Under these procedures, Federal agencies will identify each year that portion of their resources they expect to spend the next year to help older persons meet their needs. State Agencies on Aging will use this information for more effective planning and delivery of services.—Three phase program of implementation: FY 73—5–10 program demonstrations; FY 74—expanded number of programs; and FY 75—fully operative.

d. Set up a system whereby nearly 885 social security district offices will provide information on benefits available to the elderly.—Literature distributed to district offices.

e. Asked the Domestic Council Committee on Aging to examine ways to use other government offices—such as the General Services Administration's Federal Information Centers and the Agricultural Extension Service's local offices—to expand the information and complaint centers.—Continuing action.

f. Urged action on the recent legislative proposal of the Secretary of Transportation that some of the Highway Trust Fund be used to finance mass transportation and asked the Secretary to develop specific suggestions for helping states and localities use a portion of these resources for the elderly.—Legislation submitted March, 1972. Senate passed in September.

g. Announced that the Department of Transportation will give priority to community requests for capital grants that aid the elderly from the Urban Mass Transportation Fund. The President urges states and localities to move immediately to take advantage of available resources.—Secretary Volpe sent letters to governors and mayors announcing priority for such requests.

h. Required that federal grants for services to older persons ensure that transportation needed to take advantage of these services is available.—HEW & DOT met in April to coordinate their activities.

i. Make housing money more readily available for older Americans. In fiscal 1972 and fiscal 1973 HUD will reach an all-time record in producing subsidized and insured housing and nursing homes.

1. 66,000 units of HUD-subsidized housing units are planned for FY 72 and an estimated 82,000 for FY 73.—Will meet 66,000 in FY 72.

2. 14,000 units under the Nursing Home and Intermediate Care Facility Program, are planned in FY 72 and an estimated 18,000 in FY 73.—FY 72 data firm Sept. 1.

j. HUD has also issued guidelines to make a number of its programs more responsive to the needs of the elderly.

1. Section 235 Homeownership advantages for elderly.—HUD circular to expand program to condominiums June, 1972. Also circular increasing allowable assets that seniors may have and remain eligible for subsidies.

2. Section 236 elderly.—Guidelines published.

3. Section 236 congregate.—Circular published.

4. Section 106(A) non-profit sponsor funds.—Circular published.

k. Announced that HUD will extend the mortgage maturity for the FHA insured nursing home program to a maximum of 40 years—enabling sponsors to "package" residential and nursing home complexes more easily.—Circular issued March 2, 1972. Is an active program. Packaging announced.

l. Requested HUD to work with the Administration on Aging to develop training programs in the management of housing for the elderly.—National Corporation for Housing Management is form. Met May 12th. 13 housing research contracts signed.

m. Directed the Secretary of HUD to encourage more space for senior centers in subsidized housing projects for the elderly.—Letter sent to field offices directing encouragement. Longer term action will depend on specific form of S. 3248.

n. Urged communities to consider the residents of federally assisted housing projects as a source of volunteer manpower for serving other older persons.—ACTION/HUD/HEW/NCVA agreement signed May 15, 1972.

4. To expand opportunities for more Older Americans to make meaningful contributions in all facets of society, the President:

a. Proposed legislation to expand ACTION's person-to-person volunteer programs to permit low-income elderly persons to work with children of special need in community settings and with Older Americans in nursing homes and in the community.—Legislation (H.R. 14828; S. 3450) was submitted in March, 1972.

b. Supported a national effort of volunteer organizations designed to help the elderly to remain in their own homes.—Received $88,000 grant for R and D. Held March meeting to hear progress report of the 203 ongoing local community efforts.

c. Tripled the Retired Senior Volunteers Program to $15 million, to involve 75,000 volunteers.—Are currently training state resource specialists. Will fund all 300 FY 72 projects by the end of September, '72.

d. Doubled the Foster Grandparents Program to $25 million, providing for 11,500 foster grandparents to serve 23,000 children per day.—All FY 72 projects funded.

e. Doubled the special job projects for older persons, such as Green Thumb and Senior Aides, to $26 million, to involve as many as 10,000 older persons.—All Mainstream funds under contract.

f. Will propose legislation to broaden the coverage of the Age Discrimination in Employment Act to include the fastest growing area of employment—the state and local governments.—Legislation sent to Hill in July, 1972.

g. Directed the Secretary of Labor to work on expanding employment opportunities for persons over 65 by urging the states and local communities to include older Americans in jobs provided by the Emergency Employment Act of 1971 and working with public employment offices to help open job opportunities in both the public and private sectors.—Guidelines disseminated. Implementation by States by August 1, 1972.

h. Will send a directive to heads of federal departments and agencies to emphasize the policy that age shall be no bar to a federal job which an individual is otherwise qualified to perform.—Memo drafted under review by Domestic Council.

5. To better organize the government to meet the needs of old Americans, the President has:

a. Created a new Domestic Council cabinet level committee on aging, chaired by HEW Secretary Richardson.—Action completed (August '71).

PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

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

COMMITTEE MEETINGS DURING SENATE SESSION TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture and Forestry, and the Committee on Rules and Administration be authorized to meet during the session of the Senate today.

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

SPENDING CEILING

Mr. PACKWOOD. Mr. President, we are soon to be asked to consider in this body, if the House passes it, a spending ceiling of $250 billion, which was referred to in some of the comments this morning by the Senator from Minnesota.

For the entire history of the United States and for 600 years prior to that time in Great Britain, one of the paramount assertions of the legislative bodies has been that they had the right to determine taxes and they had the right to determine expenditures. It was not the prerogative of the King and, until recently in this country, it was not thought to be the prerogative of the President. I would ask, therefore, that before we enter into very serious consideration of that legislation, we act warily and cautiously in what we do.

I ask unanimous consent that there be printed in the RECORD an editorial from the New York Times of September 29, 1972, entitled "Budget Cynicism," and an article by David B. Frohnmayer, who is assistant professor of law and special assistant to the university president of the University of Oregon.

Mr. President, I might say this is not an ordinary article. Professor Frohnmayer is the winner of the Samual Pool Weaver Constitutional Law Essay Competition sponsored by the American Bar Association, and the first prize is $5,000. Mr. Frohnmayer has won it for an article which bears directly on the subject of the delegation of powers by the Congress to the President. I think it might be one of the most illuminating articles for Members of Congress to read before they enter into this discussion.

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

BUDGET CYNICISM

No one likes to be the bearer of bad news. The financial bad news is that for the fourth straight year the Nixon Administration is piling up an enormous budget deficit. In the next year or two there will have to be a substantial increase in Federal taxes or a difficult reduction in Federal expenditures or some combination of the two.

The Nixon Administration and the Democratic leadership in Congress are now engaged in a series of maneuvers to avoid being identified by the public as responsible for this bad news. President Nixon began the maneuvering by putting out the story—through various White House assistants—that he could avoid any tax increase in the next four years if those irresponsible Democrats in Congress would keep spending down. To make this specific, he asked Congress to allow him to cut any Federal programs to hold total Government spending for this fiscal year under $250 billion.

The odds are good that Mr. Nixon never expected to obtain this authority. He could

then blame Congressional overspending when he asked for the inevitable tax increase. But then Representative Mills of Arkansas, chairman of the House Ways and Means Committee, decided to play this game, too. Under his leadership, the committee has voted to confer this authority on the President. If the President has what is tantamount to an item veto, the theory is that he—not Congress—will get the blame next winter and spring when he cuts six to ten millions out of existing programs.

Moreover, since even a cut of that magnitude will not bring the budget under effective control, Mr. Nixon will still be obliged to ask for the tax increase. Both Representative Mills and Representative Byrnes of Wisconsin, the retiring senior Republican member of the committee, have predicted that a tax increase is almost certainly unavoidable in the near future.

In place of all this cynical budget maneuvering, Mr. Nixon would do well to explain the truth of the fiscal situation, define the choices as he sees them and defend his judgment. He knows perfectly well that he cannot cut Social Security and Medicare payments, interests on the national debt, Government salaries, or veterans benefits. His aides have assured Congress that the payments to be made to state and local governments under the revenue-sharing bill that Congress is about to pass will not be deferred or reduced. Farm price supports and subsidies are, in part, mandated by law and could not be drastically reduced within a single fiscal year.

Where then is Mr. Nixon going to make these savings? He can cut back on aid to schools, on hospital construction and medical education, on highways and mass transit, on housing for the elderly and the poor, on parks and environmental protection, on manpower training and antipoverty programs. But how does he reconcile these budget cuts with his promises of aid to parents whose children are in private and parochial schools and relief to taxpayers who do not like local property taxes?

Mr. Nixon might explain whether he intends to cut the military budget and if so, how his cuts would differ from those suggested by Senator McGovern. He might explain whether he intends to continue those shipbuilding subsidies which have won him the acclaim of the maritime unions.

In short, making an honest budget and raising the revenues to meet it are the heart of governing. The President and the leadership of both parties in Congress owe the public a full explanation of their budget decisions and tax plans. Those questions deserve rational debate, not politically-inspired collusion and evasion.

UNIVERSITY OF OREGON,
Eugene, Oreg., September 26, 1972.

Senator BOB PACKWOOD,
Senate Office Building,
Washington, D.C.

DEAR BOB: For your information, I am taking the liberty of enclosing a copy of my submission which, much to my astonishment, recently won the $5000 first prize in the Samuel Pool Weaver Constitutional Law Essay Competition sponsored by the American Bar Foundation.

As you can see from the enclosed copy of the short Register-Guard editorial of last fall (which incidentally, I had collected in my reference materials preparatory to writing the essay), my ideas seem to coincide rather precisely with your own. I thought you might be interested.

Best personal regards,

Sincerely,

DAVID B. FROHNMAYER,
Assistant Professor of Law, Special Assistant to the University President.

"THESE PARCHMENT BARRIERS:" AN ESSAY ON THE VITALITY OF A CONSTITUTIONAL IDEA

"To what expedient, then, shall we finally resort, for maintaining in practice the necessary partition of power among the several departments, as laid down in the Constitution? . . . [T]he great security against a gradual concentration of the several powers in the same department consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others. . . . Ambition must be made to counteract ambition. The interest of the man must be connected with the constitutional rights of the place."—James Madison, (Publius) The Federalist No. 51.

I. INTRODUCTION

The bicentennial decade in American history is an appropriate time for reflection on the continuing vitality of the original constitutional theories underlying the nation's political structure. But an exploration of the current status of constitutional concepts in the United States is more than an academic exercise in nostalgia. Burning and unresolved questions regarding the legitimacy of governmental power to wage a bitterly divisive war, to impose pervasive regulation of the national economy, and to expand or restrict personal liberties all constitute the focal points of contemporary political controversy. Concerns about the exercise of such governmental powers inspired the framers of the Constitution to establish a clearly articulated and elaborate institutional architecture for the limitation of authority.

In only slightly oversimplified form, the three original components of the American constitutional structure are familiar to any student of elementary civics: Through the federal system, the exercise of governmental authority was to be divided between the national government and the states; in accordance with the principle of separation of powers, the operations of the national government itself were allocated among three independent institutions; and finally, by virtue of certain explicit restrictions in the body of the Constitution and in the Bill of Rights, governmental power was made subject to specific limitations in favor of individual liberty.

The original conception has been altered dramatically by the passage of time. In the almost two centuries which have since elapsed, the Civil War Amendments, the doctrine of incorporation, the growing political assertiveness of minority groups and a burgeoning judicial sensitivity to questions of personal liberty have all led to an expansion of constitutional protections in favor of the individual. At a rapidly accelerating pace following in the wake of a depression, two world wars, continuing international tensions, and the growth of an increasingly complex industrial society, the federal conception of shared power succumbed little by little to the practical realities of inadequate or unresponsive local government, to social and economic problems of nationwide scope, and to the evolution of new Constitutional theories, most notably those invoking the Commerce Clause,[1] which insured that national power to address any given problem would be virtually plenary. Finally, this same period witnessed the phenomenal growth of Presidential power and diminution in the original fears of legislative tyranny articulated by the framers.[2] There is indeed a growing sense of agreement that in terms of the original conceptions of the framers, the most unsettled and the most important substantive constitutional issues which remain are those concerning the allocation between the executive and legislative branches of the awesome array of national governmental powers. The most pressing problem, in constitutional theory, and political impact lies not in determining the extent or the definition of such powers, singly or in the aggregate. Rather, this essay addresses those perennial questions regarding the proper forums for resolving jurisdictional disputes between constitutionally coordinate branches of the national government in the exercise of such powers.

The resolution, it is submitted, lies not so much in elaborating novel doctrines and techniques of legal analysis, as much as it inheres in the adaptation of traditional constitutional conceptions to the institutional realities of twentieth century America. The proper resolution has more to do with a mode of thinking about constitutional problems in light of the constitutional structure of powers than it does with the intricacies of legal doctrine. A living Constitution, after all, is shaped as much by the minor encroachments, practical operations, and continuing adjustments of daily institutional relationships as it is by the occasional landmark judicial decision.

A Constitution is inescapably the embodiment of a political theory. It takes no great insight, therefore, to conclude that principles which guide determinations as to the allocation of power under that Constitution are implicitly theories of political organization. Given the existence of a written text, almost two centuries of historical experience, and body of Supreme Court Judicial doctrine, these legal principles can no longer be woven out of whole cloth. And likewise, no analysis can proceed without an appreciation of the present realities of political power; a task which, no doubt, would be much simpler were those realities ever to be perceived identically by any two observers.[3] But political consensus can help to maintain Constitutional authority; and a system of dispute resolution which becomes so obscured with legalisms that it is incomprehensible to the citizen endangers at the same time both its efficacy and the political utility of a constitution itself.

One further and related introductory caveat is in order. Lawyers, particularly, may take too much comfort in de Tocqueville's comment (which, after all, was a sociological observation more than a paen of praise) that Americans tend to transmute all political controversies to legal, and ultimately to constitutionally justiciable questions. As war is too important to be left to generals, so the Constitution is too important to be left to the lawyers, at least to lawyers alone. Commentators eager to argue the constitutionality of governmental action thus all too often do not pause to consider anew the alternative methods by which a political system might decide such issues. Rarely do decisions concerning the allocation of national power between President and Congress proceed in view of a consistent theory of political and constitutional structure. Partly because of the impact of a tragic and unpopular war in Indochina, the political merits color views as to the meaningfulness and propriety of a judicial decision on the issue. However, if the principle of legality means anything at all, issues must be analyzed in a context broader than the particular events which compel their consideration. It is in fact (depending on one's view of the merits) not "political cowardice", and yet it is something wholly apart from more traditional notions of "wise judicial statesmanship" and "judicial self-restraint" to suggest that important issues concerning the allocation of constitutional powers can be determined without reference to the Federal Courts, judicial review, and quasi-theological disputations over the meaning of the "political questions" doctrine.[4] Nor is it escapist or irresponsible to

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suggest that the institutions of the Presidency and Congress must themselves bear primary responsibility for drawing many jurisdictional lines. All governmental officials, not just Supreme Court Justices, are oath-bound to support the Constitution; and the first step toward the reassumption of coordinate constitutional authority is a clear assignment of constitutional responsibility.

A preliminary analysis can thus be set forth which deemphasizes the judicial role and which particularizes the contexts within which the forums for decision must be chosen. It explicates the role of constitutional structure, including the contemporary relevance of the separation of powers doctrine, and possesses the inestimable advantages of candor, political viability, and historical legitimacy.

In short, a new Federalist for the twentieth century would demand discovery of new doctrines of justiciability less than it would require a respect for existing constitutional architecture coupled with the willingness of each respective institution, particularly the Congress, to assert itself appropriately. That the concept of coordinate powers is no dead letter was recently reaffirmed when the Senate abruptly withheld its constitutional power of "consent" to two successive Supreme Court nominations by the President. This was not an adjudication; it was, however, a "constitutional" decision of historic moment.[5]

II. THE PERSISTENCE OF THE SEPARATION OF POWERS DOCTRINE

Historical experience has put to rest the founders' fear that the greatest threat to constitutional balance would lie in "legislative despotism". The story of the expansion of Presidential power in the twentieth century through the resourcefulness of "strong" Presidents, the continuance of historical forces favoring unified leadership, and the delegation, if not abdication, of Congressional power has been adequately chronicled elsewhere.[6] The extent of the shift to executive power is now so great as to throw into question the continuing viability of the separation of powers doctrine. Although the doctrine is not without its strong defenders,[7] an early burial of the concept would hardly disappoint some distinguished critics. Kingsley Martin noted the American version of Montesquieu's theories and added: "no device was ever so hampering as the separation of powers." [8] Herman Finer has argued that Montesquieu's theory "drew the United States into a system of government, of which one may say at the best that the people are happy in spite of it . . . ." [9] Karl Lowenstein termed the doctrine a product of "mechanistic thinking," and, in the twentieth century, "obsolete and devoid of reality." [10] The latter author adds:

"Where political power is concentrated in the hands of a strong executive, . . . the concept of shared political power that the separation idea implies is so clearly incompatible with the reality of the executive ascendancy that the concept is flouted in practice." [11]

Though there is now convincing evidence that the separation of powers concept was not engrafted mechanistically from Montesquieu's theorizing but had solid and pragmatic roots in the American Colonial experience,[12] the question remains whether the doctrine is still an intelligible constitutional theory. In fact, in the current age, the doctrine is notable not for its demise, but, at least in the rhetoric and reasoning of landmark Supreme Court decisions,[13] for its extraordinary resilience. Unless there is to be an unbridgeable hiatus between constitutional doctrine and political reality, no theorizing can fail to come to grips with this apparent anomaly. The opinions, however, provide little theoretical discussion about the contemporary meaning of the doctrine itself.

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Obviously, there is considerable question how long a doctrine frequently misunderstood both by its critics and by its adherents can be expected to survive. Criticism based on the theoretical clash between the notions of separation and cooperation among coordinate branches largely disappears when it is demonstrated that complete separation was never intended, and that overlapping functions were deliberately created.[14] Indeed, the Federalist political theory of institutionalizing interest conflicts could not be expected to work without large degrees of overlap. Yet the doctrine is also oversimplified if it is seen as establishing analytically distinct categories of governmental functioning.[15] If this view were literally compelled by the Constitution, and if separate functions must remain in separate institutions, it is difficult to see, for example, how the Congress could constitutionally establish the administrative agencies. Such agencies possess power to make rules—to "legislate" for the future by selection of broad policy goals—and to apply that policy by investigating and adjudicating the cases of alleged violators—in short, to perform "executive" and "judicial" functions.[16] If the categories are literally to be distinct, then addition of the prefix "quasi" before the function is surely both analytically faulty, and constitutionally hypocritical.

In fact, the functions, as actually performed by the various branches of the national government, overlap considerably. The President has "legislated" (albeit sometimes within broad limits set by Congress) by veto, by establishing war policies involving naval blockades,[17] by setting tariff policies,[18] and by imposing pervasive controls on the nation's economy.[19] The Supreme Court surely performs major tasks of policy articulation indistinguishable in end result from legislation when it sets out general rules of automobile safety [20] or exclusionary rules of criminal procedure.[21] And the Congress, although not without limitations, exercises explicit and immense powers of "adjudication" over its internal affairs.[22]

But an analysis of the legitimacy of the exercise of these separated powers which proceeds by attempting to elaborate functional characterization of the end product as judicial, legislative or executive in nature is surely unsound. The branches and functions of government are distinguishable not by the impact of the end product of the activity, but by the process of decisionmaking, the modes of information-gathering, and the methods of constitutional accountability to the public which are appropriate to each.

The fact that one function shades inescapably by degrees into another is not fatal to a conception of separated powers properly understood.[23] The founders did not emulate the framers of the Massachusetts Constitution [24] and attempt to exclude the exercise of the power of one organ by another. In light of this flexibility, and the deliberate creation of this tripartite structure to prevent "tyranny," [25] neither the purpose nor the workability of the doctrine need be in question. To the charge that the separation of powers is inefficient and that it promotes the politics of institutionalized acrimony, it should be sufficient answer that the purpose of the framers to prevent tyranny retains its normative force, and that the government was not designed for the personal working comfort of federal officeholders, but to enhance the liberty of the citizen.

It is thus fruitless to seek a full understanding of the separation of powers doctrine by reference to institutions which correspond to a set of hermetically sealed functional categories of government. It seems abundantly clear, as recent interpretive studies have emphasized, that the Constitution created not a government of separated powers, but rather a government of separated institutions sharing powers.[26] It is equally fruitless to seek enlightenment by reference to the text of the Constitution. With respect to the few textual provisions mostly in Article II, enumerating presidential powers, the words of the distinguished commentator are particularly apt:

". . . [W]hat is astonishing is their total inadequacy to support the office as we know it today." [27]

The issue is further clouded, even for the judicial literalist, by the ancient dispute as to whether the words "executive power" in Article II constitute an independent, if vague, grant of authority, or whether they are mere referent to the few specifically enumerated powers of the President.

If constitutional questions of the allocation of powers cannot be decided exclusively by an analysis of separate governmental functions, and if the text of the Constitution provides no definitive resolution, how then should such jurisdictional decisions be made? One much-quoted attempt was articulated by Justice Jackson in the *Steel Seizure Case*.[28] Justice Jackson posited a theory of fluctuating power over national policy making as between the President and Congress. According to the theory each branch possesses a zone of constitutionally exclusive powers in which it may act even against the express contrary will of the coordinate branch. In between these two exclusive areas, however, there is a "zone of twilight" in which the President and Congress may have concurrent authority, or in which the power distribution is uncertain. In the twilight zone, either branch can act absent the initiative of the other. Accordingly, with respect to the operative presumptions, greater deference would be accorded a Presidential action taken pursuant to an express or implied authorization of Conrgess. Conversely, Presidential power would be at its lowest ebb if incompatible with the express or implied will of Congress.

This scheme of analysis is, however, subject to several significant qualifications. First, it neglects to account for the set of constitutional limitations on Presidential power, with or without the concurrence of Congress, which restricts the ability to act because the action may thwart the Bill of Rights, rather than the principle of separation of powers. Second, the analysis is principally stated as the formulation of a judicial doctrine which, for reasons already discussed, may not cast the question into the proper forum. Third, the statement notes that exclusive powers of a department can be *"implied."* The deceptive simplicity of this analysis suddenly vanishes in the face of all of the myriad constitutional disputes over what powers may legitimately be "implied." Finally, the boundaries between the "exclusive" zones and the twilight zone may well be unascertainable, at least with respect to warmaking powers, because ". . . the extensive authority of each branch to formulate military policy, and the inescapable ambiguity of the constitutional language, make exclusive zones illusory." [29]

The current tests for the allocation of national power all suffer from serious deficiencies unless they focus on the countervailing powers purposes of constitutional architecture. If the separation of powers doctrine is to be implemented effectively, it must be seen not as a technical guide to litigation but as a purpose for institutional action. Before discussing the mechanisms for that action, however, it is necessary to examine briefly the causes of the current power imbalances between Congress and the executive.

III. DELEGATION AND USURPATION

Congressional power, like chastity, is rarely taken by force, seldom lost, and almost always given away. Although there have been notable atempts by the executive to "usurp" constitutional powers allegedly inhering exclusively in the Congress,[30] the vast bulk of the powers wielded by the President are granted not by the Constitution but by

congressional legislation.[31] These delegations of power occurred partly because of certain inherent advantages of an executive office: the ability to fill in details, continuity in office, flexibility of timing, capacity to serve as a channel of communication to foreign nations, ability to coordinate a unified governmental response, and speed in decision-making.[32] Yet the executive undoubtedly was also delegated power for the crasser reasons that Congress was unwilling or unable to resist political pressures or assume responsibility for the political consequences of controversial actions.[33]

Together with the expansion of executive power and the loss of congressional initiative in policy making has come a parallel trend toward centralization of power even within the executive. The enlargement of the size and policy functions of the White House staff, the creation of the Office of Management and Budget, and the proposals for continuing consolidation of Cabinet and sub-Cabinet agencies demonstrate the executive's commitment to political initiative even as they portend greater isolation of decision-making power in national policy matters. In view of these developments, the constitutional difficulties posed by a continued pattern of congressional delegation of authority bear closer examination.

Undue delegation may threaten the principle of constitutional separation of powers as vitally as any attempt by one entity to exercise the "exclusive" powers of another. The obvious difference in formulating the issue is that in the first case, the complaint is excessive *cooperation* between two branches rather than usurpation. Both, however, threaten the conception of shared, controlled power.

The sequence of events by which judicial standards evolved to justify the constitutionality of legislative delegation is beyond the scope of this essay to relate. Supreme Court litigation established that delegated power was legitimate if it involved "finding facts" or "filling in details," or if it utilized an "intelligible principle," contained "standards" or "legislated as far as reasonably practicable."[34] Apart from the abberations of the *Panama*[35] and *Schechter*[36] decisions, however, the doctrinal tests have served in every case to justify the delegation. In view of the breadth of the subsequent *Yakus*[37] decision, it is probable that broad delegations of authority to the President, including those under the Economic Stabilization Act of 1970,[38] will continue to be sustained. In the future, the decisive "delegation" questions for Supreme Court litigation will turn on the complicated interpretative task of determining through legislative history and administrative practice not the *validity* of the delegation, but its legitimate *extent*.[39]

This development, however, and newer discussions of the delegation problem[40] are salutory from the point of view of constitutional theory. These techniques eschew unmanageable judicial incantations about "standards." They focus on the legislature's actual role in policy making. And, most significantly, they emphasize concepts of procedural safeguards, control, and accountability by which both citizens participation and continuing legislative involvement in the administrative process can prevent effective usurpation of power by one branch of government alone. This objective—effectively shared governmental responsibility for basic policy choices—lies at the heart of the separation of powers theory and the proscription against "excessive delegation."

Inescapable difficulties in applying these concepts should not, however, be overlooked. It may be as difficult to determine whether and when power has been shared as it is to determine when Congress, by equivocal acts, or even by silence, has spoken. The legal debate over the war in Indochina raises such difficulties in interpretating the significance of Congressional action and the proper ambit of constitutional authority in foreign policy and military matters. Despite the exhaustive research and erudite argument from all quarters, the views of the commentators,[41] taken together, compel no firm conclusion as to the constitutional propriety of governmental action in conducting the war. Difficulties of sanding aside, litigated cases to date[42] have held that congressional action and involvement has been sufficient to sustain the validity of Presidentially authorized military action.

If it is determined that such action is in a field of concurrently shared powers,[43] and *if* by examination of inherently equivocal legislative action and Presidential interpretation, it can be determined that the constitutionally coordinate branch played some arguably significant role in policy formulation or implementation, it is indeed difficult to see the respects in which there remains a role for the judiciary in resolving the issue. Absent a stronger repudiation by Congress, or an unequivocal determination that congressional power in the field is exclusive, can it indeed not be argued that with respect to separation of powers questions, *there is no constitutional issue?*

Conceding this point concedes no further power to the executive branch. It serves merely to cast the constitutional issue respecting the separation of powers in proper perspective. On issues involving the distribution of concurrent power, if Congress wishes to contest the constitutional propriety of executive policies, it must do so itself, and do so by affirmative action. At least in terms of the institutional mechanisms available, there are hopeful prospects for meaningful congressional action to reassert a shared legislative role in the exercise of national power.

IV. THE ROLE OF CONGRESS

Many of the same historical forces which have led to executive ascendancy will continue to handicap the legislature in its efforts to compete more equally with the powers of the executive branch. Yet the Legislative Reorganization Act of 1970 has already demonstrated that internal reform of procedures enhances the effectiveness of the institution. Advocates of congressional activism have been quick to suggest increased utilization of traditional techniques of congressional oversight. They urge expanded and upgraded staff capacity, improved research and reference capabilities, and a vastly enlarged General Accounting Office to compete with the budgetary analysis resources of the executive branch. Traditional oversight devices such as the investigatory hearing can be coupled effectively with the "legislative veto"—the requirement that an affirmative committee or concurrent resolution approve the continuance of particular executive action.[44] Congress might, in addition to these techniques, proceed more cautiously in its willingness to phrase delegations of authority in sweeping terms. And by limiting the lifespan of authorizing legislation, it could force periodic congressional program review and executive agency accountability.

But underlying all of these techniques, and most important among them is the congressional power of the purse. Congress can meet the serious constitutional challenge of Presidential impounding of appropriated funds[45] by the constitutional response of withholding appropriations high on the executive's list of priorities.[46] Refusal by the executive to release to a Senate Committee information on foreign military aid plans can result in action, pursuant to legislation, which forces termination of assistance funds or the President's formal claim, with a statement of reasons, of the doctrine of "executive privilege."[47] These, again, are *constitutional* decisions. They demonstrate the continuing validity of the concept of checks and balances. And they decide questions regarding the allocation of constitutional powers effectively and validly, but by use of political control, not judicial doctrines.

Constitutional constraints of this nature also operate in less dramatic and visible modes. Legislative bodies can and do exercise a panoply of informal controls at the legislative and executive agency staff levels, and through the network of relationships familiar to anyone who has observed the operations of the Federal executive bureaucracy. Yet entrenched and effective as these powers of control are, the legal theorist ironically, has never been quite comfortable with their existence. This disquiet is no doubt due, in part, to the relative invisibility of the process, and to the lawyer's lack of familiarity with the political scientists' revelations. But no doubt, also, the process escapes attention because its explication usually lends itself more to the vocabulary of the sociology of group interaction than to the analytical concepts of legal theory.

Nonetheless, the aggregate of all these controls achieves a result which the framers surely would have approved as a commendable result of the institutionalized separation of powers. Several conclusions are thus compelled. First, it is clear that the mechanisms constitute powerful weapons for the enforcement of congressional policy. Second, it is also clear that congressional power, thus exercised can affect major issues, even in the era of "Presidential Government." And finally, as this essay has repeatedly observed, it is also clear that these techniques for sharing in the formulation of policy and exercise of power operate much more quickly and decisively than could any attempted resolution in a judicial formum. It appears evident, then, that any failure by Congress to assert an effective constitutional role is a failure of will and institutional vision rather than one of capacity.

V. THE ROLE OF THE COURTS

No court decision can supply a branch of government with the will to act. And since, a system of shared powers depends for its vitality on such assertiveness, judicial institutions necessarily play a subsidiary role in the allocation of the right to exercise national power. It is wholly proper to demand that the President and Congress each be primarily responsible for protecting and asserting constitutional prerogatives. But because third parties may well have a stake in decisions concerning the respective jurisdictions of the legislative and executive branches, the courts, too, must occasionally adjudicate, and by implication, allocate constitutional powers.

Intricate questions of standing and justiciability and the policy debates relevant to the wisdom of judicial intrusion into "political" matters would permeate a fully adequate discussion of the judicial role. Of necessity, examination here must be brief, and conclusions writ large. In spite of all the doctrinal technicalities, there exist recent and authoritative assertions that "[n]o case thus far has held that a legislative-executive conflict is non-justiciable,"[48] and that the Supreme Court has already served as "umpire between Congress and the president."[49] In fact, fact, however, the instances wherein issues of the allocation of congressional and presidential power have been squarely litigated are so few that case law precedent yields no compelling rationale.

Apart from whether wisdom dictates abstention from Supreme Court decision-making in these isues, it is clear that the contexts of disputes over the allocation of power vary dramatically. Accordingly, no single formula for court adjudication of such questions is appropriate. Certain critical considerations readily occur:

1. It is important to distinguish whether an action is challenged solely because it violates the separation of powers doctrine, or

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because, although the action is arguably undertaken by the wrong branch, or without the proper concurrence of another branch, it nonetheless also violates the Constitution because it is in derogation of general limitations on the scope of governmental power. Presidential action usurping a congressional power and violating the First or Fourth Amendment protections of an individual is obviously not legitimated by explicit congressional concurrence.[50] Some such considerations may, in actuality, underlie questions of the "standing" of a soldier to question the legality of the war in Indochina. At some point, the threat of injury may create the equivalent of a due process claim in addition to the generalized assertion of illegality by virtue of an arguably unconstitutional exercise of warmaking power by one branch.[51] The two constitutional claims should, however, be distinguished. It is, in reality, the Bill of Rights assertion which here gives the argument for judicial determination its compelling force.

2. The status of the party or entity asserting the claim is obviously critical, as is the status of the entity against whom the claim is pressed. Putting aside all the difficulties involved in suing the President, *eo nomine*,[52] there is an obvious difference between the coordinate branch itself claiming a violation, and the position of a third party injured by the action. Apart from the greater ability of Congress to protect its jurisdiction by political means, it would be incongruous for Congress to ask the Court to determine whether the record shows that Congress gave the President adequate support in the exercise of a concurrent power. At the very least the logic of constitutional structure demands that Congress speak with clarity before adjudication between contrary and inconsistent positions is permitted.[53] If Congress does not speak, it simply can assert no constitutional violation, whatever be the position of private parties. If the Congress and the President have both spoken, and if a third entity is thereby requested to act in inconsistent ways to respect these conflicting orders, the case for Supreme Court jurisdiction of the issue is obviously at its strongest.

3. It follows from the preceding point that the ability of the coordinate branch to speak at all on an issue and thereby share power may be critical to the assumption of Supreme Court jurisdiction. This becomes a vital consideration in perplexing issues involving the President's alleged "emergency" powers. In the *Prize Cases* [54] it was not contemporaneous participation, but subsequent legislative ratification which bore heavily in favor of the legality of Presidential action.

4. A traditional distinction bearing on the allocation of powers between branches of government descends intellectually from the sovereignty theories of Bodin and Austin, and accords to the national government inherent and virtually unlimited powers in foreign affairs.[55] Although the *Curtiss-Wright* doctrine does not of itself address questions of proper power allocation, it undercuts any clear limitations based on prohibited delegation and destroys the utility of a literalist approach to the specific grants of foreign affairs of warmaking powers to each branch.

5. The case for assumption of an umpire's role by the Court has also been argued in the instance where one branch usurps the "exclusive" powers of another. For reasons already elaborated, with respect to Justice Jackson's analysis in the *Steel Seizure Case*, however, contextual finding of an "exclusive" power must first overcome the twin difficulties of textual vagueness and the deliberate overlap of constitutional jurisdictions.

6. In a situation where excessive delegation of power is at issue, the third parties should be free to request judicial intervention. Although it is unlikely that such a challenge would succeed on the merits, the argument rests on an assertion that the separation of powers has not been respected. Since the possibility of undue court intrusion into a conflict between coordinate branches is, by definition not present when the constitutional claim is excessive cooperation, judicial resolution of the respective institutional jurisdictions carries few risks of impropriety.

7. Finally, there exists a separate set of considerations respecting the appropriateness of adjudicating matters concerning the "internal" affairs of the respective branches. Two distinct separation of powers issues are here presented. The first is the propriety of the Court itself intruding into the issue. The second relates to the obvious point that few matters in modern government are truly exclusively "internal." Herein lies the significance of the debate over the scope of "executive privilege." [56] Here again, both existing doctrine [57] and analysis of constitutional structure suggest that a single formula for resolution is inappropriate. A congressional request may carry greater force than that of a private citizen.[58] These issues will not be resolved here. Suffice it only to note that although Congress has political methods of redress not available to the citizens, it also has stronger claims of public necessity to use such information in furtherance of its constitutional duties.

VI. POSTSCRIPT

The form a government assumes is not dictated by inevitable forces, nor does it always remain loyally frozen into a given historical mold. The present theory of governmental structure retains viability because it preserves freedoms of value to its citizens. Existing threats to this structure can be met only by a greater constitutional awareness of the actors within it. The role of the Supreme Court is not derogated by the demand that Congress self-consciously assume a greater role as an agent of constitutional decision-making. Herein lies the strength and value of the doctrine of shared national power; herein also lies the road to a more perfect union of legal theory and political life.

FOOTNOTES

[1] U.S. Const., art, I, § 8, cl. 3; Wickard v. Filburn, 317 U.S. 111 (1942). See R. Stern, The Commerce Clause and the National Economy, 1933–1946, 59 Harv. L. Rev. 645, 833 (1943).

[2] See R. Berger, Congress v. The Supreme Court, 8–16 (1969).

[3] Those who observe Clemenceau's dictum that "politics is the art of the possible" do not err in the theoretical formulation of one valid criterion of action. Rather, because they invariably utilize the maxim as an excuse for abstention and for limiting the scope of duty to act, they fail to apply creative imagination. Political "realists," in this sense, judicial or otherwise, are often suspect not for observing crass and cynical standards, but because they may fail to perceive accurately where the boundaries of the politically "possible" really lie. In light of these difficulties, there is much to commend the consistently literalist views of the late Justice Black on the Bill of Rights. While his position expands greatly the *power* of the Court to assert its role, it at the same time serves to limit the range of judicial *discretion*. The latter is at least as likely to engender political controversy as the former.

[4] See *e.g.*, M. Finkelstein, Judicial Self-Limitation, 37 Harv. L. Rev. 338 (1924); M. Weston, Political Question, 38 Harv. L. Rev. 296 (1925); M. Finkelstein, Further Notes on Judicial Self-Limitation, 39 Harv. L. Rev. 221 (1925); K. Tollett, Political Questions and the Law, 42 U. Det. L.J. 439 (1965); A. Bickel, Foreward: The Passive Virtues, 75 Harv. L. Rev. 40, 46 (1963); F. Scharpf, Judicial Review and the Political Question: A Functional Analysis, 75 Yale L.J. 517 (1966).

[5] In the designs of the framers, the checks and balances system of the separation of powers was articulated with far greater clarity than the specific institution of judicial review. *Compare The Federalist*, Nos. 47–51 with *The Federalist*, Nos. 78–82.

[6] See generally, C. Rossiter, The American Presidency (2d ed. 1960); R. Neustadt, Presidential Power (1960); L. Fisher, Delegating Power to the President, 19 J. Pub. L. 251 (1970).

[7] See A. Vanderbilt, The Doctrine of Separation of Powers and its Present-Day Significance (1953); Gwyn, The Meaning of the Separation of Powers. See also D. Keir, The Constitutional History of Modern Britain, 533 (8th ed. 1966), questioning certain modern developments in parliamentary democracy.

[8] K. Martin, French Liberal Thought in the Eighteenth Century, 165 (1949).

[9] H. Finer, I, Theory and Practice of Modern Government, 161 (1949).

[10] K. Lowenstein, Political Power and the Governmental Process (2d ed. 1965).

[11] *Id.* at 390. The author then continues with a passage which demonstrates a rather complete misunderstanding of the American version of the separation doctrine:

"But even in the United States, where the separation of powers scheme is still valid, the borderlines have become obliterated; Congress is constantly *encroaching* on the *presidential prerogative*, for example, in foreign policy, by the *powers of the purse*. The president *usurps* congressional functions, for example, by initiating, guiding, and *vetoing* legislation." (emphasis added) *Id.*

This statement overlooks the sophistication of a Madison, who nowhere remotely envisioned a complete separation of powers. See The Federalist, No. 47 (Rossiter ed. 1961); B. Wright, Jr., The Origins of the Separation of Powers in America, in J. Roche, ed., Origins of American Political Thought, 139 (1967). Moreover, it is precisely the assertion by each branch of its constitutionally enumerated powers which belies accusatory epithets respecting usurpation and encroachment.

[12] See B. Wright, *supra* note 11.

[13] See, *e.g.*, Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579 (1952), United States v. Brown, 381 U.S. 437, 441 (1965); Powell v. McCormack, 395 U.S. 486 (1969); New York Times Co. v. United States, 91 S. Ct. 2140, 2142 (1927) Opinion of Mr. Justice Black).

[14] See The Federalist, Nos. 47–51 (Rossiter ed. 1961).

[15] See, *e.g.*, language in Justice Black's opinion in Youngstown Sheet & Tube Co. v. Sawyer, supra note 13, exemplifying the notion that categories such as "lawmaking" clearly separate the constitutionally permissible functions of the separate branches.

[16] See Powell, Separation of Powers: Administrative Exercise of Legislative and Judicial Power, 27 Pol. Sci. Q. 215 (1912). *Cf.* Leventhal, J. in Amalg. Meat Cutters v. Connally, CCH Economic Controls Rptr., 9865, 9868 (D.D.C. 1971):

"There is no analytical difference, no difference in kind between the legislative function—of prescribing rules for the future—that is exercised by the legislature or by the agency implementing the authority conferred by the legislature. The problem is one of limits."

[17] The Prize Cases, 2 Black 635 (1863).

[18] See Field v. Clark, 143 U.S. 649 (1892).

[19] See Yakus v. U.S., 321 U.S. 414 (1944) and Executive Order No. 11615 (August 15, 1971) *superseded by* Executive Order No. 11627 (October 15, 1971).

[20] See Baltimore & Ohio R.R. v. Goodman, 275 U.S. 66 (1927), *limited by* Pokora v. Wabash Ry., 292 U.S. 98 (1934) (Supreme Court's "stop, look and listen" rule).

[21] See Mapp v. Ohio, 367 U.S. 643 (1961); Miranda v. Arizona, 384 U.S. 436 (1966).

[22] See Powell v. McCormack, 395 U.S. 486 (1969).

[23] L. Jaffe, Judicial Control of Administrative Action, 28–33 (1965).

[24] Mass. Const., art. XXX (1780).

[25] The Federalist, No. 47 (Rossiter ed. 1961); Myers v. United States, 272 U.S. 52 (1926); United States v. Brown, 381 U.S. 437, 443 (1965).

[26] R. Neustadt, Presidential Power, 33 (1960); H. Monaghan, Presidential Warmaking, 50 B.U.L. Rev. 19, 24 (1970).

[27] C. Black, Perspectives in Constitutional Law, 55 (Rev. ed. 1970).

[28] Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 653 (1952).

[29] L. Ratner, The Coordinated Warmaking Power—Legislative, Executive, and Judicial Roles, 44 S. Cal. L. Rev. 461, 462 (1971). Despite the distinction of its authors, and the weighty authority of its argumentation, these substantial difficulties ultimately detract from the constitutional conclusiveness of the so-called "Yale Paper," Part II, 116 Cong. Rec. S7591–S7593 (May 21, 1970). In view of the argument of this essay, however, it is significant and wholly proper that the constitutional argument was self-consciously directed to the Congress, and not to a court.

[30] *E.g.*, the Steel Seizure Case.

[31] C. Black, *supra* note 27 at 57.

[32] See generally, D. Morgan, Congress and the Constitution: A Study of Responsibility (1966); L. Fisher, *supra* note 6.

[33] L. Fisher, *id.* at 261–64.

[34] See generally, W. Gellhorn and C. Byse, Administrative Law, 47–68 (5th ed. 1970).

[35] Panama Refining Co. v. Ryan, 293 U.S. 388 (1935).

[36] Schechter Poultry Corp. v. United States 295 U.S. 495 (1935).

[37] Yakus v. United States, 321, U.S. 414 (1944).

[38] P.L. 91–379, 84 Stat. 799, as amended, 85 Stat. 13; 85 Stat. 38. There is little to add to the comprehensive and scholarly discussion of the delegation doctrine by Judge Leventhal in Meat Cutters v. Connally, *supra* note 16.

[39] See, *e.g.*, Zuber v. Allen, 396 U.S. 168 (1969); Zemel v. Rusk, 381 U.S. 12 (1965).

[40] See, *e.g.*, K. Davis, A New Approach to Delegation, 36 U. Chi. L. Rev. 713 (1969); L. Jaffe, Judicial Control of Administrative Action, Ch. 2 (1965).

[41] See authorities collected in H. Monaghan, Presidential Warmaking, 50 B. U. L. Rev. 19 n. 2 (1970); L. Ratner, The Coordinated Warmaking Power—Legislative, Executive, and Judicial Roles, 44 S. Cal. L. Rev. 461, 462–467 (1971).

[42] See, *e.g.*, Orlando v. Laird, 443 F. 2d 1039 (2 Cir. 1971).

[43] The point is obviously not conceded by all critics of Indochina involvement.

[44] For discussion of the techniques for asserting congressional authority, see generally L. Fisher, *supra* note 6 at 278–82; Giannane. The Control of Federal Administration by Congressional Resolutions and Committees, 66 Harv. L. Rev. 569 (1953); D. Morgan, Congress and the Constitution, Ch. 15 (1966); A. Vanderbilt, The Doctrine of Separation of Powers and Its Present-Day Significance, 70, 123–24 (1953).

[45] See Fisher, The Politics of Impounded Funds, 15 Admin. Sci. Q. 361 (1970).

[46] A recent Senate foreign aid authorizations bill contains a provision for withholding of foreign aid funds unless the President releases impounded funds previously approved by Congress for domestic programs, *Washington Post*, December 22, 1971, § A, p. 2, col. 6.

[47] See *Washington Post*, September 21, 1971, § A, p. 1, col. 3.

[48] R. Berger, Impeachment for "High Crimes and Misdemeanors," 44 S. Cal. L. Rev. 395, 448 (1979).

[49] N. Nathanson, The Supreme Court as a Unit of the National Government: Herein of Separation of Powers and Political Questions, 6 J. Pub. L. 331, 332 (1957).

[50] See New York Times Co. v. United States, 91 S. Ct. 2140 (1971); United States v. United States Dist. Ct. for E. D. of Mich., 444 F. 2d 651 (6 Cir. 1971), *cert. granted*, 91 S. Ct. 2255 (1971).

[51] *Cf.* L. Ratner, supra note 29 at 480–81.

[52] See Velvel v. Nixon, 415 F. 2d 236 (10 Cir. 1969), *cert. denied*, 396 U. S. 1042 (1970).

[53] This may be one means of reconciling the difficulties posed by the "removal power" decisions in Myers v. United States, 272 U.S. 52 (1926) and Humphrey's Executor v. United States, 295 U.S. 602 (1935). While the difficulties of distinguishing law making and executive functions remain, in *Humphrey's Executor* Congress had spoken with greater clarity and in a field in which it had exercised plenary power. This arguably justifies both the assumption of Supreme Court jurisdiction, and the decision on the merits. Otherwise a legislative scheme for the exercise of power by Congress in a field it had already occupied would *pro tanto*, be frustrated. Even here, however, private parties, not the Congress, asserted the violation of constitutional prerogatives.

[54] 2 Black, 635 (1863).

[55] United States v. Curtiss-Wright Export Corp., 299 U.S. 304 (1936).

[56] See Younger, Congressional Investigations and Executive Secrecy: A Study in the Separation of Powers, 20 U. Pitt. L. Rev. 755 (1959); J. Bishop, The Executive's Right of Privacy: An Unresolved Constitutional Question, 66 Yale L.J. 477 (1957); R. Berger, Executive Privilege v. Congressional Inquiry, 12 U.C.L.A. L. Rev. 1043, 1287 (1965); P. Hardin, The Executive Privilege in the Federal Courts, 71 Yale L.J. 879 (1962).

[57] United States v. Reynolds, 345 U.S. 1 (1953).

[58] See Soucie v. David, 448 F.2d 1067, 1071 n. 9 (D.D.C. 1971). *Cf.* Committee for Nuclear Responsibility v. Seaborg, 40 U.S. L. Week 2249 (D.D.C. 1971).

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 o'clock tomorrow morning.

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 second assistant legislative clerk proceeded to call the roll.

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

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

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 1187, 1195, 1196, 1198, 1199, and 1201.

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

CONSTRUCTION OF IRRIGATION DISTRIBUTION SYSTEMS

The bill (H.R. 9198) to amend the act of July 4, 1955, as amended, relating to the construction of irrigation distribution systems, was considered, ordered to a third reading, read the third time, and passed.

AUTHORIZATION FOR DAVID MINTON TO APPEAR AS A WITNESS IN THE CASE OF THE UNITED STATES AGAINST BREWSTER, ET AL.

The resolution (S. Res. 373) to authorize David Minton, a staff director and counsel of the Committee on Post Office and Civil Service, to appear as a witness in the case of the United States against Brewster, et al., was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

Whereas in the case of the United States of America against Daniel B. Brewster, et al. (criminal action numbered 1872–69), pending in the United States District Court for the District of Columbia, a subpena ad testificandum and duces tecum was issued by such court addressed to David Minton, staff director and counsel of the Committee on Post Office and Civil Service, United States Senate, directing him to appear as a witness before that court at 9 antemeridian on October 30, 1972, and to bring with him certain minutes and records (including tabulations of votes) of executive sessions of that committee pertaining to the postage rate sections of H.R. 7977, Ninetieth Congress, first session, such material being in the possession and under the control of the Senate of the United States: Now, therefore, be it

Resolved, That by the privileges of the Senate of the United States no evidence in the possession and under the control of the Senate of the United States can, by the mandate of process of ordinary courts of justice, be taken from such possession or control but by its permission; be it further

Resolved, That by the privilege of the Senate and by rule XXX thereof, no Member or Senate employee is authorized to produce Senate documents, papers, or evidence but by order of the Senate, and information secured by Senate staff employees pursuant to their official duties as employees of the Senate may not be revealed without the consent of the Senate; be it further.

Resolved, That when it appears by the order of the court or of the judge thereof, or of any legal officer charged with the administration of the orders of such court or judge, that testimony of an employee of the Senate is needful for use in any court of justice or before any judge or legal officer for the promotion of justice and that such testimony may involve documents, papers, or evidence related thereto under the control of or in the possession of the Senate, the Senate will take such order thereon as will promote the ends of justice consistently with the privileges and rights of the Senate be it further

Resolved, That David Minton, staff director and counsel of the Committee on Post Office and Civil Service, be authorized to appear at the time and place and before the court named in such subpena, but shall not take with him any papers, documents, or evidence on file in his office, under his control, or in his possession as staff director and counsel of the Committee on Post Office and Civil Service; be it further

Resolved, That when the court determines (1) that any of the documents, papers, or evidence called for in such subpena have become part of the official transcripts of public proceedings of the Senate by virtue of their inclusion in the official minutes and official transcripts of such proceedings for dissemination to the public upon order of the Senate or pursuant to the rules of the Senate, and (2) that such documents, papers, and evidence are material and relevant to the issues pending before the court, then the court, through any of its officers or

agents, shall have full permission to attend with all proper parties to the proceeding, and then always at a place under the orders and control of the Senate, and there to take copies of such documents, papers, and evidence in the possession or control of the said David Minton, excepting any other documents, papers, and evidence (including but not limited to, minutes and transcripts of executive sessions and any evidence of witnesses in respect thereto) which the court or other proper official thereof shall desire as such matters are within the privileges of the Senate; be it further

Resolved, That, notwithstanding any other provision of this resolution, when the court finds that the voting records of the Committee on Post Office and Civil Service insofar as they reflect the votes cast on the postage rate sections of H.R. 7977, Ninetieth Congress, first session, by any member of that committee are material and relevant to the issues pending before the court, then the court, through any of its officers or agents, shall have full power to attend with all proper parties to the proceeding, and then always at a place under the orders and control of the Senate, and there to take copies of so much of such voting records as reflects the votes cast by such member; be it further

Resolved, That David Minton, staff director and counsel of the Committee on Post Office and Civil Service, in response to such subpena may testify to any matter determined by the court to be material and relevant for the purposes of identification of any document, paper, or evidence if such document, paper, or evidence has previously been made available to the general public, or if its disclosure is authorized by this resolution, but the said David Minton shall respectfully decline to testify concerning any and all other matters that may be based on his knowledge acquired by him in his official capacity either by reason of documents, papers, or evidence appearing in the files of the Committee on Post Office and Civil Service or by virtue of conversations or communications with any person or persons and he shall respectfully decline to testify concerning any matters within the privilege of the attorney-client relationship existing between said David Minton and the said committee or any of its members; and be it further

Resolved, That a copy of this resolution be transmitted to such court as a respectful answer to such subpena.

DESIGNATION OF CERTAIN LANDS IN THE LAVA BEDS NATIONAL MONUMENT IN CALIFORNIA AS WILDERNESS

The Senate proceeded to consider the bill (S. 666) to designate certain lands in the Lava Beds National Monument in California as wilderness, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert:

That, in accordance with section 3(c) of the Wilderness Act (78 Stat. 892; 16 U.S.C. 1132(c)), those lands within the area generally known as the Black Lava Flow in the Lava Beds National Monument comprising about ten thousand acres, as depicted on the map entitled "Wilderness Plan, Lava Bed National Monument, California", numbered NM-LB-3227H and dated August 1972, and those lands within the area generally known as the Schonchin Lava Flow comprising about eighteen thousand four hundred and sixty acres, as depicted on such map, are hereby designated as wilderness. The map and a description of the boundary of such lands shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

SEC. 2. As soon as practicable after this Act takes effect, a map of the wilderness area and a description of its boundaries shall be filed with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives, and such map and description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such map and description may be made.

SEC. 3. The area designated by this Act as wilderness shall be known as the "Lava Beds Wilderness" and shall be administered by the Secretary of the Interior in accordance with provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of H.R. 5838, which is a companion bill to S. 666, and that the Senate proceed to the immediate consideration of H.R. 5838.

The PRESIDING OFFICER. Without objection, it is so ordered, and the bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5838) to designate certain lands in the Lava Beds National Monument in California as wilderness.

The bill (H.R. 5838) was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 666 be indefinitely postponed.

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

DISTRICT OF COLUMBIA PUBLIC UTILITIES REIMBURSEMENT ACT OF 1972

The bill (H.R. 13533) to amend the District of Columbia Redevelopment Act of 1945 to provide for the reimbursement of public utilities in the District of Columbia for certain costs resulting from urban renewal; to provide for reimbursement of public utilities in the District of Columbia for certain costs resulting from Federal-aid system programs; and to amend section 5 of the act approved June 11, 1878 (providing a permanent government of the District of Columbia), and for other purposes was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-1254), 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 H.R. 13533 is to provide for reimbursement to privately owned public utilities in the District of Columbia of the cost of relocation, or losses from abandonment, of facilities due to urban renewal projects, or projects under the National System of Interstate and Defense Highways (Federal-aid highway projects). No reimbursement is provided for any betterment; that is, increasing capacity, or improvements of any facilities.

In general, the act would prevent the present practice of charging such unusual or extraordinary expenses and losses to the rate base thereby requiring a new rate adjustment and causing high consumer rates.

Currently, individual customers of these utilities are bearing the largest burden of these extraordinary costs and losses through the rates they pay for their utility services, despite the fact that these projects benefit the entire metropolitan community, both private and governmental, and therefore should be supported by the general tax dollars.

ATLANTIC UNION DELEGATION

The Senate proceeded to consider the joint resolution (S.J. Res. 217) to create an Atlantic Union delegation, which had been reported from the Committee on Foreign Relations with an amendment on page 4, line 3, after the word "exceed", to strike out "$300,000" and insert "$200,000".

The amendment was agreed to.

The joint resolution, as amended, was passed.

The preamble was agreed to.

The joint resolution, as amended, with its preamble, reads as follows:

Whereas a more perfect union of the Atlantic community consistent with the Charter of the United Nations gives promise of strengthening common defenses, while cutting its cost, providing a stable currency for world trade, facilitating commerce of all kinds, enhancing the welfare of the people of the member nations, and increasing their capacity to aid the people of developing nations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) The Congress hereby creates an Atlantic Union delegation, composed of eighteen eminent citizens, and authorized to organize and participate in a convention made up of similar delegations from such North Atlantic Treaty parliamentary democracies as desire to join in the enterprise, and other parliamentary democracies the convention may invite, to explore the possibility of agreement on—

(a) a declaration that the goal of their peoples is to transform their present relationship into a more effective unity based on federal principles;

(b) a timetable for the transition by stages to this goal; and

(c) a commission to facilitate advancement toward such stages.

(2) The convention's recommendations shall be submitted to the Congress.

(3) Not more than half of the delegation's members shall be from one political party.

(4) (a) Six of the delegates shall be appointed by the Speaker of the House of Representatives, after consultation with the House Committee on Foreign Affairs, six by the President of the Senate, after consultation with the Senate Committee on Foreign Relations, and six by the President of the United States.

(b) Vacancies shall not affect its powers and shall be filled in the same manner as the original selection.

(c) The delegation shall elect a Chairman and Vice Chairman from among its members.

(d) All members of the delegation shall be free from official instructions, and free to speak and vote individually in the convention.

(5) To promote the purposes set forth in section (1), the delegation is hereby authorized—

(a) to seek to arrange an international convention and such other meetings and conferences as it may deem necessary;

(b) to employ and fix the compensation of such temporary professional and clerical staff as it deems necessary: *Provided*, That the number shall not exceed ten: *And provided further*. That compensation shall not exceed the maximum rates authorized for committees of the Congress; and

(c) to pay not in excess of $100,000 toward such expenses as may be involved as a consequence of holding any meetings or conferences authorized by subparagraph (a) above.

(6) Members of the delegation, who shall serve without compensation, shall be reimbursed for, or shall be furnished, travel, subsistence, and other necessary expenses incurred by them in the performance of their duties under this joint resolution, upon vouchers approved by the Chairman of said delegation.

(7) Not to exceed $200,000 is hereby authorized to be appropriated to the Department of State to carry out the purposes of this resolution, payments to be made upon vouchers approved by the Chairman of the delegation subject to the laws, rules, and regulations applicable to the obligation and expenditure of appropriated funds. The delegation shall make semiannual reports to Congress accounting for all expenditures and such other information as it deems appropriate.

(8) The delegation shall cease to exist at the expiration of the three-year period beginning on the date of the approval of this resolution.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–1255), 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 RESOLUTION

Senate Joint Resolution 217 creates a delegation of 18 eminent U.S. citizens authorized to organize and participate in a convention composed of similar delegations from "such North Atlantic Treaty parliamentary democracies as desire to join in the enterprise." The convention would have the purpose of investigating the possibility of agreement on: A declaration that the goal of the peoples of the countries represented is to transform their current relationships into a more effective unity based on federal principle, a timetable for achieving that objective, and a commission to assist movement toward such a goal in stages. Once organized, the convention may invite other parliamentary democracies to join its exploratory work.

BACKGROUND

This resolution is the latest in a series of similar proposals presented to the Congress on many occasions since 1949. To a large extent these latter have been stimulated or influenced by the ideas and efforts of Mr. Clarence K. Streit, the noted president of the International Movement for Atlantic Union. One such proposal was approved by the Congress in 1960 and brought to fruition less than 2 years later. However, the recommendations contained in the so-called Declaration of Paris, following the Atlantic Convention of NATO Nations attended by close to 100 citizen delegates, generally were not acted upon by the governments concerned.

Senate Joint Resolution 217 is quite comparable in character to this last-mentioned initiative. A delegation of 18 eminent citizens—not more than half of whom would be from one political party—would be appointed in equal numbers by the Speaker of the House of Representatives, the President of the Senate, and the President of the United States. Consultation with the House Committee on Foreign Affairs and the Senate Committee on Foreign Relations would precede the naming of the 12 citizens by the Speaker and the Vice President. The delegation members would serve without compensation, except for expenses, and would vote strictly as unofficial individuals in the convention they are authorized to arrange. A limitation of 10 is placed upon the number of temporary staff to be employed by the delegation, and not more than $100,000 may be devoted to the cost of meetings and conferences. The delegation is to make semiannual reports to Congress on its operations and expenditures, and would cease to exist within 3 years after the resolution is enacted. Senate Joint Resolution 217 authorizes appropriations of not to exceed $200,000 to the Department of State to implement the work of the delegation.

BURNS INDIAN COLONY, OREGON

The Senate proceeded to consider the bill (H.R. 6318) to declare that certain federally owned lands shall be held by the United States in trust for the Burns Indian Colony, Oregon, and for other purposes.

Mr. PACKWOOD. Mr. President, H.R. 6318, the bill before us which would declare that certain federally owned lands in Oregon shall be held in trust for the Burns Indian Colony, is an important piece of legislation not only to the Burns-Paiute Indians, but to other Oregonians. This bill will accomplish a change in the status of the land from a temporary assignment under a four-man Board. This is especially important in any efforts of the Burns-Paiute Indians to fulfill their goals in becoming an integral part of the overall development of the general area of Burns, Hines, and Harney, Oreg. This attitude has been supported and encouraged by State, county and city governments.

In addition, this rather small step for the Burns-Paiute Indian Colony is another rung on the ladder of improved conditions for Indians across the Nation.

The bill (H.R. 6318) was ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–1257), explaining the purposes of the measure.

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

PURPOSE

The purpose of H.R. 6318 is to convey to the Burns Indian Colony a trust title to 762 acres of Federal land.

EXPLANATION

The land is in three tracts. One tract of 156 acres was purchased by the United States under the National Industrial Recovery Act during the depression of the 1930's for Indian homestead purposes. The second tract of 605 acres was also purchased under the National Industrial Recovery Act but in furtherance of a submarginal land and land use adjustment program. The third tract of 10 acres was acquired by donation in 1925 for the use of the Paiute Indians living near Burns, Oreg.

The purchase price of the land was $14,620. The subsistence homestead tract contains 24 Indian homes. The submarginal land is unimproved, but is used for grazing purposes in conjunction with the homestead tract. The donated tract contains 11 dwellings occupied by eight families. The present market value of the three tracts is $106,100.

The Burns Indian Colony contains 250 members and a resident population of 150. The Indians want to improve the property, but are unable to do so as long as they have only temporary assignments. The land has been administered for the benefit of the Indians ever since its acquisition, and a grant to the Indians of a trust title will enable them to make a more effective use of the land.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Program to Increase Graduates From Health Professions Schools and Improve the Quality of Their Education", National Institutes of Health, Department of Health, Education, and Welfare, dated October 3, 1972 (with an accompanying report); to the Committee on Government Operations.

PROPOSED AMENDMENT OF ACT ESTABLISHING A PROGRAM FOR THE PRESERVATION OF HISTORIC PROPERTIES

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to amend the Act of October 15, 1966 (80 Stat. 915), as amended, establishing a program for the preservation of additional historic properties throughout the Nation, and for other purposes (with an accompanying paper); to the Committee on Interior and Insular Affairs.

REPORT OF DIRECTORS OF FEDERAL PRISON INDUSTRIES, INC.

A letter from the Commissioner, Federal Prison Industries, Inc., Department of Justice, transmitting, pursuant to law, a report of that Department, for the fiscal year 1971 (with an accompanying report); to the Committee on the Judiciary.

SUSPENSION OF DEPORTATION OF CERTAIN ALIENS

Two letters from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders suspending deportation of 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. HOLLINGS):

A resolution adopted by the Board of Supervisors of Milwaukee County, Wisconsin, praying for the enactment of legislation relating to welfare reform; ordered to lie on the table.

A resolution adopted by the Board of Supervisors of Milwaukee County, Wisconsin, praying for the enactment of corrective welfare legislation; ordered to lie on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENSON, from the Committee on the District of Columbia:

S. 4059. An original bill to provide that any person operating a motor vehicle within the District of Columbia shall be deemed to have given his consent to a chemical test of his blood, breath, or urine, for the purpose of determining the blood alcohol content (Rept. No. 92–1262).

By Mr. EAGLETON, from the Committee on the District of Columbia:

S. 4062. An original bill to provide for acquisition by the Washington Metropolitan Area Transit Authority of the mass transit bus system engaged in scheduled regular route operations in the National Capital area, and for other purposes (Rept. No. 92–1270).

By Mr. CANNON, from the Committee on Rules and Administration, without amendment:

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 (Rept. No. 92–1269).

By Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, without amendment:

H. Con. Res. 679. Concurrent resolution to provide for the printing of additional copies of the report of the Commission on the Organization of the Government of the District of Columbia (Rept. No. 92–1266);

H. Con. Res. 681. Concurrent resolution to provide for the printing of one thousand additional hearings entitled "Corrections," parts I through VI (Rept. No. 92–1267);

S. Res. 371. Resolution authorizing supplemental expenditures by the Committee on Labor and Public Welfare for inquiries and investigations (Rept. No. 92–1263);

S. Res. 372. Resolution authorizing additional expenditures by the Committee on Labor and Public Welfare for routine purposes (Rept. No. 92–1264); and

S. Res. 374. Resolution authorizing supplemental expenditures by the Committee on the Judiciary for an inquiry and investigation relating to the separation of powers between the executive, judicial, and legislative branches of the Government (Rept. No. 92–1265).

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

S. Con. Res. 98. Concurrent resolution to authorize the printing of the manuscript entitled "Separation of Powers and the National Labor Relations Board; Selected Readings" as a Senate document (Rept. No. 92–1268).

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

S. Res. 375. A resolution to pay a gratuity to Norma J. Grist; Edythe M. Ebersole, and Paul W. Hummer.

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. COTTON, from the Committee on Commerce;

Chester M. Wiggin, Jr., of New Hampshire, to be an Interstate Commerce Commissioner.

By Mr. FULBRIGHT, from the Committee on Foreign Relations, without reservation:

Executive M, 92d Congress, second session, Convention on International Liability for Damage Caused by Space Objects, signed at Washington, London, and Moscow on March 29, 1972 (Exec. Rept. No. 92–38).

By Mr. MAGNUSON, from the Committee on Commerce:

Rupert L. Murphy, of Georgia, to be an Interstate Commerce Commissioner.

HOUSE BILL REFERRED

The bill (H. R. 15859) 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, received from the House of Representatives on October 3, 1972, and ordered to be held at the desk, was today read twice by its title and referred to the Committee on Labor and Public Welfare.

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. STEVENSON, from the Committee on the District of Columbia:

S. 4059. A bill to provide that any person operating a motor vehicle within the District of Columbia shall be deemed to have given his consent to a chemical test of his blood, breath, or urine, for the purpose of determining the blood alcohol content. Ordered to be placed on the calendar.

By Mr. MANSFIELD:

S. 4060. A bill for the relief of Ivan Mauricio Mas-Jaccard, his wife, Carmen Mas-Jaccard, and their children, Clifford Mas-Jaccard and Jonny Mas-Jaccard. Referred to the Committee on the Judiciary.

By Mr. MANSFIELD (for himself and Mr. METCALF):

S. 4061. A bill to declare that certain mineral interests are held by the United States in trust for the Chippewa Cree Tribe of the Rocky Boy's Reservation, Montana. Referred to the Committee on Interior and Insular Affairs.

By Mr. EAGLETON, from the Committee on the District of Columbia:

S. 4062. An original bill to provide for acquisition by the Washington Metropolitan Area Transit Authority of the mass transit bus system engaged in scheduled regular route operations in the National Capital area, and for other purposes. Ordered to be placed on the calendar.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 3814

At the request of Mr. TUNNEY, the Senator from Florida (Mr. CHILES) was added as a cosponsor of S. 3814, a bill to amend Public Law 91–508 to prescribe procedures pertaining to the disclosure of certain financial information by financial institutions to State and Federal governmental departments and agencies, and for other purposes.

SENATE RESOLUTION 375—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY

(Ordered to be placed on the calendar.)

Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, reported the following resolution:

S. RES. 375

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Norma J. Grist and Edythe M. Ebersole, daughters; and to Paul W. Hummer, son, of Lula M. Hummer, an employee of the Senate at the time of her death, a sum to each equal to one-third of four months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 364

At the request of Mr. STEVENSON, the Senator from Maine (Mr. MUSKIE) was added as a cosponsor of S. Res. 364, to suspend assistance to Uganda.

TEMPORARY INCREASE IN PUBLIC DEBT LIMIT—AMENDMENT

AMENDMENT NO. 1687

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

Mr. PACKWOOD (for himself, Mr. CHILES, Mr. CHURCH, Mr. DOLE, Mr. EAGLETON, Mr. HARRIS, Mr. HART, Mr. HATFIELD, Mr. HUMPHREY, Mr. INOUYE, Mr. MCGEE, Mr. MCGOVERN, Mr. MCINTYRE, Mr. METCALF, Mr. MONDALE, Mr. PELL, Mr. STEVENS, Mr. TUNNEY, and Mr. WEICKER) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 16810) to provide for a temporary increase in the public debt limit and to place a limitation on expenditures and net lending for the fiscal year ending June 30, 1973.

Mr. PACKWOOD. Mr. President, on behalf of myself and 18 of my colleagues, I am pleased to introduce today an amendment to the debt ceiling legislation, H.R. 16810, that will result in the conclusion of an era of infamous discrimination by the Internal Revenue Code.

Our amendment will stop, once and for all, the unfair treatment of unmarried individuals under the provisions of the Federal tax laws. Since the Federal Government was first authorized to levy a tax on income, our laws have, to one degree or another, discriminated against taxpayers who, either by choice or by fate, are unmarried.

The unfair treatment of unmarrieds by our tax laws has been more pronounced in the past than it is at present.

The trend over the years has been to grant unmarrieds just a little bit closer to equal status with married couples. Currently, a single person pays about 20 percent more in taxes than does his married counterpart with identical taxable income; a head of household, a person with all of the responsibilities of a married couple, pays about 10 percent more on identical amounts of taxable income. I and my colleagues are convinced that the time has long since arrived when we must cease viewing this matter as a compromisable problem. Either we discriminate against unmarrieds or we do not—it is just as simple as that.

There are nearly 34 million unmarried taxpayers in this Nation. They come from all walks of life and cover the entire

spectrum of the socioeconomic scale. They share one thing in common: Together they pay $1.6 billion more than their fair share to the Federal Treasury in taxes. There can be no rational reason for continuing this discriminatory tax treatment of our unmarried citizens any longer.

Our Federal tax laws purport to operate on the principle of levying a tax on the income of our citizens. Nowhere in the Federal tax law is there to be found a passage stating that it is the intent of the U.S. Congress to levy a tax based on the marital status of the taxpayer. That inequity has just been allowed to develop and fester over the nearly 60 years income taxation has been a way of generating revenues for the Federal Government.

I and my colleagues are convinced that now is the time to put a stop to this discriminatory application of the Federal tax laws. Consequently, we are pleased to introduce our amendment for the consideration of the Senate.

AMENDMENT NO. 1699

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

Mr. HUMPHREY submitted an amendment intended to be proposed by him to the bill (H.R. 16810), supra.

FISH DISEASE CONTROL ACT—AMENDMENT

AMENDMENT NO. 1688

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

Mr. GURNEY. Mr. President, on behalf of the distinguished Senators from California (Mr. CRANSTON and Mr. TUNNEY), the distinguished Senator from Florida (Mr. CHILES), and the distinguished Senator from New Jersey (Mr. CASE), I am introducing an amendment to S. 2764, the Fish Disease Control Act, that would exempt tropical ornamental pet fish from its provisions.

Mr. President, it is my understanding that the purpose of S. 2764 is to control, through an inspection process, the spread of disease that would adversely affect the fishery resources of the United States. I think we all are in favor of this but, as presently drafted, this bill would also apply to the tropical or ornamental fish that are not part of our fishery resources in the sense intended but are a source of great pleasure to millions of American families who have made keeping them a hobby.

When we speak of fishery resources, we are talking about fish that are caught either for food or sport or both. Tropical fish, however, are a different breed; they are for exhibition, not human consumption and studies have shown that neither they, nor any diseases they might carry, can survive in nontropical conditions. Hence, they present little danger to our fishery resources while, at the same time, they are an important resource in their own right.

It has been estimated that about one-half billion tropical and ornamental fish are kept as pets in some 20 to 26 million American households. Caring for tropical fish has become America's No. 3 hobby, and coincidentally, a $500 million industry. Anywhere from 50 to 350 million such fish are sold a year, and millions of dollars are spent in purchasing fish food, tanks, filters, heaters, and other equipment essential to their survival.

Furthermore, thousands of people around the country are employed in providing fish and fish supplies to those who want them. Applying the same restrictions to the tropical fish industry, as are needed to protect the public and the commercial fish industry, would not only be unnecessary, but could have a major financial impact on suppliers, transporters and collectors of tropical fish.

In my own State of Florida, for instance, the impact could be considerable. The sale of live tropical or ornamental fish accounts for $200 million a year: 80 percent of the fish sold are raised in the United States and, of those, 90 percent are raised on the 1,000 or so fish farms in Florida. Any cutback in the ornamental or tropical fish business would hurt these producers greatly as it would also the transportation industry. Although it might surprise some, the largest single commodity shipped out of Florida by air freight is ornamental pet fish. Therefore, as the only State with a climate and a water supply at all suitable for the support of a pet fish industry, Florida has a lot at stake here.

But Florida would not be the only loser if regulations, intended to deal with a different set of circumstances, were applied to ornamental fish. People all over America would lose—children who are fascinated by them, teachers who put them to work in the educational process, doctors who use them in office waiting rooms, ichthyologists who need to study rare species, and millions of people who derive pleasure from, and find relaxation in, watching them in their own homes. Certainly, these people deserve consideration, and passage of this amendment would accomplish that without compromising the worthwhile goals envisioned by this bill.

SOCIAL SECURITY AMENDMENTS OF 1972

AMENDMENT NO. 1689

(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.

AMENDMENTS NOS. 1693 AND 1694

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

Mr. CRANSTON submitted two amendments intended to be proposed by him to the bill (H.R. 1), supra.

AMENDMENT NO. 1695

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

Mr. GRAVEL submitted an amendment intended to be proposed by him to the bill (H.R. 1), supra.

AMENDMENT NO. 1696

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

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

AMENDMENT NO. 1697

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

Mr. BELLMON submitted an amendment intended to be proposed by him to the bill (H.R. 1), supra.

AMENDMENT NO. 1700

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

Mr. BENTSEN submitted an amendment intended to be proposed by him to the bill (H.R. 1), supra.

AMENDMENT NO. 1701

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

Mr. STEVENSON. Mr. President, I introduce an amendment to H.R. 1 which will eliminate one of the most serious and unjustifiable shortcomings of the Social Security Act, its treatment of agricultural workers. In its present form, the act sets up roadblocks in the path of farmworker coverage that no other employee has to face.

A man working in a corporate factory is covered from the first dollar he earns, but men working on corporate farms may have annual earnings of $1,000 or more and receive absolutely no social security coverage. This unjust discrimination arises because the Social Security Act provides that the employer of a farmworker need not make any social security payments until the employee has earned $150 or worked 20 days on an hourly basis. In every other commercial enterprise, the employee is covered from the first day and the first dollar.

Mr. President, work in the fields is every bit as important and arduous as work in the factories. Compared to the average American worker, the farmworker is poorer, sicker, and more likely to be injured or killed on the job. On what basis, then, can we deny the farmworker the same social security coverage enjoyed by all other employees of commercial enterprises?

Only last year the Advisory Council on Social Security, a distinguished panel chaired by former HEW Secretary Arthur Flemming, recommended that the Social Security Act be amended so as to remove the antifarmworker provisions discussed above and put the farmworker on the same footing as other workers.

The amendment I now offer is substantially identical to the Advisory Council's recommendation.

Mr. President, this is not an effort to secure preferential treatment for the farmworker; rather, the purpose and effect of this amendment is to do justice to the farmworker by ending his second-class status under the Social Security Act.

Mr. President, I ask unanimous consent that the text of my amendment be printed at this point in the RECORD.

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

AMENDMENT NO. 1701

At the end of Title I, insert the following new Section:

"COVERAGE OF AGRICULTURAL LABOR

"SEC. —. "(a) Section 209(h)(2) of the Social Security Act is amended to read as follows:

"Cash remuneration paid in any calendar year to an employee for agricultural labor by an employer whose total expenditures for agricultural labor in the immediately preceding year was less than $500 unless (A) the cash remuneration paid in the current year by the employer to the employee for such labor is $150 or more, or (B) the employee performs agricultural labor for the employer on 20 days or more during the current year for cash remuneration computed on a time basis;"

"(b) Section 210(n) of the Social Security Act is amended to read as follows:

"SEC. 210(n) Any person who furnishes "agricultural labor" and all workers so furnished shall be deemed to be the employees of the operator of the farm on which the agricultural labor was performed, and any person, partnership, organization, or corporation engaged in the business of providing farm-management services, as defined by regulations of the Secretary, shall be deemed to be the operator of the farm; *Provided*, That any person, partnership, organization, or corporation who specifically furnishes agricultural workers and machine services, as defined by regulations of the Secretary, under a contract with a farm operator shall be deemed to be the employer of such agricultural workers."

"(c) Section 3121(a)(8) of the Internal Revenue Code of 1954 is amended to read as follows:

"(8) Cash remuneration paid in any calendar year to an employee for agricultural labor by an employer whose total expenditures for agricultural labor in the immediately preceding year was less than $500 unless (A) the cash remuneration paid in the current year by the employer to the employee for such labor is $150 or more, or (B) the employee performs agricultural labor for the employer on 20 days or more during the current year for cash remuneration computed on a time basis;"

"(d) Section 3121(o) of the Internal Revenue Code of 1954 is amended to read as follows:

"(o) For purposes of this chapter, any person who furnishes 'agricultural labor' and all workers so furnished shall be deemed to be the employees of the operator of the farm on which the agricultural labor was performed, and any person, partnership, organization, or corporation engaged in the business of providing farm-management services, as defined by regulations of the Secretary, shall be deemed to be the operator of the farm; *Provided*, That any person, partnership, organization, or corporation who specifically furnishes agricultural workers and machine services, as defined by regulations of the Secretary, under a contract with a farm operator shall be deemed to be employer of such agricultural workers."

"(e) This section shall be applicable only with respect to remuneration paid after 1972."

AMENDMENT NO. 1702

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

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

AMENDMENTS NOS. 1703 THROUGH 1706

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

Mr. KENNEDY (for himself, Mr. Moss, Mr. PERCY, Mr. BROOKE, Mr. CRANSTON, Mr. HART, Mr. HUMPHREY, Mr. JAVITS, 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. 1690

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

Mr. HRUSKA submitted an amendment intended to be proposed by him to the bill (S. 3970) to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants in order to protect and serve the interests of consumers, and for other purposes.

EAST-WEST TRADE RELATIONS ACT—AMENDMENT

AMENDMENT NO. 1691

(Ordered to be printed and referred to the Committee on Finance.)

Mr. JACKSON (for himself and other Senators) submitted an amendment intended to be proposed by them to the bill (S 2620) to provide for the expansion of trade by a program of exchanges between the United States and countries with nonmarket economies, and for other purposes.

(The remarks of Mr. JACKSON on the submission of this amendment and the ensuing debate appear later in the RECORD.)

IMPORTATION OF UPHOLSTERY REGULATORS—AMENDMENT

AMENDMENT NO. 1692

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

Mr. JAVITS. Mr. President, on behalf of myself and Senators BROOKE, CASE, CRANSTON, GRIFFIN, HUMPHREY, KENNEDY, MUSKIE, PELL, RIBICOFF, STEVENS, TUNNEY, WEICKER, and WILLIAMS I introduce an amendment to H.R. 640 in the nature of a substitute for the committee amendment. My amendment is a very simple one. Briefly, it seeks to restore eligibility for an additional 13 weeks of unemployment compensation under the 1970 Federal-State extended unemployment compensation programs to over 650,000 workers in 25 States. This contrasts with the amendment reported by the Committee on Finance which would restore such benefits to only a few thousand workers in two or three States.

My amendment deals with the State "off" and "on" trigger mechanism which determines eligibility for participation in this program. The program on a national basis ended several months ago. However, for some time thereafter New York and many other States were eligible to participate in the program because the State unemployment was 120 percent of the rate prevailing in the State in the corresponding period of the previous 2 years, and the State unemployment rate was above the trigger rate of 4 percent. But recently, despite the fact that the insured unemployment rate in many States is above the 4-percent level, these States have become ineligible to participate in the program due to the 120 percent "off" trigger

It is clear that the 120-percent "off" trigger is disqualifying States at a time when the need of their unemployed workers is still great and urgent. To the present, some 27 States have been triggered out of the program through the operation of the 120-percent provisions at times when their unemployment rate was greater than 4 percent. In 10 of these States—California, Washington, Alaska, Connecticut, Maine, Massachusetts, Michigan, New York, Oregon, and Rhode Island—this "off" trigger has had a particularly harsh consequence, for their unemployment rates continue to be significantly higher than the national average.

This amendment would:

First. Eliminate the 120-percent State "on" and "off" triggers. Both the "on" and "off" triggers must be eliminated if States with high unemployment which have triggered out of the program can participate in it again. Also, both the "on" and "off" triggers must be eliminated to protect States in the event that insured unemployment drops below 4 percent and then rises above that figure at a later date.

Second. Retain the existing trigger of 4 percent insured unemployment. Thus, the elimination of the 120-percent trigger requirements would not be contingent upon a 5 percent insured unemployment rate, as proposed by the Finance Committee. The Finance Committee's action in making their proposed elimination of the 120-percent "off" trigger contingent on an insured unemployment rate of 5 percent will serve to preclude the great majority of States from deriving any benefit from the amendment.

Third. Eliminate the requirement that a State which triggers out of the program must wait at least 13 weeks before it may requalify. The 13-week waiting period is unnecessary in view of the fact that the insured unemployment rate is computed on the basis of a 13-week running average. The use of a 13-week average is adequate to take care of any problem caused by statistical variation or a very short run disemployment effect.

Fourth. Provide that the exhaustion rate—for example, the number of workers who have exhausted their regular unemployment compensation benefits—will be counted in determining the level of insured unemployment. This same provision is used in the 1971 extended benefits program which the Congress extended last June for an additional 6 months.

Under the amendment, the only test which would have to be met by the States to qualify—or requalify—for an extended benefit period is an insured unemployment rate in excess of 4 percent. Insured unemployment is, of course, always lower than total unemployment; a 4-percent insured unemployment rate translates into a total unemployment rate of 5.5 percent or higher. Our amendment would require counting persons who have exhausted their regular benefits in determining insured unemployment.

Except for the latter provision, my amendment is identical to that which I offered along with the distinguished Senator from Washington (Mr. MAGNUSON) on September 12 to the revenue sharing bill. At the behest of the distinguished Senator from Louisiana (Mr. LONG), we withdrew our amendment with the understanding that the Finance Committee would sympathetically examine the problem and would seek to incorporate our amendment at the earliest possible time into another bill. Responding to the Senator from Washington, the Senator from Louisiana stated at that time, on page 30329 of the CONGRESSIONAL RECORD (September 12, 1972):

I want to assure him that I will cooperate and I want to assure him that we will find a bill to which we can accept the amendment and go to conference.

With exceptions I have noted, the amendment we are proposing was actually approved by the Finance Committee when it first considered the issue on September 20, but after being advised of administration opposition the committee modified the amendment to the form in which it now appears in H.R. 640.

The amendment reported by the Finance Committee differs markedly from that which we originally introduced. The committee has instead chosen to ignore the needs of most of the long-term unemployed. The committee has addressed this problem in the most limited way by suspending only the 120-percent "off" trigger requirement and making even that inadequate change applicable only if the level of insured unemployment is 5 percent rather than 4 percent as under present law. I might add that this translates into at least a 6.5-percent rate of general unemployment. By its action the committee is disregarding the very real and temporary needs of workers in 22 States. In my own State of New York some 90,000 individuals, or 18 percent of the total unemployed work force in New York have had their benefits terminated. In some areas of my State, particularly Elmira, Buffalo, and Utica, and on Long Island, unemployment has reached 8 and 9 percent. Approximately 4,500 persons exhaust their regular unemployment insurance benefits each week in New York State and will not be able to draw further benefits unless legislative action is taken. Other States are equally bad off, and I ask unanimous consent that a table indicating the States and the number of workers who would be affected by my amendment be printed in the RECORD.

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

OCT. 1, 1972–JUNE 30, 1973—STATES AFFECTED

[These costs are only the costs of this amendment and do not include the costs of the EB program under Public Law 91-373 as currently operative]

State	Number of beneficiaries	Costs (Federal and State share) (thousands)
Alaska	1,100–1,500	$600–$800
Arkansas	2,750	1,000
California	140,000–150,000	80,000–90,000
Hawaii [1]	1,500–2,500	1,000–1,500
Idaho	1,500	350–400
Kentucky	5,000	2,000
Louisiana	6,000–6,500	2,400–2,700
Maine	7,000–8,000	3,000–3,500
Massachusetts	49,300	30,000
Michigan	71,400–97,300	40,700–55,400
Minnesota	11,000–13,000	4,900–5,500
Montana	1,700	435
Nevada	6,700	3,600
New Jersey	80,000–120,000	48,000–72,000
New Mexico	400–600	200–300
New York	170,000–200,000	80,000–120,000
Ohio	12,000–20,000	8,000–10,000
Oregon	11,000–14,000	4,000–5,000
Pennsylvania [1]	22,000–37,600	11,000–18,800
Rhode Island	8,000–9,000	5,000
Utah	1,900	850
Vermont [1]	3,600	2,000–3,000
Washington	42,000	17,000
West Virginia	1,500	450
North Dakota	1,200	860
Total	658,550–797,150	347,345–450,095

[1] Currently paying (those are costs after State drops below 120).

Note: Assumes some economic improvement between Oct. 1, 1972, and July 1, 1973. Estimates prepared in consultation with the States. Federal share of cost would be half of total shown.

Source: Office of Actuarial and Research Services, UIS/MA/ Department of Labor, revised Sept. 21, 1972.

Mr. JAVITS. Mr. President, I also wish to point out that although unemployment insurance benefits appear as a budget item, the benefits are wholly financed by employer taxes. This will not result in a strain on the national budget. Any funds temporarily paid out of general revenues will ultimately be covered by tax receipts from employers. This recovery will be accentuated by an economic upturn which we are now experiencing.

I have been an ardent supporter of the President's wage stabilization program and I think it has done much to cool off the inflationary fires which were overheating our economy in recent years. But it seems to me that just as we have acted vigorously to control inflation, we must also act vigorously to deal with the equally serious problem of excessive unemployment. The least we can do, in that respect, is to act now to reinstate the 13-week benefits program provided for under the 1970 act in States where unemployment is high, but not 20 percent above that of the previous 2 years. At a time when we are experiencing an economic recovery, the criteria for such benefits should be excessive unemployment, without the necessity for also showing that unemployment is getting worse.

DISCLOSURE OF FINANCIAL INTERESTS—AMENDMENT

AMENDMENT NO. 1698

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

Mr. MATHIAS submitted an amendment intended to be proposed by him to the bill (H.R. 15276) to exclude corporations and labor organizations from the scope of the prohibitions against Government contractors in section 611 of title 18, United States Code.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1658

At the request of Mr. GURNEY, the Senator from North Carolina (Mr. ERVIN) was added as a cosponsor of amendment No. 1658 intended to be proposed to the bill (S. 2373) to authorize the merger of two or more professional basketball leagues, and for other purposes.

AMENDMENT NO. 1674

At the request of Mr. GRAVEL, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of amendment No. 1674 intended to be proposed to the bill (H.R. 1), the Social Security Amendments of 1972.

NOTICE OF HEARING ON NOMINATIONS

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Wednesday, October 11, 1972, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nominations:

James C. Turk, of Virginia, to be U.S. district judge, western district of Virginia, vice H. Emory Widener, Jr.

H. Emory Widener, Jr., of Virginia, to be U.S. circuit judge, fourth circuit, vice Albert V. Bryan, retired.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Mississippi (Mr. EASTLAND), chairman; the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Nebraska (Mr. HRUSKA).

ADDITIONAL STATEMENTS

INACCURATE AND FALSE PUBLICITY ABOUT U.S. GRAIN SALES TO RUSSIA

Mr. YOUNG. Mr. President, the recent huge sale of wheat and feed grains to Russia has received an unusual amount of inaccurate, false publicity.

The public is led to believe that a great scandal was involved and that the farmers, and almost everybody else concerned were victimized. Actually, this huge sale of wheat and feed grains was a great benefit to hard-pressed farmers and added about $1 billion to our more favorable balance of trade with the rest of the world. It also resulted in far less cost to the Department of Agriculture in the operation of our great programs.

One of the most accurate accounts of this purchase was carried in the October 9 issue of U.S. News & World Report. It is refreshing to read a story like this which really tries to give accurate information about this huge transaction. U.S. News & World Report has long had a reputation for good, accurate reporting.

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:

ALL ABOUT THAT SOVIET WHEAT DEAL

Grain-for-Russia is a surprise issue in the '72 campaign. Critics say the deal was bungled. Some details are still obscure, but here is what is known.

To cut through the confusion of charges and countercharges swirling around the massive sale of American wheat to the Soviet Union—

Exactly what is involved in the deal?

About 400 million bushels of wheat will be shipped to the Soviet Union during the current marketing year, which ends June 30, 1973. That is one fourth of the estimated 1.6 billion bushels in this year's U.S. wheat harvest.

First signs that the Russians would be interested in buying grain from the U.S. appeared last April when Agriculture Secretary Earl L. Butz led a mission to Moscow. The basic agreement under which present sales are being made was announced on July 8.

Will the Russian purchase help U.S. farmers?

Most farmers will benefit.

The price of wheat, as shown in the chart on this page, has shot up from about $1.50 a bushel at the Kansas City terminal in the first part of July to more than $2. But many farmers in early-harvest areas sold their crop in late June and early July, and thus lost out on the price rise. A separate report on what some of them are saying is on page 30.

What about farmers who held their wheat?

They should get more for their crops, unless the price drops sharply. That, economists say, is not likely. Officials of the U.S. Department of Agriculture say that the great bulk of the 1972 wheat crop is still in farmers' hands.

Will U.S. consumers have to pay higher prices for bread and other bakery products as a result of the rising cost of wheat?

Baking companies have asked the Price Commission for an increase of 1 cent in the price of a loaf of bread. They point to sharply higher costs for flour, which rose from $6.57 a hundred pounds at the end of July at New York City to more than $8 at the end of September. This request has been denied. Administration officials say that the amount of wheat in a loaf of bread has increased in cost by only half a cent, and that baking firms had contracted for considerable flour before prices rose.

What price are the Russians paying for U.S. wheat?

They have paid about $1.65 a bushel for most of their purchases. This was possible despite the sharp rise in the U.S. price, because the Agriculture Department kept increasing the export subsidy while the Russian buyers were making their purchases.

Was this a special subsidy for the Soviet Union?

No. Export subsidies have been paid by the U.S. on wheat sales abroad since 1949 to keep this country's grain competitive in the world market. The size of the subsidy, however, shot up during the period of Soviet buying.

How does this export subsidy work?

That is explained by a look at price trends in July and August, when Russia was buying massive amounts of wheat.

At the end of June before the agreement between the U.S. and the Soviet Union was announced at the White House, price of wheat at Gulf ports was $1.64 a bushel. An export subsidy of 1 cent was being paid to maintain a "target price" of $1.63 in world markets.

By July 21, the price was up to $1.76 a bushel, and the subsidy was at 13 cents.

In early August, officials decided to let the subsidy lag somewhat behind the steeply rising price. By August 23, price of wheat at Gulf ports was $2.14 and the subsidy was at 38 cents a bushel.

At this point, the decision was made to increase the subsidy payment to 47 cents a bushel, and give grain-export firms one week to register sales to the Soviet Union or other countries. Since September 1, the export subsidy has been gradually reduced and was ended entirely on September 22.

What will be the cost to U.S. taxpayers of these subsidy payments?

It will be around 120 million dollars on the sales to Russia, according to Agriculture Department officials. That amount, they say, will be repaid four times over by savings to taxpayers as a result of reducing the wheat surplus. These savings are attributed to lower Government cost for storing surplus wheat, higher value of wheat that is owned by the Government, and less money paid out to farmers under production-control programs.

What has prompted charges that grain exporters were "tipped off" to the increase in the export subsidy to 47 cents a bushel, and thus made windfall profits by waiting to register sales?

In testimony before the House Subcommittee on Livestock and Grains, Agriculture Department officials said the grain firms were told by phone there would be a change in the export payment, the day before it was made.

However, aides to Secretary Butz testified that no specific figures were given and that the calls were only to tell exporters that the policy of trying to hold the export price at around $1.65 a bushel was being changed.

Of the 400 million bushels sold to the Soviet Union, it is estimated that about 168 million bushels were registered to qualify for the 47-cent subsidy.

Why didn't the Agriculture Department deal directly with the Russians, rather than letting private exporters handle the sales?

That, Nixon Administration officials say, would "fly in the face of the free-enterprise system," in which U.S. grain trade has always been handled by private companies.

Representative Graham Purcell (Dem.), of Texas, says that Agriculture officials should have been informed what the grain exporters were doing. Mr. Purcell, who heads the House Agriculture Subcommittee investigating the sales, said:

"If the Government is going to get involved in furnishing credit or export subsidies, it has to be informed of what is going on."

Did the grain exporters have information that was not available to the Agriculture Department?

An official of the Continental Grain Company told the House Agriculture Subcommittee that on July 5 Russian buyers had contracted with his firm for 150 million bushels of U.S. wheat, but that in line with standard trade practice this information was not passed on to officials of the Agriculture Department.

At the time the grain agreement between U.S. and Russia was announced on July 8, Secretary Butz said that the Russians probably would be more interested in corn and other livestock feed grains, rather than wheat.

What is Secretary Butz's answer to criticism that the grain agreement was negotiated in April, but not announced until July 8?

The Secretary has testified that the Russians were only mildly interested in U.S. grain in April, and that the agreement was not worked out until shortly before it was announced on July 8. He told the Subcommittee:

"I emphasize that nobody knew then—neither the Department of Agriculture nor the trade—just how much the Russians would buy. The export traders were not telling each other how much the Soviets were booking with them. The exporters did not tell the Department of Agriculture. . . . Of course, the Russians did not want to pay more than they had to for the grain, so they were not broadcasting what their requirements would be."

There has been talk about a "conflict of interest." What is that all about?

Such accusations have been made in Congress, directed mainly at Clarence D. Palmby, a former Assistant Secretary of Agriculture and now a vice president of Continental Grain Company. Some Congressmen say that Mr. Palmby violated federal regulations stipulating that an official who leaves the Government must not represent anyone outside the Government for two years in matters in which he has participated personally while on the federal payroll.

Secretary Butz has asked the Justice Department to determine if Mr. Palmby violated this statute.

What is Mr. Palmby's answer?

In testimony before the House Agriculture Subcommittee, he said that he took no inside information from the Department of Agriculture to the Continental Grain Company, and that he did not participate in the firm's negotiation of sales to the Soviet Union. Mr. Palmby gave this chronology of events:

In early March, Continental approached him on the possible offer of a job. In early April, he went with the U.S. negotiating team to Moscow. On May 11, he told Secretary Butz that he had decided to join Continental, and did so June 8.

Is there evidence that the grain exporters made big profits on wheat sales to Russia?

A top official of Cargill, Inc., was reported by "The Minneapolis Tribune" on September 28 as saying that his company will be fortunate if it breaks even on its sales to Russia. Agriculture Secretary Butz estimates that the grain exporters could make as much as 1 per cent, over all, on the Russian business.

President Nixon has ordered the Federal Bureau of Investigation to determine if exporters had made excessive profits.

FARMERS VIEW GRAIN DEAL WITH MIXED FEELINGS

GARDEN CITY, KANS.—Farmers in the heart of the Kensas wheat belt view the massive sale of U.S. grain to the Soviet Union with a mixture of approval and regret.

A survey conducted by staff members of "U.S. News & World Report" indicated most area wheatgrowers favor selling foodstuffs to Communist nations—but many feel they did not get a fair break on this particular deal.

Some farmers blame the Nixon Administration for not alerting them to the chance of sharply rising wheat prices. Others accuse major grain companies of concealing the size of the Russian agreement in order to buy grain cheaply. Still others simply chalk up th whole thing as part of the risk of farming.

"I don't know what went wrong," said J. R. Miller, near Macksville. "All I know is we got the short end of the stick—as usual."

HARVEST WAS IN

Wheatgrowers in this area, and farther south in Oklahoma and Texas, already had harvested most of their hard red winter wheat

when the Soviet grain agreement was announced on July 8. Many Kansas growers are reported to have sold their crops quickly for $1.50 a bushel or less.

That price was about 25 cents per bushel above the preharvest level but well under the later market prices of $2 or more. In the Dodge City area, 60 to 70 per cent of the farmers were said to have sold earlier than usual because they thought the market would not hold its gain as harvest progressed.

In one typical case, a farmer sold 40,000 bushels of wheat at $1.50 a bushel for total receipts of $60,000. If he had waited until the local market peaked at $2.02 a bushel, he could have received more than $80,000.

Wheatgrowers father north, in Nebraska and the Dakotas, did not harvest until after details of the Russian grain purchase had been made public and prices were soaring.

Said Cecil L. O'Brate, who farms about 1,000 acres of wheat near Ingalls, Kans.:

"I sold this year when the market hit $1.50, because I thought sure the price would start dropping. There's no way I would have let go of that wheat if I had known about this Russian deal."

Robert Paris said he was pretty well satisfied at the time when he got $1.35 a bushel for wheat grown on his farm near Dighton.

"A few days after I sold, the market jumped 50 cents a bushel, and lately it's been about $1.90," Mr. Paris noted, "I'm kind of disgusted with myself, but I still think the wheat deal with the Russians was a good thing."

The prices given by Mr. Paris are at country elevators. Prices are higher at Kansas City and other terminals.

Ernest Froetschner, of Offerle, said he normally holds his crop a year before selling. He was one of the few growers in the area who kept his wheat when the market started to rise.

"I'm one of the lucky ones," Mr. Froestschner said. "My son sold at $1.50, and he's been kicking himself ever since."

Andrew E. Larson, who grows more than 2,000 acres of wheat near Garden City, said he sold at prices averaging about $1.40 a bushel. He explained:

"Nobody made me sell. It was simply a matter of judgment. But what I object to is the lack of information, or misinformation, put out by the Agriculture Department."

"They kept telling us a grain deal with Russia wouldn't raise prices much. If the Agriculture Department people had done nothing but kept their mouths shut, it would have helped."

A NEW ERA IN ASIA

Mr. MANSFIELD. Mr. President, the visits this year of both President Richard Nixon and Prime Minister Kakuei Tanaka, of Japan, mark a turning point in the history of the Pacific and Asia. Both visits were momentous in their impact, and their effects will be felt for decades to come. It is a new era in the relations of all three countries with one another, and, in my opinion, it augers well for the future.

I ask unanimous consent that a news article published in the Christian Science Monitor of September 30, 1972; a special report in the U.S. News & World Report for October 9, 1972; and an editorial entitled "Mr. Tanaka's Moment," published in the Christian Science Monitor of September 30, 1972, be printed in the RECORD.

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

PROMISING ERA IN ASIAN HISTORY—CHINA, JAPAN "FORGET" SHACKLES, LOOK AHEAD

(By Joseph C. Harsch)

An enormous amount of unhappy history was wrapped up and put away in the attic when the Chinese and Japanese signed an agreement with each other this past week and a foundation was laid for what promises to be a much happier chapter in history ahead.

Technically, the agreement is to resume diplomatic relations. In its effect it is more than that, much more.

For China it wraps up nearly two hundred years of humiliation and exploitation by others. The outside world moved in on a feudal China just at the time the new American republic was getting itself organized on the mudflats along the Potomac River.

China was not able to call its house its own from then until Mao Tse-tung threw the Russians out in 1960. Always, from 1800 to 1960 some one or more foreign force was pushing the Chinese around, ordering their nominal governments, managing their affairs, and exploiting their people.

That miserable chapter in history is finished now. No one from the outside dominates the Chinese. One by one, they pushed the foreigners out, playing one against another until at least they are the masters of their own household.

The new arrangements with Japan are a final step in getting the independence of China recognized and formalized.

Japan was one of the outside influences which attemped to dominate China. The effort began in 1931 with the military seizure of Mukden, the capital of Manchuria. It ended physically with Japanese defeat in 1945.

Now the time has come to put all that unhappy past away and make a new beginning. Japan and China need each other. They can become good and cooperative neighbors because Japan has learned a hard lesson well and because China does control its own destiny.

For Japan it is the formal beginning of a new and most promising and exciting chapter. The years of penance are over. Japan is out from under American dominance. It is an independent force in Asia, able and now willing to manage its own affairs.

In an organizational sense the new relations between Japan and China complete the transition from the "cold war" era in Asia to the new order now beginning. Before the transition there were only two important forces bearing on Asia—Russia and the United States. Now there are many forces in play in Asia.

Russia remains as an influence, and a power. Yes, of course. And the United States Seventh Fleet still dominates the Pacific Ocean up to the shores of Asia. But China is independent. Japan is free to pursue its own diplomatic and trading policies. And India is a considerable influence in its own right now that its armed forces dominate the Indian subcontinent.

FUTURE LOOKS BRIGHT

The future is promising for the Chinese-Japanese relationship. The Japanese have gone out of the empire business. They now are interested in turning raw materials into finished goods, and in selling those goods to a broad market.

There are raw materials in Siberia and China, and markets all over Asia. Japan's needs are best served by being a good neighbor to everyone else in Asia. Japan has nothing to gain by any exclusive relationship with China, or Russia, or the smaller countries to the south.

And the very nature of Japan's needs is itself a new element of stability in Asia which will to some extent take the place of the stability hitherto provided by the American presence in Asia. Japan has no reason to support Russia against China or China against Russia. Japan's interest is best served by helping to build and maintain a balance between China and Russia.

As American influence recedes from the shores of Asia Japanese influence can take its place. There is no reason now why it should not. And there is every reason to think that it will do so in a constructive manner.

A NEW ASIA: GAINS FOR THE UNITED STATES

(Following is a report on a three-day seminar, just concluded, in which top strategic analysts of a dozen nations participated. Under the rules of the seminar, the participants cannot be identified by name.)

Most of the best-informed students of Asian affairs now feel that the balance of power in that part of the world is shifting in directions that are distinctly favorable to the United States. They cite these developments:

Communist China, after more than 20 years of hostility, is giving priority in its foreign policy to improved relations with Washington and Japan.

Peking has reversed its basic policy toward Southeast Asia to upgrade friendly relations with non-Communist governments while downgrading support for "wars of national liberation" and other forms of insurgency and subversion.

A continuing and influential U.S. presence in East Asia—economic and political as well as military—which seemed highly unlikely a year or so ago, is now viewed as a virtual certainty. Almost every nation in the region—including Communist China—welcomes a significant U.S. presence.

Japan is moving rapidly to normalize its relations with China and to reshape its alliance with the U.S., in order to play a greater role in the Far East. This is the one development that poses new and potentially serious problems for Washington planners.

SOURCE OF THE CHANGES

This transformation of the Asian scene flows from two recent events that experts consider to be of momentous importance—

One was the decision by Communist China's leaders that their intensifying differences with the Soviet Union make it imperative to end their 23-year-old dispute with the United States. A foremost authority on China explains:

"As soon as Premier Chou En-lai gained sufficient authority, he moved quickly to rescue China from a predicament that historically has been disastrous—quarreling simultaneously with the power to the north and the power that controls the Pacific. He proceeded to clear up the quarrel with the power that controls the Pacific—the U.S."

The second event was President Nixon's decision to reverse the U.S. policy of containment of China, followed by his move to normalize relations with Peking—dramatized by the unprecedented presidential visit to Peking last February.

LESSENED IMPORTANCE OF VIETNAM

How does the Vietnam war—and America's continued involvement—figure in the new order that is taking shape in East Asia? The experts reached these conclusions:

While only a few months ago the conflict dominated attitudes in many Asian capitals, today it is no longer considered to be of decisive importance.

The process of normalizing U.S.-Chinese relations is not being hampered by continued American participation in the war—contrary to the popular theory that Peking would refuse any sort of dialogue with Washington as long as American forces fought in Indo-China. Also: Most non-Communist leaders now are reasonably confident that—whatever

the outcome of the Vietnam conflict—the consequences will be manageable as far as the security of their own countries is concerned.

One reason for this new confidence: A total American disengagement from Southeast Asia, once feared, is no longer deemed likely.

Asian leaders, with few exceptions, consider a strong U.S. role in the Far East as indispensable. A Korean analyst put it this way:

"What needs to be stressed is that the presence of the United States is a prerequisite for the building of any constructive, durable peace structure fair to all in Asia."

CHINA'S MODIFIED STANCE

Even the Chinese Communists now seem to share this view. One of the foremost authorities on global strategic problems asserted:

"One thing seems clear. In the context of the Sino-Soviet dispute, it is not in the Chinese interest to see the United States withdraw entirely from Eastern Asia, or Japan put in a position where it feels compelled to go nuclear."

Said a leading Indonesian authority:

"China may well feel her security would be affected—in a negative way—by too rapid a disengagement of American power. She may find it in her interest quietly to accept a degree of continued American political, and even military, involvement in Southeast Asia and the Western Pacific as the lesser of two evils."

It is the far-reaching change in China's policy that has stimulated new confidence among Southeast Asian nations that their security will not be threatened, no matter what happens in Vietnam.

The Asian analysis believe that China has an interest in preventing Hanoi from dominating the region. If the Communists were to win decisively in South Vietnam, the experts emphasize, China would have a vital interest in deterring North Vietnam from moving deeper into Southeast Asia.

Beyond that, the assessment of the political outlook in Asia leads to this conclusion about Peking's over-all aims in the region:

Chinese Communist leaders, preoccupied with the Russian threat from the north, now are willing to settle for friendly, non-Communist states as neighbors in the south.

While Peking still openly proclaims its support for revolutionary movements, in practice its active backing for Communist insurgencies and subversion will not be allowed to jeopardize ties with stable, non-Communist governments.

In the words of one of Asia's most respected foreign-policy analysts:

"China's leaders are moving away from their policy of support for all revolutionary efforts at all costs. They recognize that this no longer serves their national interest.

"In the long run, Peking still hopes to see a Communist Southeast Asia. But for the foreseeable future the Chinese realize this is not feasible. They will be satisfied as long as they do not have on their borders actively unfriendly countries or countries that are allied to their unfriendly Soviet neighbor in the north."

This explains why the Russians have achieved no success whatever in Southeast Asia with their scheme for a collective-security arrangement for the area. Economic and diplomatic relations with the Soviet Union are welcome. But leaders of the non-Communist states in the region are unwilling to antagonize Peking by joining the Russians in a policy of continent against China.

JAPAN A REVIVED THREAT?

Japan, not China, is the country that worries Southeast Asian leaders most of all. They are growing more and more uneasy about the prospect of Japanese economic domination. Some also are fearful that the Japanese will strike a bargain with China that would allow Tokyo to establish a dominant political position in Southeast Asia while China concentrates on the Soviet threat in the North.

These Asian leaders see a danger that the Japanese will try to resurrect through political and economic means the "Greater East Asia Coprosperity Sphere" that they failed to establish by military means in World War II.

How Asians feel about that prospect is summed up by a Korean strategic expert:

"There is not a single country in Asia that looks to Japan for political partnership or military protection."

For the U.S., too, uncertainty about future Japanese behavior is the most disturbing feature of the rapidly changing Asian scene.

Washington's relations with Tokyo are bound to come under more and more strain. The Japanese are uncomfortable with their dependence on the U.S. for their security. They resent the presence of American bases and insist there is no reason why they should pay a price to maintain the U.S. nuclear umbrella. They also complain that they are being maltreated by President Nixon in his enthusiasm for new ties with Peking.

"SACRIFICING PARTNERSHIP"

In the words of a leading Japanese analyst:

"President Nixon seems to be running the risk of sacrificing partnership with long-standing allies for the sake of furthering negotiations with long-standing adversaries."

But what is the alternative to continued alliance with the U.S.? That's a question the Japanese are exploring with increasing diligence.

The most obvious alternative—acquisition of their own nuclear weapons—is ruled out by most Japanese experts. To quote one:

"It is inconceivable that nuclear armament could effectively guarantee Japanese security. The opposite is likely—that it would endanger both Japan's security and world peace."

What is certain to strain Tokyo-Washington relations is this fact: Japan does not want either to run the risks of developing its own nuclear weapons or to pay anything toward maintaining the U.S. nuclear umbrella. At the same time, the Japanese feel they should be free to use thir enormous industrial strength to challenge the U.S. economically in a no-holds-barred manner.

Japan's new relationship with China poses other problems—and potential dangers. There are fears that the Japanese Government headed by Prime Minister Kakuei Tanaka, in its zeal to cultivate close ties with Peking, will make concessions at the expense of Taiwan and Korea, perhaps at the expense of the U.S., too.

To many, Japan clearly stands out as the "problem child" of the new order shaping up in East Asia.

MR. TANAKA'S MOMENT

With the communique issued jointly from Peking Friday by Japanese Prime Minister Kakuei Tanaka and Premier Chou En-lai, the first great step toward readjusting the post-World War II from a two-power to a four- or five-power global arrangement has been duly notarized.

As usually happens when the world witnesses a great shift in the balance of powers, some people get hurt in the shuffle. In this case, Japan was not able to make the move it has just taken to establish itself in the favored corner of an Asian triangle between Russia and China without a prior internal reshuffling of power. That happened with the tumbling of the regime of Prime Minister Eisaku Sato, in the "Nixon shock" upheaval that followed his annoncement that he would visit Peking.

Taipei has been twice hurt by the global reshuffling that is taking place. First by the admission of Peking to the United Nations, and its own expulsion. And now by Tokyo's reestablishment of diplomatic recognition of Peking as the true and only government of China, and the agreement to put an end to a state of war which has lasted 41 years, even though the shooting ended 27 years ago.

Taipei's bitterness and sense of isolation are very deep and understandable. It feels betrayed by both the United States and Japan, its two former best friends and still its two major trading partners. Now it lies still in the overwhelming shadow of mainland China, a tempting and provocative piece of real estate which historically has always been part of China, and whose thriving industry and vigorous international trade can only make the dragon's mouth water.

But that very industrial and technological capacity may well be Taipei's best playing card in working out a viable relationship with the mainland, at first economic and, probably inevitably, political. But political reapprochement must wait until the venerable Chiang Kai-shek is no longer on the scene, and until the bitterness has dissolved.

Meanwhile, Mr. Tanaka returns to Tokyo to enjoy a position of enormous potential power. No longer under the thumb of Washington, because of Washington's bilateral approach to Peking by Mr. Nixon which ignored Tokyo, Mr. Tanaka can play off the Chinese dragon against the Russian bear. He can open new markets for the products of the Japanese industrial machine in China, and feed those factories with raw materials from Siberia. For Mr. Tanaka and his country, the sun is indeed rising. Patience, time and history seem to have bestowed on Japan by sticking to its knitting what 15 years of aggression failed to achieve.

DANGERS OF GOVERNMENT CONTROL OF TELEVISION

Mr. GOLDWATER. Mr. President, once again, Mr. Eugene Pulliam, publisher of the Phoenix Republic and Gazette and the Indianapolis Star and News, has hit the nail on the head with an editorial pointing out the dangers of Government control of television. The editorial was published in newspapers across this country, but it is something every Member of Congress should read, so I ask unanimous consent that it be printed in the RECORD.

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

WE CAN'T TOLERATE GOVERNMENT CONTROL OF TV

Unless the Congress of the United States takes decisive action to halt it, the total takeover of U.S. radio and television by the government will be finalized within the next few years. There will be but one radio and TV system. It will be operated, censored, programmed—in short, completly dominated—by an elite group of Washington bureaucrats.

Television cannot fight this battle alone because it has one hand tied already by severe governmental restrictions and the power to put TV completely out of business. So it is up to the newspapers to lead this fight and to make every American realize that his own individual freedom is in danger as it never has been before. Do we want a dictatorship of TV or do we want to preserve our system of free enterprise in the communications industry?

A spate of government rulings is eroding the economic base of American journalism. The American communications industry is struggling for its very survival in a web of government regulations. None of these regulations is a decree. None has ever been pre-

sented to Congress. Nevertheless they have the full force and effect of law.

In a recent ruling by the District of Columbia Court of Appeals the judge's decision said that commercials for big automobiles can be answered by anti-big automobile advertising lambasting the big ones for creating pollution; and the station to which the complaint is made must carry the "anti" comment free of charge, giving it the same amount of time as was used in the paid advertisement of the big car. The same court ruled that no TV station can refuse to accept free controversial advertising. These rulings are part of the so-called "fairness doctrine."

The Federal Communications Commission is now deliberating a plan to require all TV outlets to spend two hours a day broadcasting programs, specifically for children, without charge. It is obvious that if this idea is put into effect there will be virtually no limit to the demands of special interests insisting on free TV time.

Pressure groups are demanding that licenses be taken away from stations that don't match up with their ideological position. Nation's Business reports that "petitions to deny license renewals are being filed with the FCC in behalf of Negroes, Mexican Americans, Puerto Ricans, Indians, Orientals, Gay Liberation, Women's Lib and various other groups and causes." Nation's Business predicted that TV probably is a dying industry because of FCC restrictions.

The results of all this will be the destruction of the American system of television. It will automatically pave the way for government operation of all TV and radio stations. This is exactly what the bureaucrats in Washington are hell-bent on accomplishing.

Dean Burch is chairman of the Federal Communications Commission. He believes in the Constitution and free enterprise but is outvoted by the holdover members of the Commission who have become ambitious bureaucrats.

One member of the FCC has suggested that the media be made legally liable for alleged harmful effects from the use of products advertised on a TV station. It was suggested that the same rule should apply to newspapers, should there be any harmful effects from the use of products advertised by them.

Probably the most inconsistent of all FCC rulings is that which concerns cigarette advertising. The Federal government spends between 600 and 800 million dollars a year to promote and sell tobacco. It subsidizes tobacco growers to the tune of at least 400 million dollars a year. Yet the government prohibits the advertising on TV of cigarettes. If tobacco is harmful, then the growth and manufacture of tobacco should be prohibited by law. But so long as the government itself encourages the growth and development and sale of tobacco, it certainly has no business telling manufacturers and TV stations they cannot advertise tobacco. This is only one more instance of how powerful the Washington bureaucrats have become.

The so-called "fairness doctrine" has nothing whatever to do with fairness, but it has everything to do with the power of the government to harass people whose opinions the bureaucrats don't like.

Compounding the problem of bureaucratic bias is the history of "public broadcasting" which operates by virtue of millions of dollars of taxpayers' money but which regularly tends to favor the radical, the socialist, the activist element in this country. President Nixon has wisely vetoed a request for a large increase for "public broadcasting," but this is only a partial answer. The real issue here is that the taxpayer should not be obliged to subsidize any sort of one-sided opinion. The "public broadcasting" system to which you listen is financed by government subsidies. Hundreds of programs have been broadcast which not only assail the administration but were actually anti-American in content. Yet you, the taxpayers, are paying the bill for this.

To be sure there are thousands of capable, honest and dedicated men and women in government service, but they are dominated by the ambitious bureaucratic leaders who can make life miserable for any one of them who opposes the bureaucratic line. These men and women cannot be fired, but they can be shunted from department to department and be passed over for promotion. Consequently they remain silent and "go along."

Concerned Americans who oppose government ownership of the communications system should demand corrective action by Congress. All efforts to impose government controls on American TV and the American press should be resisted. There is absolutely no excuse for anti-business and anti-freedom bureaucrats to be allowed to use the medium of "public broadcasting"—paid for by the public—as a weapon to destroy TV and the free press. One of the wisest of American statesmen long ago said, "Government is always the enemy of the people, never the friend."

What happening to TV and the American press is chilling proof that property rights and human rights cannot be separated and that where bureaucrats control the first they have the power to destroy the second.

If freedom and liberty are to survive in this country the Federal bureaucrats must be deprived of their self-assumed power over the economy. The Congress should deny bureaucrats the right of tenure which gives them a lifetime job. They never run for office. They are never elected. They never can be fired—even by the President of the United States—except for moral misconduct. Every country which has ever succumbed to the dictates of a Federal bureaucracy has either perished or been taken over by tyrannical dictators.

What can you do? You can write your candidate for Congress immediately and ask him to pledge himself to vote against any further intrusion by the FCC into the American economy. Under no circumstances should the rules and regulations of the FCC be given the force of law without the consent of Congress.

The American people must understand that their individual freedom—and especially their right of free expression, which is the fundamental right of all liberty—is at stake and only affirmative action by the Congress will stop the bureaucrats.

The United States is the greatest and best country in the world and she is the greatest and the best only because she is free.

CHILDREN'S TELEVISION PROGRAMING

Mr. MOSS. Mr. President, the Federal Communications Commission currently has underway a series of panels looking into various issues associated with children's television programing. I have been concerned with this problem for quite some time, beginning with my inquiries into cigarette advertising, continuing through my studies of breakfast cereal advertising directed toward children, and on through the suspect relationships between drug abuse and the advertising of over-the-counter drugs. One matter of particular concern that has now come to my attention is worthy of all our consideration.

The hearings which the Federal Communications Commission is now holding are, to a large degree, in response to the petition filed by Action for Children's Television some 32 months ago. While the Commission's slow pace will probably result in another generation of children growing up to the same commercial bombardment, the manner in which the panels are operating is of significant concern.

As I understand it, major organizations involved in public interest broadcasting, and knowledgeable about this problem, have been, for the most part, completely left out of the FCC hearings.

For instance, other than Action for Children's Television, the National Citizens Committee for Broadcasting—NCCB—which had the most extensive filing in the FCC notice of inquiry and proposed rulemaking on children's television programing, has been excluded from participation. The two most prominent national consumer organizations, the Consumer Federation of America and Consumers Union, have been excluded from participation. The Council on Children, Media, and Merchandising has been excluded from participation. As far as individuals are concerned, Mr. Robert Choate and Mr. Warren Barren, two of the most knowledgeable persons active in this aspect of broadcasting has been excluded from participation.

By a letter dated September 26, 1972, less than 1 week before the hearings were to begin, Chairman Dean Burch responded with a collection of pious platitudes which surely will serve to undermine public confidence in the FCC's ability to solve the children's television programing and advertising problem. Mr. President, I ask unanimous consent that correspondence related to these hearings be printed in the RECORD.

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

CONSUMERS UNION OF UNITED STATES,
Mount Vernon, N.Y., October 2, 1972.

Chairman DEAN BURCH,
Federal Communications Commission,
Washington, D.C.

DEAR CHAIRMAN BURCH: The National Citizens Committee for Broadcasting (NCCB), the Consumer Federation of America (CFA), and Consumers Union of United States (CU) cannot accept on face value the explanation contained in your letter of September 26, 1972 which would lead one to believe that the Commission's panels on children's television were set up by your staff with an eye to complete fairness and impartiality. We cannot accept the explanation for these reasons:

(1) you failed to initiate contact with and have excluded the citizens' organization, which, next to Action for Children's Television (ACT), has had the most extensive filing in the Commission's notice of inquiry and proposed rule-making on children's television. The organization—NCCB—submitted a petition on children, television, and the public interest to the Commission signed by over 10,500 persons and 31 separate organizations. Additionally it submitted an extensive research document entitled "An International Comparison of Children's Television Programming." The importance of NCCB's contribution is illustrated by the National Association of Broadcasters' (NAB) reply comments in this inquiry which devoted 45 pages, or approximately two-thirds of that document, to the filings of NCCB.

(2) you failed to initiate contact with and have excluded the two most prominent national consumer organizations—CFA and CU. For that matter, to the best of our knowledge, you failed to contact any local, state, or national consumer organization to determine their interest in this public hearing. The result is that consumer organizations are un-

represented. It can be no secret to your staff (if only from reading the advertising and broadcasting trade press the past months) that CFA has had extensive experience in dealing with advertising content and the workings of self-regulation. Nor can it be any secret that CU is the only consumer testing organization with experience in dealing with products designed for children or that CU was responsible for initiating litigation against the Food and Drug Administration on the matter of toy safety. We further note that no member of Ralph Nader's staff appears on these panels, despite the active work of Nader's Public Interest Research Group in the evaluation of advertising, including claims substantiation, industry responsiveness to consumer inquiries and self-regulation.

(3) you have excluded the one person and organization in this country—Robert Choate and his Council on Children, Media and Merchandizing—who has met with the industry's Television Code Review Board on children's advertising. Again it can be no secret to your staff that there exists no individual representing the citizen and consumer who has had more experience in dealing with the content of children's ads and the kinds of products being sold to children. Sixteen months have elapsed since Mr. Choate's challenge to the Code Board and Code Authority to act on numerous levels with regard to children's advertising. Although a study has been announced, no action has been evident to date.

(4) you failed to initiate contact with and have excluded the signer of this letter—Warren Braren—who has the most complete knowledge of the internal procedures and policies of the Code Authority (and the control exercised over them by the NAB and the networks) of any person presently outside the broadcast/advertising industries. That knowledge is derived from his 8½ years experience as assistant manager and then manager of the Code Authority's New York office. The NAB's comments (which unreservedly speak for the Code Authority) have made self-regulation a principal argument from the very beginning of this inquiry by stating that most of what ACT is concerned about in television advertising "is being taken care of by the Television Code," that the Code is "an effective vehicle for controlling and improving the content of broadcast material" and that the only real answer to any problems in "children's programming lies in existing self-regulation." Mr. Braren, in NCCB's reply comments, vigorously disputed NAB's self-regulatory claims and labeled them as "subterfuge."

Presuming that your staff went about setting up these panels with due regard to the range of public interest organizations, the exclusion of all the groups and individuals mentioned—most of whom are action oriented in their approach—has produced a suspicious pattern which calls for an explanation in more detail than the general statements offered in your letter.

Under the present circumstances NCCB, CFA, and CU must question—as these panels get underway in the 32nd month of the inquiry—whether this Commission really intends to meet head-on the various citizen and consumer challenges as they pertain to the pressing issues of merchandising to children and the misrepresentations made by the NAB to this Commission concerning the effectiveness of industry self-regulation programs as they now exist.

We note that, for many years now, the NAB and other elements of the broadcast industry have made it a practice to come before this Commission, the Federal Trade Commission, and Congressional committees stating that self-regulation was being responsive to the public's needs and accordingly no other action was necessary. In the unprecedented case of cigarette advertising, NAB's deceit became evident when a selection of the Code Authority's internal files became public through a Congressional hearing. Without such exposure and without public access to the actual workings of the Code, the NAB is able to pass off relatively small and inconsequential accomplishments as responsible and meaningful self-regulation. We believe that is precisely what is happening in the case of this children's inquiry and are concerned that the Commission will probe no deeper than the few hours allotted for the children's self-regulation panel. Our hope is that the Commission will use even that limited time to direct itself to the heart of the operation of self-regulation and not deal with side-tracking specifics relating to individual commercial and program practices. At the very least, we urge the Commission to use this panel to probe into the following:

I. BROADCAST SELF-REGULATION ORGANIZATION

Can the Code Authority take and has it taken a position independent of or in opposition to that of the NAB?

To what degree do the political and economic interests and goals of the trade association influence the organizational set up of the Code Authority and its work?

Where does the Code Authority's allegiance lie? How can consumer and viewer interests be balanced with the legitimate trade association interests of NAB, a number of which may be in direct conflict?

Why has the NAB filed for the Code Authority in this and other government proceedings? Has the NAB ever submitted in whole or in part comments in government proceedings concerning the work of the Code Authority without the prior approval of the Code Authority?

What is the purpose behind the NAB government affairs department issuing reports at all Code Board meetings covering NAB lobbying concerns and objectives?

Why does the NAB president attend most Code Board meetings and what role does he play? What are the consequences of having the Code Authority Director and station Code Board members appointed by the NAB president?

Why is there no citizen/consumer representation on these Boards to provide the public with a voice and active participation?

Why does the NAB exercise budgetary control over the Code Authority?

Has serious consideration been given to spinning off the Code Authority from the NAB to allow it to achieve its own autonomy? If so, what were the findings and conclusions? If not, why?

II. BROADCAST SELF-REGULATION PROCEDURES, PROGRAMS, AND POLICIES OF CONFIDENTIALITY

Why are Code Board meetings not open to the public and why are the Board agenda books and minutes not available for public scrutiny?

Is there sufficient justification not to publicly disclose Code Authority findings on individual commercial and program evaluations under Code standards?

What justification is there to keep under cover commercial time standards monitoring reports of stations? Is it true that some stations are repeat violators of the Code's time standards and yet no action is taken? If not, then why not make the reports public?

Why aren't qualitative program monitoring reports open to the public? What is the relationship between the Code Authority director and the directors of the network clearance departments in carrying out the Code's monitoring of network programming? Are judgments reached independently?

Does the Television Code and the Code Authority really have a significant impact on the content of television programming (as represented by the NAB in this inquiry) other than as perfunctory censorship? Can it demonstrate any activity encouraging programs advancing cultural and educational values as indicated by Code standards?

How does the Code Authority determine its priorities? To what degree are areas of concentration determined by industry economic or political considerations? Why do product categories involving heavy consumer expenditures (such as automobiles and others involved in the FTC program on advertising substantiation) receive little or no Code attention? Is it true that the Code Authority as far back as 1965 was requested by the Toy Manufacturers Association and others to establish guidelines for all areas of children's advertising and that the Code Authority took no action? Is it true that the Code Authority subseqently sought to remove itself from a central clearance role of toy advertising so it might pay some attention to these other areas, but did not do so because of opposition by the networks and political considerations relating to what was deemed important in Washington?

What relationship do the Code's advertising time standards (including number of minutes, spots and interruptions) have to station and network rate card structures? To what extent are these standards designed to counter network encroachment on station patterns of selling time? Does the recently enacted multiple product announcement standard banning piggyback spots less than sixty seconds favor broadcasters' advertising rates by requiring advertisers with a combination of short announcements to buy at premium rates, and to buy local spot rather than network? What are the anti-trust considerations? What is the impact on stations which seek to reduce the amount of commercialization in their schedules?

To what degree do the broadcast networks influence what the Code Authority will or will not do or approve as meeting Code standards? What kind of relationship exists between the Code Authority and the networks, and how does this affect Code Authority independence? Are reports of closed door meetings between the Code Authority and the networks available to the public?

Why aren't citizen and consumer representatives consulted and given a voice in helping set Code Authority priorities and in the drawing up of guidelines and other policy statements and decisions?

In the House of Representatives hearing last year on advertising self-regulation, Erma Angevine (executive director of CFA) stated that the NAB must "overhaul its code." This comment reflected citizen and consumer organizations' awareness of, and impatience with, the same old broadcast industry rhetoric extolling the accomplishments of broadcast self-regulation while the public continues to witness advertising unsubstantiated and deceptive, products promoted for reasons deleterious to the health and well-being of the consumer, and programming long on violent action and short on content designed to enlighten and uplift.

There is no indication that the broadcast industry will undertake this overhauling without considerable prodding from government. Therefore, as a first step following these panel discussions, we urge the Commission to authorize an independent study by a team of impartial investigators to inquire in depth into the mechanisms, policy and procedures of broadcast self-regulation, to publicly report its findings and to offer its recommendations.

Since NCCB, CFA, and CU have been denied a voice in the three days of panel hearings commencing today, we ask that the Commissioners themselves pursue in as much detail as possible all or most of the questions contained in this letter. We further ask that the letter (a copy of which as been directed to all the Commissioners) be made

a part of the permanent record of these proceedings on children's television.

Respectfully,

WARREN BRAREN,

(For National Citizens Committee for Broadcasting.)

(For Consumer Federation of America.)

(For Consumers Union of United States.)

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., September 26, 1972.

Mr. WARREN BRAREN,
Associate Director Consumers Union,
Mount Vernon, N.Y.

DEAR MR. BRAREN: Thank you for your wire of September 21 with regard to the forthcoming Commission panels on children's television.

I can only assure you that my staff has operated on the basis of neither an "exclusionary" policy nor, for that matter, of total inclusion. What they have attempted to do—with my concurrence and the informal advice of the entire Commission—is to put together small but well-balanced panels, each one representing a variety of experts points of view. (Keeping them small is directed, of course, to assuring a maximum of give-and-take among the panelists.)

In the circumstances, there is no way that every individual or group can possibly be accommodated and, in the interest of balance, we are simply unable to add just one panelist without also adding two or three others—thus making the panel unwieldy.

In the end, of course, we will have to fall back on the record and trust that the public will have the benefit of every significant viewpoint.

With all good wishes.

Sincerely,

DEAN BURCH,
Chairman.

(Telegrams)

The following telegram was sent to Chairman Dean Burch of the FCC this afternoon:

MOUNT VERNON, N.Y.,
September 21, 1972.

DEAN BURCH,
Chairman,
Federal Communications Commission:

Urge your personal attention to my September 8 and 19 requests by telephone and letter to Chuck Lichenstein and Liz Roberts to be heard on children's TV self-regulation panel.

Failure of Commission staff to either initiate contact or to respond to requests highly questionable, given notice of inquiry, filing for NCCB disputing NAB's self-regulation claims, and my unique background in the management of broadcast self-regulation.

Request to appear made on behalf of CU, NCCB, as well as CFA—the latter having extensive experience recently with NARB AD review.

Thank you for prompt response.

WARREN BRAREN,
Associate Director, Consumers Union.

SEPTEMBER 8, 1972.

Mr. CHARLES LICHENSTEIN,
Federal Communications Commission,
Washington, D.C.

DEAR CHUCK: As stated in our telephone conversation today, I respectfully request an inviation to appear on the children's television self-regulation panel being scheduled by the Commission for October 2.

As you know, I possess considerable first-hand expertise in the workings of broadcast self-regulation derived from my 8½ years as assistant manager, and then manager, of the New York Code Office of the National Association of Broadcasters. That expertise includes drawing up the first edition and subsequent revisions of the industry's Toy Advertising Guidelines, as well as direct involvement and supervision of the New York staff in any Code activities relating to children's advertising and programming.

As an advocate of the principle of self-regulation, but as an analyst and critic of its implementation, I believe my participation in this panel particularly appropriate in light of representation by the vice president of the NBC Standards and Practices Department and the Code Authority director.

Sincerely yours,

WARREN BRAREN,
Associate Director.

SEVENTH TRIENNIAL CONVENTION OF THE NATIONAL CHINESE WELFARE COUNCIL

Mr. FONG. Mr. President, the National Council is the only nationwide organization of Chinese Americans and Chinese nationals in the United States. Its membership includes nearly all Chinese organizations in this country. Nonpartisan in its policy and outlook, it was incorporated as a nonprofit civic institution in 1957 for the promotion of the welfare and well-being of all residents of Chinese ancestry.

From September 17–20, 1972, the council held its seventh triennial convention in Houston, Tex. Over 100 delegates from different parts of the country attended the meeting. Several resolutions were adopted to strengthen its cooperation with Federal and local governments on problems confronting citizens of Chinese descent. Emphasis was placed upon its involvement in such subjects as housing, juvenile delinquency, immigration and naturalization, employment and job training, and problems of the aging. Elected as the members of the executive board for the next 3 years were the following persons:

Moy You-mou of Chicago, chairman.
Walter Ong of Phoenix, vice chairman.
Lee Hip-chi of New York.
Wong Jum-lai of San Francisco.
Chin Hing-lam of Honolulu.
Lee Shih-hing of Boston.
Gee Che-keung of Los Angeles.
Kwan Kee-wai of Houston.
Charlie Wah of Seattle.
William Chin-Lee of Washington, D.C.
Wallace Gee of Houston.

At the opening ceremony on September 17 at the Rice Hotel, over 300 delegates and friends attended the banquet. I sent a message of greetings. Mr. Stanley F. Chin, chairman of the council, welcomed the delegates and guests. Madame Anna Chennault called on the delegates to work for unity and to continue their fight for equality. Mr. William H. Marumoto, staff assistant to President Nixon, brought the President's greetings and delivered an inspiring address.

Mr. President, I ask unanimous consent to have printed in the RECORD the complete text of the remarks of Mr. Chin and the address by Mr. Marumoto.

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

REMARKS OF STANLEY F. CHIN, CHAIRMAN OF NATIONAL CHINESE WELFARE COUNCIL, SEPTEMBER 17, 1972, HOUSTON, TEX.

Distinguished guests, ladies and gentlemen: It is indeed my great pleasure to announce the opening of the seventh triennial convention of the National Chinese Welfare Council.

We are here to review the work of the last three years and to formulate plans for projects to be carried on by this organization during the next three years for the benefit and well being of the Chinese American.

Looking to the past, it may be well for us to contemplate, for a moment, the early Chinese in America.

The first Chinese in America were not citizens. They were brought to this country from China as cheap labor working on the railroads then being built in the West. They arrived in this country, facing challenges which they could never have anticipated, cheerful, confident and desirous of making themselves a part of their new land. Unfamiliar with the language, products of a foreign country, they experienced strong discrimination: but their ability to work hard, live frugally, and save their money to better themselves, raised the spector of fear among Caucasians of the "yellow peril", which without control, would overrun this country. This fear of the "yellow peril" resulted in the Chinese Exclusion Act of 1882, rendering it impossible for many years for Chinese persons to immigrate to the United States and to become citizens. Little wonder then, that our first efforts were in the area of immigration legislation reform.

Gradually, a more enlightened America, recognizing the injustices of its immigration laws while slowly cultivating a keener understanding and appreciation of the Chinese culture as it relates to American society, reopened the golden door, and gradually amended its harsh immigration laws.

The Chinese Exclusion laws were abolished in 1934; race as a bar to naturalization and immigration was eliminated in 1952; the adjusting of one's status was allowed in the 1960's and more recently, in 1965, Public Law 89–236 was enacted with its most liberalizing provisions, stipulating removal of most of the discriminations against Asian people.

The 19th century stereotype of a Chinese American, that of a poor, illiterate abused railroad worker, has disappeared to the point where today, we see in the Chinese American a responsible man, a man of family, and a man of the community, willing to undertake civic duties: a leader in business and the professions, and I am most happy to say, an asset to this great country which has adopted him as he has adopted it.

But, there are exceptions and there are problems. Our problems today, ladies and gentlemen, are not what they have been, our problem today is occasioned, primarily by the success with which we have coped with the problems of yesterday. Immigration inequities are no longer our prime and immediate concern. In its place, we have situations caused by the new immigrant, floundering in a new world. We have the problem of the aged, the young, the unemployed and unemployables. We have social unrest and its many attendant problems. This then heads us toward the new direction the Council is taking. And in this area, we will be devoting our time and effort and we will be looking to the Government for counsel and for support—counsel and support which the Government has made available to other people. And in this respect, we ask for your support and encouragement as we continue our search for a happy way of life.

This, then, ladies and gentlemen, is the challenge that faces us today as we commence our 7th triennial convention and with your dedication and great effort, we will meet that challenge head-on and emerge the victor.

THE EVERYDAY AMERICAN—THE ASIAN AMERICAN

(An address by William H. "Mo" Marumoto, Staff Assistant to the President of the United States, before the National Chinese Welfare Council Convention)

When I first sat down to gather my thoughts on what I would say this evening, my immediate tendency was to search for things that you would like to hear, things that would make your evening pleasant and my remarks well accepted; but the more I

tried, the more I realized that this would not be what you deserve.

Like Mark Twain, there are many times when I fail to recognize an opportunity until it ceases to be one. It is a rare opportunity to have this many interested Asian-Americans together at one time, and I immediately recognized it as such. In an attempt to not be tedious, I will make my comments brief. But let me warn you that brevity is not absolute insurance against being tedious.

As a minority group, we alone can turn to other Americans with pride and say: "We've come a long way!" It would be easy to stand here for twenty minutes and recite numerous anecdotes and detailed statistics supporting this boast, but the fact is we *have* come a long way, *too* far for that kind of useless banter.

Desraeli said that there were three kinds of lies: lies, damned lies, and statistics. Statistics don't tell the whole story of where we are at now and where we can be tomorrow.

When I was eight years old, many of us were prisoners in concentration camps. The prevalent thought throughout the United States at that time was that the only good Jap is a dead Jap.

There was no thought given to the fact that we were American citizens above all. It suffices to say that like some 110,000 others of us who were considered to be little more than gardeners and truck farmers, I was a prisoner in an American concentration camp.

Now I work for the President of the United States. Many of my friends and relatives who graduated from American concentration camps with me are now doctors, lawyers, architects, and engineers. They choose their professions, their associations, and their neighborhoods with few or no restrictions.

But I am not here to inflate your egos. I am here to tell you where it's at.

The New York Times has been prompted to say that we may be the most over-represented minority in the nation. My answer to the New York Times is that if you've got it, flaunt it. We've got a lot to offer this country, and it is about time others realize that we're going to start flaunting it.

The only way that we're going to live up to our potential is to join, to organize, to run for office, to become everyday Americans.

The opportunities are endless, but we must seek our identity first as Asian-Americans. Don't lose our identity.

Remember on a daily basis the advantages of our heritage. We have thousands of years of culture to call upon. Now is the time to reap the rewards of this heritage. Now is the time to break down those last barriers, and only we can do it. Many politicians talk of giving us a new direction, of leading the minority groups out of the pitiful plight they now suffer. Richard Nixon is giving us the opportunity to seek our own direction, to build our own future. Benjamin Franklin, a man who was an American above all else, spoke frequently of a characteristic which we as Asian-Americans have in unrestricted quantities.

I talk of resolve, resolve to perform what you want, to perform without fail what you resolve. I am asking you tonight for a resolution, a resolution to break free of our image as the quiet Americans. It is evident to all that the time has passed when the Asian-American was dispensable. In every phase of our society the Asian-American has become essential. We now stand firm, aware of our position in the community, and remind our nation of its responsibilities to us.

But remember, each of us was brought up with the idea that responsibility is a two-way street; and as such, we in turn have responsibilities to our nation.

The most pressing of those responsibilities is not to forget that our loyalties to our Asian heritage are only surpassed by our loyalties to our American citizenship.

Now is the time to stop being a silent American, to stop being a quiet American. Now is the time to break away from these attitudes which have been compounded by a new complacency, the complacency of affluence. This is a complacency nurtured by the suburbs and fed daily with two-car garages, color TVs, electric habachis, and a big sign indicating: "I've made it." We have become the epitome of westernization. We have become the perfect yellow wasp.

If we, as Asian-Americans, demand that our leaders be responsible, then we in turn can demand nothing less of ourselves. We cannot afford the apathy of affluence. Too many of us are willing to come home from work, grab a beer, and plunk down in front of our color TV sets to watch a football game. Well, I am here to tell you that there is a lot more conflict right outside that door than you will ever see on the TV screen.

The morning paper and the evening news are the primary sources of political activity for many of us today. How many of us take the time to write our Congressmen when we don't think they are serving the best interests of our country? How many of us will call an editor or a TV station when we find the news being slanted? Don't say: "I've done my part." Don't breathe a sign of relief and say, "I've made it." That is why our country has these difficult problems today.

We know what we have got to offer, and we owe it to our country to become involved. Improvement is not only the rather nonconsequential by-product of a bald head and a fat bankroll. It is a daily interest and effort to move and improve our nation.

No matter how, discussing involvement in general is not rewarding or beneficial to anyone. We should concentrate our efforts on a particular area where we can make a difference. When we have a cause, a purpose—a goal—it becomes more than banter.

Many politicians today are asking us to trust them. They expect us to accept that plea on face value. I, for one, do not. Trust and respect must be earned, they don't just happen. Our President, Richard M. Nixon, has turned his promises into realities. His vision and his ability to deliver dwarfs the capabilities of his competition. He has made a difference!

Some of our recent political leaders specialized in talking about the problems that minorities face. They did a lot of talking—but talk is cheap. President Nixon has specialized in *doing something* about minority problems, instead of just talking about them.

In the last 3 years, for example, this country has achieved more desegregation than in the fifteen years before them.

President Nixon has proposed $2.5 billion of Federal aid to school districts to improve educational opportunities for disadvantaged children—most of whom are minority Americans.

Spending for civil rights enforcement has increased eightfold, from $75 million in early 1969 to $602 million this year—hard, fast evidence of the Nixon Administration's commitment to justice not just for some, but for *all* Americans.

And President Nixon knows that political freedom means little when it is not accompanied by economic opportunity. For this reason, his Administration's minority enterprise system has *more than tripled* Federal loans, guarantees and grants to minority-owned businesses—from about $200 million in 1969 to an estimated $715.9 million in fiscal year 1973. Thanks to his firm Presidental leadership, more minority Americans are part of our country's economic mainstream today than ever before.

For some minority Americans, another special need exists. That need is for bilingual education programs. President Nixon's Administration has expanded Federal spending on bilingual programs from $8 million in 1969 to over $41 million today—another massive stride forward on behalf of all minority Americans who cherish a rich cultural and linguistic heritage from their mother countries.

Consider, too, the broader role in our national destiny which President Nixon has given to minority Americans. There are more minority Americans in government today than ever before—19.6% of all Federal personnel—and more of them are in important administrative and policy-making positions than ever before as well.

For example, the President has appointed more minority Americans and women, to high government policy-making posts than any previous Administration.

That is what I mean when I talk about performance instead of promises. That is what I mean when I talk about replacing rhetoric with reality. President Nixon is carrying on a tradition of dedication to human dignity and individual freedom and opportunity that is as old as the Party he leads, the Republican Party that brought political freedom to black Americans under President Lincoln a century ago, and is now bringing *freedom of opportunity* to minority Americans of all races, creeds and colors.

As a group, we can learn a lesson from this outstanding individual. He has shared many of the same hardships we have shared. President Nixon overcame great odds—he suffered the burdens of childhood poverty and the severe stress of political defeat, but yet returned as a victor. He has paved the way for a better world and in doing so has earned the respect of his countrymen and the world.

We can do the same. The future stands before us: Are we to be pushed or are we to lead? Are we to step forward, or are we to flounder in confusion? These questions which must be answered by you! We are people of accomplishment. We have had the strength and sensitivity to be, in addition, people of culture, of words and ideas.

We must not rivet ourselves to the ephemeral. We must think beyond immediate solace and beyond the contemporary. We must address ourselves not just to the history we make as Asian-Americans today, but the history we will make tomorrow.

As I previously mentioned, many have looked to the Asian-Americans as the quiet Americans, but as a listener, I know that it is often the quiet ones who have the most to say. It is not enough merely to be proud of our country. It is time that we shun small talk and political banter in favor of ideas more deeply felt.

It takes intelligence and devotion to preserve and maintain our institutions of freedom. It takes strength accompanied by sensitivity and dedication to our Nation's heritage, an internal quality which finds its fullest expression in participation.

Too many Americans prefer the role of spectator to that of participant. The future of America necessitates that we all be prepared to assume the responsibility for America.

I think that all of us—and that includes politicians—whatever their party and ideological commitments, all Americans should join together to show that the President of the United States speaks for our nation. I think that it is important in this election year that other nations and other peoples not be misled into mistaking partisan divisions for national divisions. It is important that they know that we are united in our desire for peace, united in our commitment to freedom and united in our support of the leader of the free world, the President of the United States.

The most worthwhile and important thing for all of us right now is to find some way to participate—to contribute to a better understanding among the peoples of the world.

How we can go about doing this is anybody's guess, but as long as we have people thinking about it and speaking about it, we will somehow, someway, sometime, hit upon a practical solution.

As a nation we can no longer afford the luxury of speaking only of yesterday and today! I ask you to remember that yesterday and today are but the building blocks for tomorrow. How are we going to pass the reins from our generation to the generation of the future? What kind of America will we leave them? Will it be an America with honor or without, with dignity or without? As Asian-Americans we can only answer one way!

When others think of us, they think of strong familiy ties. Our families resist the so-called "generation gap." We respect each other and the dignity of mankind. Just as we are naturally involved in our families, let us become involved in our nation. Our families can become a microcosm of our nation on individual participation, dignity and mutual respect.

This is not the only aspect of our heritage which is applicable in the United States today.

I have mentioned the young, and they can be disturbing, particularly when they seem to spurn the very things we hold most dear and have worked so hard to attain. Every economic, social and racial group in this country now seems to have their own collection of young militants. We are no exception. Yellow Power and the Yellow Brotherhood are but a few of the manifestations.

Long hair and hippie dress. How these Sensei offend us. But the long hair which is such an affront to many of us was once a badge of the Samurai—and with the young as with the Samurai, hair and principles tend to become woven together. There have been enough recent examples of young people in court fighting for their hair and their jobs to establish that, and to remind us that liberty includes the right not to get a haircut. These are rights that long-haired American revolutionaries fought and died for . . . we can assure that their sacrifices were not in vain.

The American Revolution was in the minds and hearts of the people. The radical change in the principles, opinions, sentiments, and affections of the people was the real American Revolution. It was a period of awakening, revival and enthusiasm.

Once again we have the means to relieve national anguish through individual participation. It will not be immediate!

In this TV world of one hour solutions most young people that I have talked with are searching . . . for substance, sensitivity. . . trying to make sense of it all . . . for some reality which will allow us to live in peace.

As we go through life we find that experience allows us to see more than our eyes—our lives are full of stop-go, hate-love and our first reaction is to run—I hear the questions constantly: why don't others understand our confusion and frustration? Why must the individual be stifled? I sometimes ask why do the eyes that see the faults of our young only faintly recognize the fears behind the bravado?

To my young friends, I caution that patience, and a desire to reflect on the past, although not consistent with confusion are necessary. Impatience is your legacy . . . it is also the method by which many manipulate you.

I ask you not to generalize—we have generalized and mass produced everything to the extent that we now want to generalize people . . . make it easier to move them around, and so we give them handles: hawk-dove, hippie-hard hat, conservative-liberal, etc. How many remember that there are sensitive human beings behind all of those handles?

Every individual has a responsibility to the future and should leave the world in some way better off because he was in it. Personal conscience is our natural arbiter . . . but when looking to the future let us be certain that reason and sensitivity always play an essential role.

In a sensitive manner we must accelerate our involvement at all levels and in all contexts towards obtaining a larger slice of the power pie, not because we are more worthy than others, but because I believe that the terms of our American experience—the past injustices and the prejudice and discrimination that is only now waning—has given us something special to offer to the local, state and national political wisdom of this nation.

Remember institutional structures which have lasted so long are responsive to change . . . don't let the severity of one personality cloud your vision of the whole . . . institutions are not just depositories of bureaucracy and administrative totality without feelings . . . they are people like you, like John Connally, like Bob Finch and people like me.

In closing, I thank all of you for this beautiful evening and for the opportunity to share some thoughts with you. Finally, I ask that all of you remember when you look at each other, when you look at your friends, relatives, when you look at our nation . . . that at last . . . long last . . . the President of the United States is not only hearing us, but *more importantly*, the President is *listening* to us! Many of you may recall the President's Inaugural Address when he said, "For its part, government will listen We will strive to listen in new ways . . . to the voices of quiet anguish, the voices that speak without words, the voices of the heart . . . to the injured voices, the anxious voices, the voices that have despaired of being heard. Those who have been left out, we will try to bring in. Those left behind, we will help catch up."

HERB KLEIN ON FREEDOM OF THE PRESS

Mr. GURNEY. Mr. President, recently there has been a spate of articles and editorials in the media expressing great concern about the limits to a newsman's right to refuse to divulge information.

On September 19, 1972, Herbert Klein stated the administration's position in this area. It was an excellent statement which, I feel, shows quite clearly the sensitivity and concern with which the administration approaches this subject.

At the risk of sounding like the Democratic candidate for President, I was somewhat disappointed at the minimal press coverage this statement was given.

Therefore, I ask unanimous consent that an excerpt from Mr. Klein's excellent remarks be printed in the RECORD.

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

EXCERPTS OF REMARKS BY MR. KLEIN BEFORE THE HASTINGS SCHOOL OF THE LAW, SAN FRANCISCO, CALIF., SEPTEMBER 19, 1972

A recent Supreme Court decision compelling newsmen to divulge information from confidential sources to grand juries has renewed interest in the free press/fair trial controversy.

On the one side is the traditional right of the press to gather and publish news and opinion as it sees fit. On the other is the equally traditional right of the judicial system to obtain any and all evidence needed in carrying out thorough criminal or civil proceedings.

The era of ad hoc agreements—which once decided such matters—appears to be over, for we are involved in a number of major legal confrontations that will necessarily have a great impact on the relationships between press, government, the bar, and the courts.

While current law clearly supports the government's position, we must not forget the maxim that "hard cases make bad law". As you know, there are some situations where the public interest is better served by negotiations and self-restraint than by judicial mandate, and where it is in the interests of all concerned to avoid a confrontation and an imposed settlement.

The Department of Justice has historically been cautious in subpoenaing the press. This caution was reflected by former Attorney General John N. Mitchell in February of 1970, when he said he regretted "any implication" that the Federal Government "is interfering in the traditional freedom and independence of the press".

Mr. Mitchell said his policy was to negotiate with the press prior to the issuance of subpoenas, in an effort to maintain a balance with respect to free press/fair trial interests. In August, 1970, the Attorney General issued the first set of departmental guidelines for use by Justice attorneys in requesting courts to subpoena the media. The guidelines were met with approval from both the bar and the journalistic societies.

Attorney General Richard G. Kleindienst has since said that these guidelines, which state that the Department of Justice "does not consider the press an investigative arm of the government" and which require specific approval by the Attorney General before a subpoena is issued to a member of the press, "have been successful in resolving the problem" of media concern. He has pledged to continue to follow the guidelines.

The fundamental purpose of the First Amendment is to enlighten the public. It would seem to follow that if the public has the right to receive information, the press should have the right to disseminate information. But the Supreme Court has never actually recognized the newsman's right to gather news.

In the past decisions by the Court dealt only with newsman's right to publish news. In 1935, the right to gather news was recognized by a Federal Court of Appeals, but the decision was later reversed by the Supreme Court, on grounds other than the First Amendment. Therefore, while the Supreme Court has had dozens of cases involving freedom of expression, it had never before decided a case directly on the question of press subpoenas.

You can appreciate the uproar that took place earlier this year when the Supreme Court made its five-to-four decision, holding that the First Amendment does not shield a reporter automatically from having to disclose information or sources to a grand jury.

Newsmen feared that their confidential sources would hesitate to offer information if they knew there was danger of losing their anonymity. Editors claimed that broad subpoenas would impose heavy administrative requirements on their news departments. Cameramen and reporters said they felt they would be viewed as government agents and subjected to harassments when covering certain public events.

In an effort to counteract these repercussions and continue to protect the confidentiality of their sources and information, five major news organizations joined together to support a proposal entitled the "Free Flow of Information Act." This Joint Media Committee, as it is called, comprises the American Society of Newspaper Editors (ASNE); the Associated Press Managing Editors Association (APME); National Press Photographers Association; Radio Television News Directors Association (RTDA); and Sigma Delta Chi (SDX), professional journalistic society.

On July 31, 1972, William J. Small, CBS-News vice president, Washington, announced agreement on the "principles and general langauge" of the proposal, which is intended to provide broad but not unlimited protection to all who gather information for publication or broadcast. The proposal is similar, but not identical to nearly two dozen newsmen's "shield" bills introduced in the 92nd Congress. It states that those who gather such information "shall not be required" to disclose their information or its source to any official federal body.

The proposal, for which the Joint Media Committee began immediately to seek Congressional support, further provides that a federal district court may remove the protective "shield" if it finds "clear and convincing evidence" that:

The writer or broadcaster probably has information relevant to a specific law violation;

there are no other means of obtaining the necessary information, and

there is a "compelling and overriding national interest" in making the information available to the investigative body.

Such determinations by a federal district court could be appealed through the federal court system.

Eighteen states have already adopted similar "shield" laws providing newsmen with varying degrees of immunity from state or local investigative bodies. I would like to go on record as favoring the shield laws, but I believe there is a real question as to whether the timing is correct to gain passage of an adequate law by the Congress.

The advantages of a properly worded Federal shield law are apparent, but in the current atmosphere of the Congress, there is also a danger that amendments would be attached to such a proposal in a way to be restrictive of the press. I would only point out the fact that Congress came within an eyelash of supporting Congressman Staggers' effort to cite for contempt the president of CBS for his refusal to release film out-takes. I oppose further regulation of the media.

I would urge journalistic societies to proceed as rapidly as possible with additional state shield laws in order to provide the media with necessary protection while Congressional action is under study.

If a random group of lawyers had been asked a couple of years ago to define the legal rights of newsmen in refusing to testify under subpoena, to protect their sources, the answer from most probably would have been "none". But the highly visual cases of Earl Caldwell of the *New York Times*, Paul M. Branzburg of the *Louisville Courier-Journal*, and Paul Pappas of WTEV–TV in New Bedford, Massachusetts, have gone a long way in changing this.

As most of you are aware, Mr. Caldwell and Mr. Pappas were called to testify about black conspirators. Mr. Caldwell was covering the Black Panther party here in the San Francisco area. The grand jury called him in to investigate possible threats against the President and the violent overthrow of the government. Mr. Caldwell refused to comply with the subpoena.

Mr. Pappas was allowed to spend a night in Black Panther headquarters in New Bedford during some racial uprisings in 1970. It was agreed that if there were a raid, he would report on police methods; but if there were no raid, he would write nothing. As it turned out, no raid took place and he wrote no report. Later, he was subpoenaed to give information about the Panthers. He refused and was held in contempt. The case was then taken to the Supreme Court.

Mr. Branzburg, an investigative reporter, was subpoenaed after writing articles dealing with the marijuana trade. Mr. Branzburg would not enter the grand jury room, claiming that the First Amendment shielded him from making testimony. The Supreme Court of Kentucky ruled against him and he appealed to the U.S. Supreme Court.

These incidents illustrate two things: That the government has usually issued subpoenas to the press to obtain information about political conspirators, and that the information being subpoenaed usually went well beyond the *identity* of a confidential source. Both elements are important, but the second is having more impact because it is broadening the area of conflict between the government and press. In so doing, it is making obsolete most of the legislation that has been passed in prior years dealing with this relationship.

In all of these considerations, we must make certain we protect the right of the individual and of the media to dissent in a lawful way.

A traditional part of the American system is a press that is free to criticize. However, I should add that, too often, the press fails to recognize that officials of the government also have the right to be critical of the press. We in this Administration will continue to exercise that right—on a *specific* basis, not a blanket basis—and we expect that the press will do the same.

In a general way, I think we should be looking at what measures are necessary to protect the notes of reporters and the outtakes of film. We should also continue to recognize that newsmen have duties as *citizens*. In this day and age, there is constant danger of over-regulation, particularly as it refers to the broadcast industry. With the introduction of cable and other innovations, which have widened the broadcast spectrum, I believe the time has come to consider *less* regulation, not more.

In the *Associated Press* case, the Supreme Court said, ". . . a free press is the condition of a free society". I think we can safely say that we have more freedom of speech and freedom of press in this country than has any other country of the world. The United States has 6,000 radio stations, 650 television stations, 1,800 daily newspapers, the theater, motion pictures, books, magazines, periodicals, and an underground press. Indeed, it is the very *strength* of this media that is helping to establish the rights on subpoena power.

URGE RATIFICATION OF GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, during the first few years after 1945, considerable energy was devoted to bringing into being something akin to an international bill of rights, such as had been envisioned at San Francisco in drafting the United Nations Charter. A Universal Declaration of Human Rights emerged from the General Assembly in December 1948. A Genocide Convention was approved at the same time and has since been adopted by the requisite number of nations to be effective as to the signatory nations. But even this treaty, designed to prevent the systematic destruction of a people on racial, religious, or cultural grounds, exists only on paper so far as the United States is concerned.

The Convention on Genocide, unanimously adopted by the General Assembly of the U.N. on December 1948, signed in behalf of the United States on December 11, 1948, submitted to the Senate of the United States by the President for ratification on June 16, 1949, referred to the Senate's Committee on Foreign Relations on the same date, and considered by the subcommittee on January 23, 1950, has yet to see the light of day on the floor of the U.S. Senate.

Rules in some form must be adopted, recognized, and observed. The adoption of the Genocide Convention would not, for example, wholly protect citizens of a dictatorship against official political killings. But then thousands of years have passed since the Ten Commandments were handed down, and they are not yet universally observed. Nevertheless, their very existence has helped attain their objectives. Our own Bill of Rights does not guarantee that our civil rights are not at times violated. But their inclusion in our Constitution gives them legal status, and our courts provide the means of attainment. So it would be with a treaty on genocide.

The United States is in the unique historical position of having demonstrated in a practical manner the effectiveness of a Bill of Rights. We are under a moral obligation to lead the fight for the recognition of human rights everywhere. The least we can do now is to ratify the Genocide Convention.

OPERATION OF THE F–111 AIRCRAFT

Mr. GOLDWATER. Mr. President, on Tuesday morning of this week while I was in Phoenix, Ariz., I noticed an item in the morning newspaper to the effect that the F–111's had been grounded in Thailand and were being used only for training missions. I was concerned about this because the reason was attributed to the loss of one aircraft. The facts of the case as I have gotten them are available, and I ask unanimous consent that they be printed in the RECORD.

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

F–111/SEA OPERATIONS

Aircraft lost: An F–111 was lost on 28 September while on a combat strike against very heavily defended rail lines northwest of Hanoi. Cause and exact location are unknown. Crew members are missing.

Continued operation: The F–111s are not grounded. They are continuing combat operations.

Delay in announcement of loss: It is standard procedure in S.E.A. to withhold specific aircraft loss information temporarily in order not to prejudice search and rescue attempts for crewmen. *This delay in the announcement of loss caused the untoward speculation and erroneous reports of groundings that would never have occurred with any other aircraft operating in S.E.A.*

Quote from S.E.A. spokesman (From A.P. release): "The longer we hold the story, the worse it gets. It's a bad story, no matter how you play it, but the F–111 is a good airplane. The guys who fly it think it's a good airplane. It has the best safety record of fighter planes newly introduced into the Air Force inventory. But it is much maligned because of things like this".

F–111; VIETNAM

Recently 48 F–111s went from the United States to Southeast Asia.

Only hours after the first aircraft arrived in Thailand, they were dispatched at night and in bad weather on precisely the type of mission for which the F–111 is specifically designed, that is, alone, at low level and against a heavily defended target.

One F–111 has been lost.

News stories indicate that all the early missions of the F–111 were assigned to high risk areas, including the northwest rail line between Hanoi and China.

However other news stories have added some confusion to the picture of the F–111 in SEA. It has become clear that because of some of these news stories, which appear to be based very much on conjecture rather than on solid fact, a somewhat emotional atmosphere is being created that is seriously distorting the function and capabilities of the F–111 as a combat airplane.

Very simply stated, and based upon several conversations with the Department of the Air Force, there does not appear to be one bit of evidence to indicate that the F–111 was lost in any way other than from purely combat causes, nor is there any reason to believe that the F–111 is not performing in exactly the fashion for which is was designed. It should be remembered that the F–111 has flown 200,000 hours and established the best safety record of any of our combat aircraft. Many of these flights, both in this country and in Europe, have been under simulated combat conditions.

An official U.S. spokesman in Saigon has said, for example, the F–111 not only is available for combat but has been so used subsequent to the loss of the one F–111. In response to questions, information has been developed from the Department of the Air Force that the F–111s have not been withdrawn from their combat mission and "have conducted daily flight operations". In Washington, Pentagon spokesman Jerry W. Friedheim said the F–111s will continue to fly combat missions in Indochina. The loss of one of the planes, he said, "has not changed our view that this is an operational aircraft".

KIDNEY TRANSPLANTS

Mr. MONDALE. Mr. President, the pain and suffering of those afflicted with kidney disease is of deep concern to all informed citizens. Recently, I have introduced legislation, S. 4035, which would provide assistance for kidney transplantation, hemodialysis, and related facilities and services needed for comprehensive treatment of these patients.

Following a recent scientific program of the Transplantation Society in San Francisco, there was a meeting of 500 men, women, and children who would have died without transplanted organs. Harold M. Schmeck, Jr., described a number of their personal stories in an article published in the New York Times on October 1, 1972. Some of the accounts eloquently underscored the advantages of kidney transplants over treatment by kidney machines. My bill is designed to give emphasis to transplantation, while also assuring support for dialysis programs.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

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

TRANSPLANT WORTH RISK? 500 WHO KNOW SAY "YES"

(By Harold M. Schmeck, Jr.)

SAN FRANCISCO, September 30.—The main ballroom of the San Francisco Hilton was crowded today with living testimony to the importance of medical transplantation—about 500 men, women and children who would have died had they not received transplanted organs.

"This will be a unique day and experience," said Dr. Samuel L. Kountz of the University of California Medical Center, San Francisco, in opening the meeting this morning.

Dr. Kountz, who has just been named chairman of the department of surgery of the Downstate Medical Center in Brooklyn, organized the meeting to follow the week-long fourth International Congress of the Transplantation Society, which ended here yesterday.

In outward appearances, there was nothing unusual about the persons attending the meeting; they were tall or short, neatly dressed or a little sloppy like any other random group. But there was nothing ordinary about the stories they had to tell at a symposium on human aspects of clinical transplantation.

One was a philosophy professor from the Midwest who was born in Latvia in the nineteen-thirties, has childhood recollections of the tyrannies of Hitler and Stalin and came to this country after the war as a displaced person. In January, 1959, dying of incurable kidney disease, he was offered the chance of a then highly experimental operation—a kidney transplant from his fraternal twin. The operation was performed that month at Peter Bent Brigham Hospital in Boston.

The recipient, Prof. John Riteris of the University of Indiana, is today one of the longest survivors of a kidney transplant among 10,000 persons who have had them in the last two decades.

Professor Riteris said he had reconciled himself to death in the winter of 1959, and after the operation had had to readjust himself once again to the prospect of having a future.

Another kidney transplant recipient, Dr. Lionel Lobo, an Indian surgeon who is now dean of the Christian Medical College in Ludhiana, Punjab, said he somehow had faith from the start, even though hoping for a kidney transplant or treatment on an artificial kidney machine in India was like asking for the moon.

HOPELESSNESS DESCRIBED

Dr. Lobo described the agonies of discovering that he was dying of kidney failure—something particularly shaking in his case because he was a doctor and knew how hopeless the disease was and what kind of painful death he could expect.

Today he described his own experience as his kidney condition got worse. He vomited blood. He suffered convulsions so severe that he bit off part of his tongue and smashed some of his teeth. His food intake and even water had to be sharply restricted.

"In summer in India you can imagine what it is like to live on just one glass full of water a day," he said.

His new kidney, the gift of a man he had never known but whose family Dr. Lobo had treated, was put in place at the University of California Medical Center in San Francisco after trans-Pacific shipments of blood samples for typing and other necessities.

The transplant was done nearly four years ago. Today, Dr. Lobo, in appearance a normally healthly man of middle years, told his story in a calm voice and said he thought of it less as a result of the miracles of modern medicine than as a miracle in the hand of God.

Other testimony to what it can be like to live by grace of an artificial kidney and later transplantation came from a husband and wife from California.

The patient, Jeffrey Large, is now surviving with his fourth transplanted kidney since his own failed seven years ago. Each of the first three transplanted kidneys given individually over a period of several years was rejected by Mr. Large's body and failed. Each failure was a life-and-death crisis.

For five years before the first transplant operation, Mr. Large survived because of three-times-a-week treatments on an artificial kidney machine—a time-consuming, often painful process that he and his wife managed at home. The treatment is called hemodialysis, or dialysis for short.

SOME PREFER DIALYSIS

Mrs. Large, and others who testified at the meeting, described the trapped feeling that often afflicts the patient and family when regular dialysis treatments become the central fact of life. That kind of existence involves medical problems and crises, and crippling financial burdens often result from the incapacity and the expense of treatment. Many families have been financially wiped out by the ordeal.

But some patients have had as much as a decade of life—because of the machines—that they would otherwise have been denied. With all its problems, some say they prefer continued dialysis to the risks of a kidney transplant.

Although heart and liver patients were by far in a minority here today, they too testified to the relief of being reprieved from death by the transplants.

Although it is less frequently discussed, all of the transplant patients know they live to some extent under the shadow of possible rejection of their new organs.

While most of the transplant patients present today were recipients of vital organs, at least one participant watched the proceedings through eyes made clear by transplanted corneas. This man, however, was not present as a patient, but as one of the principal medical scientists who made such a meeting as this possible.

DEVELOPED TECHNIQUE

He is Dr. Belding H. Cribner of the University of Washington, Seattle, who pioneered the developments that made it possible to maintain a patient by regular treatment with the artificial kidney machine. Because of the importance of this treatment not only in saving lives, but in allowing kidney patients to come to surgery in good physical condition, his work is generally agreed to have had profound effects on the whole field of human organ transplantation.

The presentations today included some that were spoken and some that were written by transplant patients or their family members to appear later in a special volume of the proceedings of the Transplantation Society. Some of these were eloquent documents on the effects of disease on a human family and on the hope and relief that can accompany a successful outcome.

One such document came from Mrs. Elizabeth Bagwell of Berkeley, Calif., whose daughter, Jenny, had faced certain death because she had only one kidney, and it was malformed. Jenny's mother described how her six-year-old child lost health and vigor and wasted away to a "pale, thin, unconscious body" of a little girl under the impact of the illness.

Then a transplant was finally arranged and the mother—who was to give one of her kidneys—was wheeled into the operating room.

"For me it was the day toward which all history had led," the mother wrote.

Later she described her girl's recovery and her present life as a normal exuberant little 8-year-old, full of enthusism for life and its excitements; in love with painting, music and particularly the outloors.

"She sees the flowers that open their throats to sing to the morning," Jenny's mother wrote. "She talks to the stars . . ."

UNVEILING OF PORTRAIT OF BENITO JUAREZ

Mr. MANSFIELD. Mr. President, today, it was my distinct privilege, along with the distinguished Congressman from Texas, the Honorable ELIGIO DE LA GARZA, to participate in ceremonies honoring Mexico's great patriot and President, Benito Juarez. In commemoration of the centenary of President Juar-

ez' death, the President of Mexico, His Excellency Luis Echeverria Alvarez, through his distinguished Ambassador, His Excellency Jose Juan de Olloqui, has presented to the people of the United States a portrait of Benito Juarez. The presentation of this magnificent gift, which took place this morning at the Library of Congress, represents yet another strong link in the historic chain that has bound together our peoples for so many generations. It was a little more than 100 years ago that Abraham Lincoln, in the midst of his heroic struggle to preserve the Union, recognized the government headed by Benito Juarez as the legitimate voice of the Republic of Mexico. At a time when we are trying to face up to the myriad questions that confront us, it is useful to recall the high ideals that guided both Presidents, Juarez and Lincoln. It would be my hope that all who see the portrait of Benito Juarez, displayed in a place of honor in the Hispanic Society Room of the Library of Congress, will be reminded of this legacy.

Mr. President, I ask unanimous consent that the remarks of the Ambassador of Mexico, the Librarian of Congress, and my own at the unveiling of the portrait of Benito Juarez be printed in the RECORD.

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

REMARKS OF HIS EXCELLENCY, JOSE JUAN DE OLLOQUI, AMBASSADOR OF MEXICO, OCTOBER 4, 1972

One of the most impressive ceremonies of the one year long celebrations for the centenary of President Juárez's death took place on the 18th of July at the explande facing the National Palace in Mexico City where thousands of Mexicans from every corner of the country, assembled to pay homage to Benito Juárez the most illustrious patriot and statesman of the fatherland, a civil hero that fought against injustice and adversity in the most difficult times of our history, a champion of legality and fortitude, a universal man, the architect of Modern Mexico.

On that unforgettable occasion Presidente Echeverria said that "it is through history that Mexico receives her spiritual vigour" and that "a people without memory is not a nation but an easily vulnerable and shapeless conglomerate".

Today, inspired by the same spirit of remembrance, we are assembled in this noble House to honor the memory of Benito Juárez by presenting his portrait, on behalf of the President of Mexico, to the Congress of the United States of America.

No better place could have been chosen to lodge the effigy of the Mexican patriot than the Library of Congress, a unique institution among the learned institutions of the world; custodian of the rarest collections of manuscripts; endowed with enormous bibliographical resources; curator of every form of expression conceived through intellect to enlarge man's exceptional destiny and leave trace of his knowledge and achievements; entrusted with documents of the highest historical importance such as the Congressional Records, the written political memory of this great nation.

Many references to the difficult task undertaken by Juárez for the liberation of his country may be also found in those Congressional Records from 1859 to 1867. Many times his name was heard at the debates of the Congress of the United States. Many enlightened friends like William Henry Seward who understood his cause, became his allies and it was through that understanding of his principles that during the French Intervention in Mexico President Lincoln recognized the legitimate Government represented by Juárez and this fact was perhaps a great deterrent for other nations to join Napoleon in his ambitious and illegitimate adventure.

Although Juárez never visited Washington, his wife, who lived in New York while he was traveling with his Government from town to town, came to this capital and was received at the White House by President Johnson with all the honors due to the wife of a Foreign Head of State. In her letters to Juárez she spoke highly about the warm hospitality that was offered to her both by the officials of the American Government and by the private citizens who admired her illustrious husband. For these and other reasons I consider most propitious to honor the memory of Benito Juárez by presenting this portrait to the Congress of the nation that produced a man of great political stature, a lover of freedom, an incorruptible statesman, a man who, like Juárez, took upon his shoulders the glorious task of reunifying his divided country: Abraham Lincoln.

Juárez, like Lincoln, was fully conscious of the legitimacy of his cause as we can read in a letter to Maximilian which reflects with great wisdom the spirit of historical justice: "It is given to men, Sir, to attack the rights of others, to take their property, to attempt the lives of those who defend their liberty, and to make of their virtues a crime and of their own vices a virtue; but there is one thing which is beyond the reach of perversity and that is the tremendous verdict of history. History will judge us."

REMARKS OF L. QUINCY MUMFORD, LIBRARIAN OF CONGRESS, OCTOBER 4, 1972

Your excellency, Senator Mansfield, Congressman De La Garza, Mr. Alberti, and friends. It is with deep appreciation and gratitude that I accept as a gift to the Library of Congress by the Government of Mexico this portrait of one of the greatest leaders of Mexico, Benito Juárez. This portrait, which will hang quite appropriately in the Hispanic Society Room, will give evidence of the many years of cooperation the United States Government and the Library of Congress, in particular, has had with the Mexican Government.

The Library of Congress takes particular pride in its collection of Mexican materials and feels honored that its Latin American, Spanish, and Portuguese Division has, in the United States, become a center of learning for Hispanic culture.

Your excellency, I wish to convey, through you, our warm regards to President Echeverria for this generous gift. Thank you.

REMARKS OF SENATOR MIKE MANSFIELD, MAJORITY LEADER, U.S. SENATE

It gives me great personal pleasure to be here today to witness the presentation of this very fine portrait of Benito Juarez to the Library of Congress. The gift is an evidence of the warm relations the Government of the United States has with the Government of Mexico. It is especially timely in that 1972 marks the 100th anniversary of the death of President Juarez. I know of no more appropriate gesture of friendship which could have been made by the Mexican nation to the United States than to offer a portrait of Benito Juarez.

Benito Juarez was more than one of Mexico's outstanding patriots. He was more than the father of the great Mexican Reform. The name, Benito Juarez, is inscribed on the select list of the world's most distinguished champions of liberty. At a time when all governments confront vexing social problems, it is good to reflect on those individuals who have held to a relentless insistence on the freedom of the spirit in the search for solutions to the human condition.

I am delighted that the portrait of this great Mexican leader will hang in the Library of Congress. Here in the storehouse of human experience—itself a monument to freedom—Juarez finds an appropriate setting. His presence here will be a reminder to us in the Congress of the United States of a colleague who gave of himself with whole heart to strengthen the foundations of liberty, justice, dignity and equality in his beloved country and, in so doing, contributed to the furtherance of those ideals throughout the world.

MISSOURI FARMER SUFFERS FROM SECRECY IN GRAIN DEAL

Mr. SYMINGTON. Mr. President, revelations in the press have given the American public every reason to ask the Nixon administration for a full investigation and disclosure of the still hidden aspects of the Soviet grain deal.

We would hope that the FBI and GAO studies of this case would be concluded in sufficient time for the voting public to properly evaluate what has now become a legitimate issue in the presidential campaign.

A story in the October 2, 1972, St. Louis Post-Dispatch lifts the real heart of this grain deal out of the world of international grain trading and brings it home in terms of its impact on one Missouri wheat farmer.

According to the article, written by Dana Spitzer, of the Post-Dispatch staff, Jay Rice, a west central Missouri farmer, sold the last of this year's harvest July 7 for an average price of about $1.31 a bushel.

The article states that Rice believes he could have saved his farm if he had known that the United States was going to sell wheat to the Soviet Union; but he did not know.

Rice sold on July 7. On July 8, as the article notes, the Department of Agriculture announced that the United States would sell 400 million bushels—12 million tons—of wheat to the Soviet Union for $750 million.

But it would appear that Continental Grain Co., one of the major exporters, did know at least 2 days before Mr. Rice sold his wheat, because former Assistant Secretary of Agriculture Clarence Palmby, now a vice president with Continental, testified before a House subcommittee that his firm concluded a sale of 4 million tons of wheat July 5 with representatives of the Soviet Union—2 days before Mr. Rice sold his.

This was the third year that Jay Rice did not receive what he had hoped for from the sale of his crops—the last 2 years he lost corn crops from intense heat and then blight.

As a result, he said that the insurance company which holds the mortgage on his farm will foreclose on October 6.

Rice is quoted as saying:

The price would have gone up if they had put the information out. Hell, even if they had just said it was possible, the price would have gone up. But as it was, it even went down for a while there in late June. I didn't know but it was going to drop to a dollar a bushel, so I sold for the best I thought I was going to get.

The article goes on to say:

Rice is typical of thousands of farmers in Texas, Oklahoma, and Kansas and Missouri

who planted their wheat in the autumn and harvested it in May and June. Most of them sold their wheat before the Russian wheat deal was announced.

Mr. President, two great clouds of doubt still hover over the nature of the Soviet grain deal and the method in which it was handled and then announced to the public.

The last minute shuffling of personnel between the Department of Agriculture and private firms which are selling the wheat, when combined with the close sequence of events between private negotiations and public disclosure of the sale, raises grave questions regarding possible conflicts of interest if large profits were obtained with the benefit of inside information.

More important, however, is the responsibility of the Department of Agriculture to the American farmer. This is the department which said it was going to be the farmer's representative in Washington. Yet, the Secretary was quite determined to see that export firms were dealt with fairly and that they received every chance to secure a profit from this sale.

At the same time, the Secretary seems quite satisfied with letting farmers wait until next year to receive any benefit from increased wheat prices. But next year may be too late again—for if history teaches us any lesson, it is that the loss which farmers suffered this year is bound to be compounded further when the Department figures next year's subsidies.

I ask unanimous consent that the article from the St. Louis Post-Dispatch of October 2, entitled, "Wheat Deal Is Too Late To Save Missourian's Farm," be printed in the RECORD.

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

WHEAT DEAL IS TOO LATE TO SAVE MISSOURIAN'S FARM

(By Dana L. Spitzer)

GREEN RIDGE, Mo., October 2.—A little brick house sits alone against the gray autumn sky just west of this tiny farming community in west central Missouri. Inside, Jay Rice hunches over the kitchen table sipping coffee and talking about how things might have been if only he had known about the Russian wheat deal.

Rice figures he could have saved his farm if he had known that the United States was going to sell wheat to the Soviet Union. But he didn't.

He sold the last of this year's harvest July 7, for an average price of about $1.31 a bushel.

On July 8, the Department of Agriculture announced that the United States would sell 400,000,000 bushels of wheat to the Soviet Union for $750,000,000.

The immense new market made the price of wheat skyrocket. Last week, wheat was selling for nearly $2 a bushel in Kansas City.

If Rice had received that price, or something close to it, he said, he wouldn't have to move off his place by Oct. 6. That is when agents of the Prudential Life Insurance Company in Kansas City, which holds the mortgage, will foreclose.

"Damn it," he said, "if only I'd known. It would have been enough to pull me over the hump."

He is bitter that the Government did not indicate earlier that such a big sale was imminent.

"The price would have gone up if they had put the information out," Rice said. "Hell, even if they had just said it was possible, the price would have gone up. But as it was, it even went down for a while there in late June. I didn't know but it was going to drop to a dollar a bushel, so I sold for the best I thought I was going to get. But it wasn't enough."

Rice is typical of thousands of farmers in Texas, Oklahoma, Kansas and Missouri who planted their wheat in the autumn and harvested it in May and June. Most of them sold their wheat before the Russians wheat deal was announced.

They received thousands of dollars less than they would have if they had kept their wheat off the market until the price went up.

Their losses have become a major issue in the presidential campaign.

Senator George McGovern, the Democratic presidential nominee, and other Democrats have charged that the Nixon Administration secretly tipped off grain exporting firms about the sale but withheld the information from farmers.

These firms were able to buy wheat from farmers for at least 30 cents a bushel less than they received in payment from the Russians, the Democrats charge.

However, Rice pays little attention to all the political haggling.

He noticed the other day that the House Agriculture Committee had approved a bill to compensate wheat farmers who had sold their grain before news of the sale pushed prices up, but he figures it is too late to help him.

"I'm not much for politics," he said. "I've voted both sides, but it seems to do no good. We'd all be better off to leave politics alone and go back to the Bible. 'Do unto others as you would have them do unto you.'"

Except, he recalls, the friends and relatives he has helped through the years turned him down when he asked for their help during his recent trouble.

Rice is a short, husky bald man with a raspy laugh. He stays remarkably jovial, despite his disaster.

"Ain't anything you can do about it," he said. "I guess it's the law. You just gotta go on."

Rice says he has been farming ever since he left school. He never liked school. After eight years in a classroom, he figures, he got only four years' education. He says he doesn't read or write much, but he can figure pretty well.

Until this year, he always managed to balance the accounts and make enough right decisions to keep his $100,000 farming enterprise afloat—mostly, he says, by hard work and common sense.

But growing grain can be riskier than shooting dice. Someone once figured that no fewer than 67 elements—from weather to buying spray—must mesh to produce a good harvest.

"The whole damn thing is a gamble," Rice says. This year, his third bad year in a row, his luck ran out.

It was 1946 when Rice and his wife, Marjorie, came to the place they now are being forced to abandon. It was a step up after farming a smaller place on Muddy Creek, a few miles away.

He watched for his chances and took them when they came, expanding his farm to 800 acres from 80. The barn and other buildings he built by himself.

A few years ago he dredged a pond in one of his fields and stocked it with catfish and bass. Other farmers have done the same and charged persons from town to fish. But Rice never did.

"Fishin' should be free," he said.

The couple reared six children—and one of their big disappointments is that the mess they are in runs contrary to everything they ever taught their youngsters.

"I tried to raise 'em right," Rice said. "Always told 'em to work hard and be honest and things would work out. The Lord will take care of you. But I don't know about this—the goddamn Government. It don't make no sense. I can't get no money for my wheat, but they're giving the Russians money to buy the wheat."

Two older daughters, Evelyn and Nora Lou, are married.

The younger ones, Jenelle, 17, and Jane 16, still are at home.

Their boys, Marvin, 23, and Melvin, 19, live on the farm and have moved into the operation, as Rice had planned ever since he first sat them on a tractor, when they were 8 years old.

There were many lean years—made more lean by the cost of the new land they were buying. Mrs. Rice helped by selling cosmetics to bring in extra money.

But the good year they had was four years ago, when their crops brought $100,000. After $75,000 in expenses, Rice figured it was a good year.

Two years ago, though, the summer heat seared his corn crop. Last year was another failure when blight struck his corn. Each year his debt mounted.

In an attempt this year to recover his losses, he put his entire 800 acres into wheat. He was counting on a yield of 40,000 to 50,000 bushels and spent his last $18,000 to plant last fall.

In January, when his annual mortgage payment was due, Prudential agreed to defer it until July, after his harvest. In the past, he had paid on time, he said.

Likewise, he had always met his annual payments on $100,000 of machinery he purchased four years ago. He had $20,000 left to pay on the machinery. It was to be paid at intervals this year and next.

But when his wheat didn't bring what he had expected, his machinery was hauled away in August by the implement dealer from Kansas City.

Last spring, to meet part of the machinery payment and other costs, he obtained a short-term loan from a bank in Lincoln for $16,000, to be repaid from his wheat crop, which he figured would yield at least $50,000. But this year's drouth cut his yield to 24,000 bushels, which brought him $31,000.

It was not enough to meet his obligations. After covering various smaller debts, he came up $7,000 short on his mortgage payment of $18,000, due July 15, and $5,000 due on his machinery.

If Rice had known of the sale to Russia and had waited until the price went to, say $1.80 a bushel, he would have made more than $40,000. If he had waited until it went to more than $1.90 a bushel, where it has been for several days now, he could have earned about what he had counted on, despite the lower yield.

Rice points out that only a small part of his crop was in the government subsidy program.

And he notes that although a $100,000 annual enterprise might sound like a lot to persons on salaries, he has broken even only five of the last 10 years. His profitable years have gone to make up for the others.

His house was worth $13,000 when he built it in 1962, and he says it is worth $20,000 today.

Rice is especially bitter about the federal offices to which he has gone for help and been turned down.

He has been ignored by the Farmers Home Administration, the Production Credit Association and the Federal Land Bank, all of which are supposed to have programs to help farmers in emergencies like his, he said.

He has written to President Richard M. Nixon and received several letters from the Department of Agriculture in reply. Each begins: "President Nixon has asked us to reply to your recent letter with respect to your need for financial assistance."

James V. Smith, administrator of the Farmers Home Administration in Washington, has told Rice that the FHA has an emergency loan program for farmers, regardless of their size of their operations.

But Rice says the FHA office in Sedalia has turned down his request for assistance on the ground that his farm is too big.

Also, he says, his credit rating has gone down, even though until this year he has made his payments on time since his first loan in 1936.

"Since 1936, I've paid back over $2,000,000 in credit. Since 1945, I've paid back over $300,000 for machinery. Now they tell me my credit is no good. It just don't make sense. If I was of a mind to, I'd think somebody was out to get me."

Rice's friend Berney Ferguson, an insurance man in Windsor, is critical of the federal agencies. He says they have hidden behind red tape instead of trying to help.

"In a small area lke this, there is no damn reason why the land bank or the credit association or FHA could not have got together with a local bank and worked something out to help him," Ferguson said.

Meanwhile, despite the Oct. 6 deadline and only a few thousand dollars left to live on, Rice and his wife face the uncertain future with very little gloom.

"Where there's a will, there's a way," Mrs. Rice said. "We don't know where we'll end up, but I guess we'll figure something.

And Rice, who, at 51, had been looking forward to letting his sons take on most of the farming, is talking about getting started again.

The one piece of machinery he has left is a corn drier. He hopes to sell it for enough for a down payment on a tractor, plow and combine. If he can do that, he says he can farm rented land and contract to other farmers.

"Oh, I'll keep working," he said. "Hell, I ain't never done nothing but work—ever since I was a kid shocking bales for $2 a day. I never learned much from school, but I learned how to farm. I'll keep on farming somehow."

ANNOUNCEMENT OF POSITIONS ON VOTES

Mr. GAMBRELL. Mr. President, during my campaign for the Senate this year, I adopted the policy of announcing my position on each of the votes that I missed because of absence from Washington.

I missed a number of votes during 1971 on which I should like to announce my position at this time so that my position on every vote which occurred during my tenure in the Senate will be public information.

I ask unanimous consent that a list of my positions on each of the rollcall votes that I have missed be printed in the RECORD.

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

No. 6, March 1, 1971—Committee on Labor and Public Welfare—Funds for inquiries and investigations: Ellender amendments; Nay.

No. 7, March 1, 1971—Select Committee on Nutrition and Human Needs—Extension and Funding: Senate adoption of the resolution; Yea.

No. 19, March 16, 1971—Joint Committee on the Environment: Metcalf amendment; Yea.

No. 33, April 19, 1971—Additional Protocol II to the Treaty for the Prohibition of Nuclear Weapons in Latin America: Senate adoption of the resolution; Yea.

No. 34, April 20, 1971—Emergency School Aid and Quality Integrated Education Act of 1971: Dominick motion to table the Ribicoff amendment; Nay.

No. 46, May 3, 1971—Wage and Price Controls and Ceilings on Deposit Interest Rates—Extension of Authority: Packwood modified amendment; Nay.

No. 85, June 17, 1971—Military Selective Service—Military Pay: Kennedy, et al, amendment; Yea.

No. 171, August 4, 1971—Federal Election Campaign Act: Pastore motion to table the modified Hartke-Stevenson-Humphrey amendment; Yea.

No. 176, August 5, 1971—Federal Election Campaign Act: Pastore motion to table the Packwood amendment, Yea.

No. 177, August 5, 1971—Federal Election Campaign Act: Cannon motion to table Packwood amendment, Yea.

No. 178, August 5, 1971—Federal Election Campaign Act: Pastore motion to table the Packwood amendment, Yea.

No. 179, August 5, 1971—Federal Election Campaign Act: Pastore motion to table the Packwood amendment, Yea.

No. 190, August 6, 1971—Education Amendments of 1971, Fulbright amendment, Yea.

No. 235, October 12, 1971—District of Columbia—Home Rule: Senate Passage of the Bill, Yea.

No. 250, October 29, 1971—Foreign Aid Authorization: Allen, et al, amendment, Yea.

No. 251, October 29, 1971—Foreign Aid Authorization: Modified Gravel perfecting amendment, Nay.

No. 252, October 29, 1971—Foreign Aid Authorization: Modified Symington amendment, Yea.

No. 253, October 29, 1971—Foreign Aid Authorization: Church-Allott modified amendment, Yea.

No. 254, October 29, 1971—Foreign Aid Authorization: Dominick, et al, amendment, Nay.

No. 255, October 29, 1971—Foreign Aid Authorization: Church amendment, Yea.

No. 372, November 29, 1971—Economic Stabilization Act Amendments: McGee-Fong amendment, Yea.

No. 382, November 30, 1971—Economic Stabilization Act Amendments: Modified Cranston, et al, amendment, Nay.

No. 383, November 30, 1971—Economic Stabilization Act Amendments: Ervin motion to table the Tower motion to reconsider, Nay.

No. 387, November 30, 1971—Economic Stabilization Act Amendments: Proxmire-Harris amendment, Yea.

No. 388, December 1, 1971—Economic Stabilization Act Amendments: Proxmire amendment, Nay.

No. 389, December 1, 1971—Economic Stabilization Act Amendments: Modified Javits, et al, amendment, Yea.

No. 390, December 1, 1971—Economic Stabilization Act Amendments: Proxmire-Harris-Stevenson amendment, Nay.

No. 391, December 1, 1971—Economic Stabilization Act Amendments: Proxmire-Harris-Stevenson amendment, Nay.

No. 392, December 1, 1971—Economic Stabilization Act Amendments: Proxmire-Harris-Stevenson amendment, Nay.

No. 393, December 1, 1971—Economic Stabilization Act Amendments: Packwood-Buckley-Weicker amendment, Nay.

No. 394, December 1, 1971—Economic Stabilization Act Amendments: Buckley amendment to the Cranston Act, et al amendment, Nay.

No. 395, December 1, 1971—Economic Stabilization Act Amendments: Cranston, et al., amendment; Nay.

No. 398, December 2, 1971—Drug Abuse Office and Treatment Act: Senate passage of the bill establishing Special Action Office; Yea.

No. 399, December 2, 1971—Economic Opportunity Amendments: Senate adoption of the conference report; Yea.

No. 400, December 2, 1971—Wholesome Fish and Fishery Products: Cotton amendment; Yea.

No. 401, December 2, 1971—Wholesome Fish and Fishery Products: Senate passage of the bill; Yea.

No. 402, December 3, 1971—District of Columbia Appropriations, 1972: Senate passage of the bill; Yea.

No. 403, December 3, 1971—Supplemental Appropriations, 1972: Weicker amendment; Yea.

No. 404, December 3, 1971—Supplemental Appropriations, 1972; Kennedy, et al., amendment; Yea.

No. 405, December 3, 1971—Supplemental Appropriations, 1972; Percy motion to suspend Rule XVI; Yea.

No. 406, December 3, 1971—Supplemental Appropriations, 1972: Modified Javits, et al., amendments; Nay.

No. 407, December 3, 1971—Supplemental Appropriations, 1972: Senate passage of the bill; Yea.

No. 409, December 7, 1971—Public Health Service Hospitals and Outpatient Clinics: Senate adoption of the conference report, Yea.

No. 410, December 8, 1971—Sickle Cell Anemia: Senate passage of the bill, Yea.

No. 419, December 11, 1971—Nice Agreement, as revised, concerning the international classification of goods and services to which trademarks are applied: Senate adoption, Yea.

No. 420, December 11, 1971—Locarno Agreement establishing an international classification for industrial designs: Senate adoption of the resolution, Yea.

No. 421, December 11, 1971—Protocol to Amend International Civil Aviation Convention: Senate adoption of the resolution, Yea.

No. 423, December 17, 1971—Continuing Appropriations, 1972: Senate passage, Nay.

PROTECTION OF CONFIDENTIAL INFORMATION PROCURED FOR PUBLICATION OR BROADCAST

Mr. CRANSTON. Mr. President, today I testified before a House Judiciary subcommittee on behalf of H.R. 15972. This is a companion bill to S. 3786, which I introduced last June in the Senate. I ask unanimous consent that my testimony be printed in the RECORD so that it can be made a matter of record in the Senate as well as in the House.

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

TESTIMONY BY SENATOR ALAN CRANSTON BEFORE SUBCOMMITTEEE NO. 3 OF THE HOUSE JUDICIARY COMITTEE, OCTOBER 4, 1972

I am pleased to testify today on behalf of H.R. 15972, a bill that would protect any confidential information or the source of any confidential information procured for publication or broadcast.

It is the companion bill of S. 3786, which I introduced in the Senate June 30 to fill the void created by the Supreme Court ruling the day before that the press does not inherently possess a confidentiality privilege as part of its First Amendment rights. The Court left it to the Congress to provide the press with such protection if it so desires.

My bill consists of a single sentence. It declares that: "A person connected with or employed by the news media or press cannot be required by a court, a legislature, or any administrative body to disclose before the Congress or any federal court or agency any information or the source of any information procured for publication or broadcast." (The wording "news media or press" was chosen so as to include book publishers.)

Eighteen states—Alabama, Alaska, Ari-

zona, Arkansas, California, Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, Montana, Nevada, New Jersey, New Mexico, New York, Ohio and Pennsylvania—already have various press confidentiality laws. Twenty-eight federal bills have been introduced in Congress.

But, except for my bill and Congressman Waldie's, each one of these bills and every one of the state laws limit to some degree the confidentiality privilege and open the door to loopholes which, in my judgment, could lead to governmental abuse and repressive restrictions on press freedoms.

As a former correspondent for International New Service, I feel strongly that the news media and the press need and should have maximum legal protection (which our bill would provide) to meet their responsibilities in a free and open society. The First Amendment is not a piece of special interest legislation for the news and publishing industries; it is a governmental guarantee to a free people without which they could not remain free for long. The working press of our nation must be able to protect its sources of information if it is to continue to expose corruption and lawlessness in high places, in and out of government.

Intelligent self-government requires a vigorous, robust press, a fiercely independent, unintimidated news media to probe, to investigate, to question and to criticize, to shed daylight of public exposure on every shaded or shady area of public life.

Essential to that kind of press is access to "inside" information. As a wire service correspondent in Hitler's Germany, and in Mussolini's Italy, I learned early the value of confidential news sources. When I was assigned to the Rome bureau of International News Service, for example, I filed a number of stories about the inner workings of the fascist government from 1936 to 1938 which I never would have been able to get had I not been able to assure my informants that I would hold their identify in absolute confidence. Many of my sources were in danger of losing their jobs and their freedom—if not their lives—by passing on information and they were not about to confide in me unless I could promise total confidentiality. And keep my promise.

For a society to be truly free it must have a press that is truly free. One of the fundamental services that a free press renders to a free people is to watchdog the various levels of government, the officialdom and the bureaucracy who handle the people's money and who wield awesome powers over people's lives and freedoms.

When public or private power is abused it is often abused secretly. And as a police department often must depend on a "tip" to solve a crime, so an investigative reporter often must depend on a knowledgeable, inside informant to discover abuses of power and to bring them to public attention.

But as Timothy Leland, Pulitzer Prize winning assistant editor of the Boston Globe wrote me,

"Reporters, unlike law enforcement agencies, are not able to subpena public records, which makes the job of exposing public corruption and malfeasance infinitely more difficult. Confidential sources are the most important tool in a reporter's workshop. To jeopardize this advantage is to handcuff the news media in one of its most important functions."

Informants, who fear for their jobs—and sometimes their lives—will not divulge incriminating information unless their anonymity is assured. And unless a reporter can guarantee a news source that his identity will be kept confidential—and unless the reporter is able to fulfill his promise of confidentiality—many of our most important news stories would never be written. That inescapable fact is documented by the replies I have received from a number of Pulitzer Prize winning investigative reporters whom I surveyed for their views on the importance of confidentiality.

Let me read you just two of them:

Al Delugach, who is now with the Los Angeles Times, won the Pulitzer prize in 1969 when he wrote a series of articles for the St. Louis Globe Democrat exposing fraud and corruption in the St. Louis Steamfitters Union. Here is what he wrote to me about the importance of confidentiality:

"I cannot over-emphasize the importance to me, in 21 years as a newspaper reporter, to have confidential sources. Almost any important story involves such sources. Even though it may be that none of the information from such sources is used directly in a story, invaluable leads and background information usually are obtained. The confidential source is usually someone in a rare position to know something significant (from the public standpoint) that is going on inside a government agency or organization.

"Almost by definition, a confidential source is one who does not desire to have—and often cannot afford the risk of having—his identity become known to his superiors or associates. Whether he is acting from altruistic or selfish motives, the source usually reveals information only with a guarantee of anonymity. Without it, the source cannot be a source. Ofter there is no substitute for a confidential source. In his absence, valuable information is lost to the public, and it may not be possible to have a story at all. . . .

"I feel that some of the very best sources of newsmen would dry up if a guarantee of protection could not be given—and made credible. If it became common to force newsmen to disclose sources, I believe there would be widespread fear of disclosing important facts to newsmen by persons in the circumstances I have described.

"I think investigative coverage of many vital areas of public information will suffer grievous shrinkage unless legal protection is forthcoming to counteract the recent Supreme Court decision. . . . "

William Jones of the Chicago Tribune won the Pulitzer Prize for investigative reporting in 1971 for exposing collusion between police and some of Chicago's largest private ambulance companies to restrict services in low-income areas.

Here is what he wrote to me:

"I cannot stress strongly enough the importance of confidential sources to investigative reporters. Without them we would be hamstrung to the point where many investigations would never get off the ground. I think it should also be stressed that the term 'confidential source' as it is used in investigative reporting is not a synonym for the kinds of characters portrayed in dime spy novels.

"It has been my experience that most confidential sources are people who see something wrong or corrupt in the public or private agency where they work and merely want the problem corrected. It is usually their first time in dealing with such a situation and they arrive at the door of the investigative reporter only after exhausting every effort within their own agency to bring about changes. They are people with kids and mortgages and pride in the job they do, not plotters and spies seeking to topple governments or agencies.

"Anonymity is essential. It is frequently the first question asked by a potential confidential source in the first telephone conversation. If you can't guarantee it you will probably never hear from the source again. There are a number of reasons for this and from personal experience I could recite examples that range from murder threats to firing and professional blacklisting. I might add that all too often when an agency is hit with a scandal that appears to be the result of confidential sources they frequently devote more time to trying to find the source than correcting the abuses."

What kinds of stories do investigative reporters write? What are the results of these stories? Who benefits?

KNX Radio in Los Angeles, explaining that both their news and editorial departments rely on confidential sources, lists some recent editorials which, they say, would not have happened without a confidential tip to start with. These editorials included:

An illegal appointment to the City Planning Commission.

An alleged financial flimflam behind the Los Angeles Convention Center.

The details of the land swap that suggested a secret deal between city hall and an oil company.

The unfair and illegal destruction of a park.

The exploitation of a tribe of Indians by some judges, lawyers and a major bank.

The parking ticket mess that jails innocent people in Los Angeles.

The beating up of a student editor by the UCLA student body president.

The threats made against police officers by a group of professors.

The attempt by an Assemblyman to create a new Assembly district for one of his friends.

In its first full year of operation, the Boston Globe's four-man investigative team published reports that resulted, among other things, in:

"119 indictments against 27 people, including three former city mayors and a city auditor;

"Passage of legislation requiring the State Turnpike Authority to put all projects out for competitive bidding;

"A probe of scandalous land speculation in another Massachusetts city by the District Attorney's office."

"None of these investigative reports—and the beneficial results that ensued—would have been accomplished without help from confidential sources," according to Editor Leland.

Newsday conducted a three-year investigation and expose of secret land deals in eastern Long Island which led to a series of criminal convictions, discharges and resignations among public and political office holders in the area.

The recent CBS Special, "The Mexican Connection," revealed narcotics smuggling practices which enabled the government to more effectively curtail those practices.

Two reporters and a photographer for the Philadelphia Bulletin exposed collusion between police and numbers racket operators.

David Burnham, of the New York Times, exposed widespread police corruption in that city and initiated the present department-wide cleansing of criminal influences.

It was newspaper stories that produced the clues that led to arrests in the Yablonski murder case.

The Riverside California Press Enterprise won the Pulitzer Prize a few years ago when it exposed corruption in the courts in connection with the handling of property and estates of a local Indian tribe.

And here is a five-year record of revelations of widespread corruption in government by the Los Angeles Times, revelations which, in the editors' own words, "depended heavily on the trust placed in Times reporters by hundreds of news sources":

"In 1967, an investigation of a proposed World Trade Center on Terminal Island led to a grand jury inquiry and the indictment of four commissioners.

"In 1968, an investigation of the Recreation and Parks Commission resulted in the indictment and conviction of a commissioner.

"In 1968, an investigation of the Rapid Transit District led to the indictment of two men who had arranged the sale of surplus equipment at a cutrate price.

"In 1969, an investigation disclosed that a Los Angeles city planning commissioner and the city planning director had joined a group of developers and had bought land for speculative purposes on the site of a proposed airport at Palmdale.

"In 1969, an investigation disclosed irregularities in the Beverly Ridge Estates development financed by Teamster Union pension funds in the Santa Monica Mountains.

"In 1971, an investigation disclosed waste and mismanagement in the development of the Queen Mary as a maritime museum.

"And last June, an investigation disclosed speculative land investments based on inside information by Anaheim's city manager and public works director who played key roles in planning public works that boosted the value of their property."

What would happen to investigative reporting, what would happen to advances toward truth and probity in public life which result from fearless investigative reporting, if newsmen could not guarantee confidentiality to their news sources?

Scores of Newspapers, radio and television stations have sent me copies of editorials they have written or broadcast in support of my bill—from the Daily Star in Tuscon, Arizona, to the Evansville Courier in Indiana, from the Lewiston Daily News in Montana to the Long Island Free Press in New York. Without exception, every one of them expresses in its own words the emphatic opinion of the Vicksburg, Mississippi Post: "If the media is required to divulge the source of information sought out, and received through confidential sources, it follows this type of information would not be forth-coming."

What that would do, warns the Contra Costa Times in California, "is literally dry up our news sources and make it all but impossible to keep the public informed about the actions of the instruments the people themselves have created—government".

And the Norristown, Pennsylvania Times Herald notes that "If the courts and the Congress are allowed to subpoena at will the notes of a journalist, it will be the end of the free press and, in the end, it will be the public who will suffer most".

Just yesterday, a contempt of court jail term was upheld for a reporter for the now defunct Newark Evening News which had published a story about a Newark Housing Authority commissioner who admitted having been offered a bribe.

As Members of Congress, we must ask ourselves a few obvious questions about such a state of affairs:

Under present circumstances, could we blame reporters and editors of other newspapers if they shy away from publishing such stories in the future?

And when that happens, who will benefit? Who, that is, besides people who offer bribes to public officials and public officials who accept bribes?

Is this really what we want to happen?

Most of us would agree, I believe, that some degree of protection must be afforded confidential news sources lest they fear to make their information known to the public through the public press. Yet the critical question remains: How much protection? Should the legal protection be total and absolute? Or should it be limited in some way? Should a confidential news source under certain circumstances be compelled to testify under penalty of law? And should a reporter under certain circumstances be compelled to identify that confidential news source?

It is easy to answer "Yes" to those questions. It is tempting to agree that a newsman should be compelled to identify an informant and the informant made to testify when his information, for example, might help solve a murder or prevent a threat to human life or frustrate an espionage plot.

But I strongly believe that the answer must be "No"—no exception, no limit, no qualification should be placed on a total and absolute privilege of press confidentiality.

I hold that opinion for two very practical reasons.

First, I believe an absolute press privilege would do more for the cause of law and order and justice than would any limitation of that privilege. And second, I cannot see how it is possible to limit press protection without in the final analysis denying the press any protection whatever; I hold that the most eminently practical words on this subject were spoken by Justice William O. Douglas when he warned that "sooner or later any test which provides less than blanket protection . . . will be twisted and relaxed so as to provide virtually no protection at all".

Let me explain my position.

First on the matter of crime detection and prevention: Once you make an exception, say an exception for murder, then it is highly improbable that any informant having information about a murder will talk to a newsman—or to anyone else—if that informant wants to remain anonymous.

But if the protection of anonymity is absolute, then people who have confidential information about a murder will continue to come forward and will continue to provide useful information leading to the prosecution and conviction of murderers.

The same applies to espionage. The same applies to other suggested exceptions that would deny protection to persons with knowledge of other crimes.

As William F. Thomas, editor of the Los Angeles Times, wrote to me:

"If legal protection of confidentiality is absent, there most certainly will be less investigative coverage in sensitive areas. What source, fearing for his own safety or job security or whatever, would believe a reporter who promised him confidentiality when he knows the reporter could go to jail for keeping that promise? . . . Without the guarantee of anonymity, these sources would without question withhold necessary information."

We already recognize the absoluteness of other confidentiality privileges. We have an absolute lawyer-client privilege; an absolute priest-penitent privilege; an absolute husband-wife privilege. Nobody talks about making an exception for murder in the lawyer-client privilege; nobody talks about making an exception for espionage in the priest-penitent privilege.

Why should some people believe there must be such exceptions in the case of a privilege for the press—which is really privilege for the people, all the people?

As to my second point, protection shot full of loopholes is no protection at all. As Harvard Law Professor Paul Freund put it: "It is impossible to write a qualified newsman's privilege. Any qualification creates loopholes which will destroy the privilege." And as the experience of Texas newsmen under a qualified press protection state law has demonstrated—to quote Editor Robert W. House of the Gonzales Inquirer—"loopholes . . . only make mockery of the real intent" of the law.

Let's take a look at what happens when we try to qualify the confidentiality privilege, even when we try to make that exception as legitimate and as limited as possible.

A pending Senate bill would deny the protection in cases where there is "a threat to human life". The intent would seem to be clear and is certainly honorable.

But, what constitutes a threat to human life?

Is bad meat sold to the public a threat to human life? I would say that it is.

But listen to this. Last July, William Avery, news director of KYTV, Channel 3, in Springfield, Missouri, wrote to tell me about substandard meat processing plants in the state which the station's reporters had learned about through confidential sources. The station broadcast the story.

If the "threat to human life" exception applied in this case, as well it might, then the station's newsmen would be compelled to identify the source of their story. With that precedent, would anyone else in the future dare tell a newsman about unwholesome conditions in a food processing plant?

Thus an exception probably meant to apply to cases where killings may be involved could easily spill over to cover instances of bad food which might cause illness or death. Similarly, this in turn could extend to product safety of any kind: automobiles, flammable clothes, or unsafe power tools used in the home.

Thus a worker in a factory would dare not reveal to a newsman that the power saws his plant produces are defective for fear of his identity being revealed.

"A principal virtue" of my bill, to cite an editorial in the Hutchinson (Kansas) News "is that it has no loopholes and no place to squirm around the intent of the law".

"This effort," the Hutchinson editorial continued in explaining my bill, "is not necessarily a 'press' bill, so much as it is a public bill".

A bill to protect the confidential sources of the news media is not merely in the interest of the news media, it is in the public interest.

When one newspaper began its editorial in favor of a confidentiality bill by stating that "It is always a little awkward to argue one's own case," I believe they totally missed the point.

My bill protects the public, not the press. It protects the public's right to know and the public's need to know. It protects the public's right to know about scandals in government and business. It protects the public's right to information which will lead to the conviction of criminals. It also protects the public's right to hear views and opinions which may displease those in authority.

For a press to meet its responsibilities in a free society, the Columbia Missourian declared, "it needs all possible freedom from governmental controls".

"The pluralism of ideas, the intensity with which they are expressed, the constant battle for minorities to be heard or survive and the respect for individual rights this country represents make such a freedom guarantee not only possible but mandatory."

"In a dynamic democracy like ours," the Missourian concluded—as shall I—"a press must be absolutely free from governmental controls to function in its ascribed role—there is no realistic compromise about that." My bill, the paper noted, "offers such absolute freedom and makes sure there is no compromise. It should be passed."

ENVIRONMENTALLY SOUND TEST CONTROL

Mr. MOSS. Mr. President, Rachal Carson in "Silent Spring" warned America about the fallacy of relying upon chemical pesticides in huge overdoses to control animal life that was determined to be detrimental to agriculture, forestry production, and other human uses of biological resources. The environmental awakening that has occurred in the past 2 to 3 years has made the entire country aware of many of the pitfalls involved in the heavy use of DDT and other such pesticides.

As we look for ways to turn off the overuse of chemical pesticides, it is useful to note that other means do exist that are not only preferable to heavy use of chemicals, but often are more effective.

The Sierra Club Bulletin of July–August 1972 carries two articles dealing with examples of biological control techniques. The first deals with Norman Appleton's work in the New Mexico forests many years ago. Had we learned from his earlier example, we might have avoided many of the disadvantages that have accompanied the burgeoning use of chemical toxins. The second article deals with the program of the California Highway Department during the 1960's.

Mr. President, I ask that these two articles, under the title of "Notes on the Path to Survival," be printed in the RECORD.

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

PATH TO SURVIVAL

(By Roger Olmsted)

It is ten years since Rachel Carson took on the American pesticide industry single-handed and showed us that careless assaults on the environment in the name of pest control must certainly lead to ecological disaster. The impact of Silent Spring is a classic example of the influence that one thoughtful and dedicated person can have on public sensitivity to complex and little understood problems that are really very close to us.

The battle begun by Miss Carson against indiscriminate use of persistent chemical toxins has been taken up by others with growing success. Yet while most of us have heard that DDT is on the way out, few have much knowledge of the obvious alternative to chemical pesticides—biological control. Biological control of native pests is not an entirely new concept, but work in a field that does not lend itself well to packaging, marketing, and advertising has not been well publicized and has often been as lonely as Miss Carson's efforts.

Development of effective biological control of native pests has been painfully slow—although in the last two or three years many applications of what would have seemed novel techniques a decade ago have proved successful. The big-time poison industry was born, grew to grotesque proportions, and now may be on the verge of dying of its own excesses in the thirty-year interval between two exciting biological control experiments that can give us special insight into the state of the art; the first an imaginative one-man campaign against a tent caterpillar infestation in the aspen forests of New Mexico during the 1930's; the second, a successful replacement of chemical sprays in control of the red-humped caterpillar by the *bête noire* of a generation of environmentalists, the California Division of Highways. These stories are told in the following pages.

PART 1: BLAZING A TRAIL IN NEW MEXICO

"The entire region was made unfit for recreation, fishing, riding, or hiking. Streams were clogged with the dead bodies, polluting drinking water supplies. The ugly, furry things dropped from the trees as one walked beneath. Trout streams were dammed up every ten or 20 feet with caterpillar bodies. A pervasive stench filled the air for miles."

This was the scene in the aspen forests around Santa Fe that confronted Norman Appleton at the height of a devastating tent caterpillar invasion in the 1930's. Appleton, trained as a biologist, but known to the Santa Fe community for his activity in art and music and for his Aspen Ranch School, decided to try to do something about the infestation which had defoliated some 1,200 square miles of the most scenic mountain areas of New Mexico, including his own beloved Aspen Ranch. The outcome of seven years of almost single-handed study and experimentation was then and still is today a novel and promising approach to the use of beneficial insects in the control of native pests.

In the last 25 years the quick answer to the problem would have been aerial spraying of pesticides, and this was also the initial idea of Norman Appleton. But he found the fish and game department opposed to potential poisoning of wildlife, and airplane pilots averse to navigating the mountain gorges where the aspen clustered thickest.

In desperation, Appleton went back to first principles—he started collecting and opening tent caterpillar cocoons. To his surprise, he found in a large number of cases tiny parasites feeding on the pupae. From his graduate studies at the University of Pennsylvania, Appleton was aware that almost no work had been done in the area of using native parasites to control native pests. Until then, the spectacular successes of biological control had been restricted to identifying and introducing *foreign* insect parasites or predators to control accidently introduced foreign pests who had arrived on a scene where they had no native enemies. The first really dramatic use of biological control in America was in such a case, when the Australian cottony-cushion scale, which was destroying the orange groves of Southern California, was suppressed in the years following 1888 by the introduction of the Australian vedalia beetle.

But if foreign pests could be controlled by insects from their native environment, why couldn't native predator or parasite populations also be manipulated to control native pests? Of course, nature would eventually provide the control insects, but often only after a substantial time lag (up to six years in the case of the Rocky Mountain tent caterpillar, Appleton concluded), during which time astonishing damage might be wrought. Appleton reasoned that outbreaks of tent caterpillars resulted from their being reintroduced to areas that had been free of them for some time, areas in which the population of their natural enemies would therefore also be low. If predators and parasites could be reared in the laboratory and introduced at the first sign of infestations in new areas, perhaps man could thus significantly cut down the time it would take natural forces to limit the pest.

In order to put this theory to any kind of test, Appleton first had to learn all he could about the tent caterpillar and the predator and parasite insects that attacked it. At the outset, he found scant entomological information about tent caterpillar species other than those of the Eastern states. The species that was eating up the aspen groves of New Mexico and Southern Colorado he found lived always above 6,500 feet, and for this reason he settled on the name "Rocky Mountain tent caterpillar." When he started his work, Appleton found only five species of parasites recorded for what appeared to be this caterpillar. During his study, however, he identified 28 kinds of insects that affected the life cycle of the Rocky Mountain tent caterpillar and was able to work out the life histories of many of them and use them in control operations.

For two years Appleton collected, observed, and classified entirely on his own initiative and without any outside support. This situation was soon to change, however, when the newly created state WPA office in Santa Fe invited him to put his artistic talents to work illustrating a study of beneficial hawks of New Mexico. One day, the state director, Gordon Herkenhoff, dropped into Appleton's office, where he saw drawings of tent caterpillars and of some of their wasp parasites. He became highly interested in Appleton's work and when some time later he was asked by a party of visiting officials what could be done about a devastated aspen forest they were driving through, Herkenhoff replied that he knew somebody who had a promising approach. The result was that Appleton soon found himself with a laboratory and dark room, a lab assistant, and labor to help in field projects—the means to collect and rear parasites and to attempt control operations in the field.

The natural control on the Rocky Mountain tent caterpillar begins in midsummer as soon as the female moth lays her eggs. Appleton found four kinds of minute wasp-like insects of the order Hymenoptera that deposit their eggs in those of the tent caterpillar. At various subsequent stages of its development the pest is subject to the attack of other Hymenoptera (four-winged insects characterized by bees, ants and wasps) or by Diptera (two-winged insects typified by flies, gnats, and mosquitoes). One of the most effective insect enemies of the Rocky Mountain tent caterpillar found by Appleton was a new species of solitary wasp (named *Podalonia occidentalis* from specimens supplied by him) which is akin to the digger wasps. This wasp attacks the full-grown caterpillar, stinging it into insensibility and transporting it to a burrow which she has prepared. She deposits a tiny white egg on the side of the caterpillar, then fills and conceals the hole in which she has buried it. Like the other parasites of the tent caterpillar, the wasp does not itself feed off caterpillars, but uses the paralysed host as a future food supply for her carnivorous young. The tiny maggot that hatches from the wasp's egg enters the body of the caterpillar and gradually consumes it. Another important parasite of the caterpillar studied by Appleton is the *Sarcophaga aldrichi*. These extremely beneficial Diptera attack the full-grown caterpillar and insert their maggots beneath the skin of the host, who usually lives long enough to spin its cocoon and transforms to the pupa before it succumbs.

If the tent caterpillar is not attacked by one of these parasites at this stage, there are others that assault it when it shuts itself up in its cocoon. Seven species of the ichneumon flies (wasp-like Hymenoptera) were observed to parasitize tent caterpillars cocoons in New Mexico. There are some 16,000 species of ichneumons, all of them parasites, and many of them prey on what we would consider pests.

In addition to the many parasites of the tent caterpillar, Appleton found three insect predators. Minute, colorless mites attack the baby caterpillars as they emerge from their egg shells. A large fly, popularly known as the "assassin" or "robber" fly, was seen frequently to attack half-grown larvae. Finally, a large ground beetle, *Calosoma calidum*, was observed to eat many caterpillars in a single day.

Disease also plays a large role in controlling many pest infestations, and Appleton observed a viral disease of the tent caterpillar that was destroying up to 25 percent of the population in some cases. He concluded that *Sarcophaga* flies might materially assist in spreading this disease, as both male and female flies were found crawling all over the pests and flitting from one caterpillar to another as they lapped up the exudations from the mouth and cuticle.

From the outset of the study Appleton had assumed that deliberate introduction of some of the most important parasites at the time an outbreak was first observed might avert a serious infestation. The opportunity to test this theory came soon after the identification of beneficial insects was in hand, and methods of collecting them had been established. On July 14, 1937, the Supervisor of Carson National Forest called from Taos to report a small but heavy infestation of tent caterpillars in some 50 acres of aspen just north of a division of the Santa Fe National Forest that had been heavily infested for some years. The challenge was to see whether or not timely introduction of parasites might not save the Taos forests from the scourge that had devastated the Santa Fe forest.

No digger wasps were found at the site

of the new infestation, and only two percent of the 500 caterpillar cocoons that were examined produced ichneumon parasites. However, 39 percent of the cocoons produced *Sarcophaga,* which, as the strongest flyers among the common parasites, had apparently been blown in by the unusually strong southeast wind of the preceding summer. Because the tent caterpillars would soon become moths, mate, and produce eggs, an estimated half-million *Tetrastichid* egg parasites were rushed in. These wasps had been gathered the winter before by the simple expedient of collecting tent caterpillar egg masses from an area where the incidence of *Tetrastichid* parasites was very high. The eggs were kept in storage at a commercial ice house. Taken out of cold storage and placed on a bare cement floor, the eggs soon hatched out their caterpillar crop—which died of starvation in a couple of days. The rest of the eggs were now either infertile or contained parasites. These eggs were then taken to the threatened area and the parasites allowed to emerge in their own time.

In the spring of 1938, Appleton's team caught 3,000 big female digger wasps and introduced them to the infested site. In Appleton's words, "It was thrilling to watch these allies of man pounce upon their prey as soon as they were liberated from their cages." In addition to the ichneumons and the diggers, 45,000 *Sarcophaga* flies were brought in. These had been hatched out in the laboratory by stacking mesh-bottomed trays of caterpillar cocoons known to have a high incidence of *Sarcophaga* over a base filled with moist sawdust. When the *Sarcophaga* maggot emerged from the caterpillar cocoon, it dropped to the ground and burrowed; thus, Appleton wound up with sawdust trays of *Sarcophaga* puparia that could be kept dormant in the refrigerator until needed. When they were allowed to complete their metamorphosis and mate, they were introduced to trays of diseased caterpillars. Released at the infested site, they presumably not only added their numbers to the present parasite population, but helped to spread infection to the caterpillars.

Egg-gathering in the winter of 1937–38 produced 1.5 million more *Tetrastichids,* and a like number the following season. In the summer of 1939, some 60,000 more *Sarcophaga* were also introduced. Close examination of the infested area in 1940 could not turn up a single tent caterpillar. This single field trial does not prove beyond doubt the efficacy of the method; more extensive trials with adequate control populations for purposes of comparison would have been necessary for systematic development of the idea.

Unfortunately, the possibilities inherent in this imaginative control attempt were not followed up. Norman Appleton's low budget program disappeared beneath the gathering clouds of war. The obvious next step of setting up a well equipped state program that could engage in precisely controlled experiments was never taken. Incredibly, his idea of manipulating native parasite populations to mitigate the cycles of native pest explosions is still considered novel—and this first published report of his work is as timely now as it could have been thirty years ago.

With World War II came the "breakthrough" to DDT and ultimately a whole spectrum of environmental poisons that must stand as one of the more dubious boons ever conferred on the human race. Yet there is hope that we may survive our perverse ingenuity; and to see what has finally come of some of the basic ideas that Norman Appleton wrestled with, we can now turn to the case of the red-humped caterpillar in the California highway landscape.

PART 2: CHOOSING THE LESS TRAVELED ROAD IN CALIFORNIA

It comes as a bit of a shock to reflect that the Division of Highways, with its thousands of acres of plantings, may be the biggest gardener in California. As such, it has to contend with a variety of pests, one of the most destructive of which is the red-humped caterpillar. This pest attacks a wide variety of trees and shrubs, but particularly favors the *Liquidambar,* an ornamental tree resembling a maple, whose leaves (if there are any left uneaten) turn a brilliant crimson, yellow, or purple in the fall.

Needless to say, the Division of Highways was a user of the latest chemical pesticides during the 1960's. Toward the end of the decade the division had to face the prospect of growing restrictions on the use of chemical agents and a growing popular sentiment against large-scale and repeated spraying. For instance, in 1969 *Sunset* (a magazine of tremendous influence among Western homeowners and gardeners) came out against the use of dangerous chlorinated hydrocarbons, thus giving something like the Good Housekeeping Seal of Approval to Rachel Carson's charges. It was also coming to be more generally understood that the most powerful, persistent, and popular pesticides sometimes produced dismayingly negative results by killing off natural parasites and predators along with the pests, leaving the field clear for a devastating resurgence of the pest population or an unexpected substitution of a new pest for the old one.

The Division of Highways turned to the University of California at Berkeley for help. Dudley E. Pinnock, a young entomologist from England by way of Australia, had just completed an effective trial of the use of microbial control of the California oakworm, and in 1970 he undertook the state-sponsored project of developing a suitable method of biological control of the red-humped caterpillar.

Pinnock's main weapon in attacking the red-humped caterpillar was to be *Bacillus thuringiensis,* an insect pathogenic bacteri deadly only to caterpillars. Norman Appleton had noticed in his study of the Rocky Mountain tent caterpillar that a disease of the caterpillar might be one of the most effective controllers of the pest; by 1970 biological control workers saw this as the most promising approach. Commercial preparations of *Bacillus thuringiensis* have been used to control caterpillars in lettuce, cabbage, and other crops for a decade. They can be diluted and sprayed with the usual equipment. Like the most powerful pesticides, the agent could approach 100 percent effectiveness. This idea, oddly enough, was one of the older ones in the field of biological control; fifty years ago French peasants were observed to collect a few dead (*i.e.* diseased) caterpillars, throw them in a bucket of water, let them steep for a while, then spray their cabbage patches. Soon most of the other caterpillars would become diseased and die.

A second weapon in Pinnock's armory was to be manipulation of the parasite population, but unlike Appleton, he did not seek to introduce his parasitic wasps directly. Study showed him that a major factor in limiting parasitic wasp populations was probably the availability of adequate nectar supplies. Wasps deprived of nectar died quickly, while those given nectar or honey-water could survive for weeks. In the highway plantings he found that there appeared to be a serious shortage of plants that the parasites of the red-humped caterpillar could feed on in late season. Thus, a long-range goal in control of the caterpillar is to introduce plantings which create a favorable environment for its parasites. This program is underway now.

Controlled experiments with *Bacillus thuringiensis* application to *Liquid-ambar* leaves in the laboratory and trees in the field indicated that complete control of the red-humped caterpillar might be achieved. Not only would beneficial insects not be harmed, but there would be no health hazard to highway personnel handling the biological agents, to the general public, to livestock, or to the general environment. Finally, the tests indicated that the direct savings in cost of treatment might be as high as 40 percent, compared to the costs of using chemical controls.

The program of biological control was accepted and instituted by the Division of Highways. Now, two years later, the Division of Highways can report that it has been able to suspend completely the use of pesticides in the control of the red-humped caterpillar. As the program to create a more attractive environment for natural parasites develops, there is every reason to believe costs and labor effort will continue to decline.

The red-humped caterpillar story could be matched by other successes in biological control achieved in the last few years. Yet it is still true that biological control by and large lives on shoestring budgets when outlays are compared to the immense expenditures involved in the development and application of chemical poisons. The fascinating possibilities of Norman Appleton's experiments have never been followed up, though his project cost very little; the successful Division of Highways program was launched on the basis of control experiments conducted by Dudley Pinnock and two technicians with modest equipment in a short period of time.

A nation as notable as ours for such things as its war machine, its freeways and stagnant auto traffic, and its burgeoning suburbs may not easily be convinced of the desirability of spending money on something that is not self-defeating—but we are offered the clear possibility of controlling our insect pests without poisoning ourselves.

A crucial element in the development of biological controls is going to be the development of balanced systems that do not have the disruptive effects on the environment that have marked the widespread use of pesticides. Even biological control could be abused by fastening onto single-track "miracle" agents. We are coming to understand that we must live in and with our world, and that we must respect our environment instead of over-manipulating it in the interest of short-term and often illusory gains.

NOISE POLLUTION

Mr. CRANSTON. Mr. President, hopefully before the coming adjournment of Congress this body will have an opportunity to act on one of the critical problems facing our society today. We will have an opportunity to bring to bear the force of law on the levels of environmental noise which plague our every waking hour.

The bill which has been reported by the Public Works Committee would establish an Office of Noise Abatement and Control within the Environmental Protection Agency.

This would serve the purpose of coordinating within one office the responsibility for investigating the problems of noise and its effect on public health and well-being.

The bill directs the Administrator of EPA to establish a national research and development program for the prevention and control of environmental noise. For a 3-year period ending June 30, 1975, $104 million are authorized to be used to make grants to various environmental noise control agencies, other public or nonprofit private agencies, institutions, and individuals, for the purposes of research, experimentation, surveys, training, and demonstration. The ultimate goal is the

discovery of the means to prevent and control excessive environmental noise.

Within 9 months after enactment of the bill, the Administrator of EPA is required to issue noise criteria, reflecting all identifiable effects of various quantities and qualities of noise on public health or welfare.

Within 15 months of enactment, the Administrator is required to publish reports identifying products which appear to be major sources of noise. This would be the first step toward developing noise emission standards for particular products. Such standards must be set within 18 months of enactment of the bill for all products identified in the initial list of major sources of noise. Products to be regulated include a broad range of construction equipment, transportation equipment, motors or engines, turbines and compressors, percussion and explosive equipment, electrical and electronic equipment—other than sound reproduction equipment. Noise emission standards set for such products must be met by manufacturers within 2 years after the date of promulgation.

The bill attacks the problem of excessive noise on another important track as well. It provides for EPA to compile and provide information on methods and techniques of controlling environmental noise through such means as product use control, land use regulation, and construction and building standards. Such information is intended to be helpful to State and local governments in conjunction with their own efforts at noise control and abatement.

Mr. President, I have a special concern that this bill be brought before the Senate prior to adjournment. It embodies the primary concepts which I have long sought in the area of noise pollution control.

In June 1971, I introduced a bill, along with two distinguished colleagues, Mr. HART and Mr. HATFIELD, to require the EPA to set strict noise standards on products and equipment where necessary for the protection of public health. Previous legislation which had been introduced merely authorized EPA to do so. I am delighted to see that the bill passed out of committee contains this provision.

Another provision of the original Cranston-Hart-Hatfield bill required the labeling of devices used in the home with their noise levels. This, as I noted at the time, would permit a housewife to choose, for example, between a dishwasher which would drown out her television or hi-fi and one which would not. I note that there is such a provision in the bill as reported.

There is also a provision to permit citizens to use in Federal courts for violation of the provisions of the act. This was also one of the key features of my earlier bill. It is an effective means by which citizens, in bringing class actions, can assure that the interest of Congress is carried out and not stifled by executive inaction.

One feature of the Public Works Committee's bill which concerns me, however, is the preemption by the Federal Government of the right of States to set and enforce stricter noise standards than those set by the Federal Government.

California has taken the lead among States which have passed antinoise legislation. The State legislature has set noise standards for all forms of moving vehicles, for example, and has established highway noise standards and a program to compensate individuals for injury from noise emissions caused by construction equipment.

Many other bills are pending before the legislature in Sacramento. In the area of aircraft noise, California set bold standards governing emissions from airplanes. On January 1, 1971, the effective date of the California law, the Los Angeles Air Pollution Control District cited over 100 violations of the aircraft emission law. However, California was prevented from prosecuting these violations because a Federal law, the Clean Air Act, which also went into effect on January 1, 1971, wiped out the State law.

A noise pollution ordinance enacted by the city of Burbank, Calif., prohibiting takeoff and landing by jets during late night and early morning hours, has also been struck down by Federal preemption.

I had hoped, Mr. President, that a noise bill would be passed during this session of Congress which would strike down this total Federal preemption. Federal laws should not be permitted to wipe out State antipollution laws unless uniform national laws are needed for the free flow of commerce. The States must be permitted to adopt and enforce laws to protect the health and safety of their citizens. Where State antipollution standards are more stringent than Federal standards, they should remain in force.

Under the bill which I hope we will be considering in the week ahead, States and cities retain the right to restrict the use, operation, and movement of a product on the basis of its noise emissions. This does not apply to aircraft noise, however, where the authority of the States remains totally preempted. I would like to see the authority of State and local governments, at least in areas other than aircraft noise, extended under this bill. In addition to controlling the use of excessively noisy products and equipment, States should be permitted to prohibit the sale of such products. The burden should not be placed on consumers, who buy a product offered for sale, to determine in what ways the State or local authority permits the product to be used. I would like to see the bill amended to give States clear authority to withhold excessively noisy products from the consumer.

Title V of the bill, dealing with aircraft noise, addresses itself to what I consider to be the most critical area of the noise pollution problem—aircraft noise. Earlier this year, I introduced four resolutions proposing restrictions on supersonic aircraft and noise emission standards for subsonic aircraft. One of these would forbid the flight of any aircraft at supersonic speeds over the United States, its territories, or territorial waters. I am pleased that this proposal has been incorporated into the bill which will be before us shortly. It will prohibit sonic booms over U.S. territory, and will be subject to the same enforcement as the other provisions of the bill.

Other sections of title V of the bill, however, are somewhat disappointing to me. Jurisdiction over aircraft noise pollution is at present divided among several agencies. This divided jurisdiction has led to ineffective aircraft noise control. Recognizing this fact, I proposed last year the transfer of authority over aircraft noise standards entirely to EPA. Other agencies, such as FAA and CAB would be expected to set various guidelines and operating procedures within the standards set by EPA.

The bill which has been reported does centralize responsibility for setting of aircraft noise standards by assigning it to EPA. However, the bill provides for an ultimate veto by FAA over any standards promulgated by EPA. FAA would be permitted to veto EPA-proposed standards on the grounds of cost, available technology, and safety.

I am very much afraid, Mr. President, that given this veto power by FAA, the Federal Government will move painfully slowly in taking effective action to combat one of the worst offenders of our peace of mind and well-being—aircraft noise. The problem is critical in many areas. Noise from aircraft has reached intolerable levels for large segments of the population living near major airports—and the problem is worsening as busy metropolitan airports become busier. Residents of such areas are suing airport operators. A recent California supreme court decision permits such suits against airport operators, not only for physical damages caused by aircraft noise, but also for nuisance. Over $4 billion in claims were pending before the court approved this new course of action.

I cite this, Mr. President, as an illustration of the scope of the problem. There must not be more years of delay and talk and study on the part of Federal agencies. Our health is in real jeopardy. Studies of the effects of excessive noise exposure on humans reveal frightening data. Prolonged exposure to loud noise causes damage to the ear and permanent hearing loss. There is evidence of statistically higher incidences of mental illness found among persons residing near large airports. A common effect of excessive exposure to noise is stress, which is a factor in the cause of high blood pressure, migraine headaches, colitis, nervous disorders, and ulcers. Vascular construction is a well-documented physical response to noise.

While the EPA and FAA search for solutions under the terms of this bill to reduce aircraft emission levels, we should be seeking other ways to reduce the effects of aircraft noise.

There are several approaches to the problem, and one in particular which I feel should be made a key feature of this bill. The Environmental Protection Agency should be given the responsibility for developing and enforcing cumulative noise exposure levels around all major airports. It is my understanding that the

FAA has developed a standardized noise exposure measurement scale. The scale takes account of such factors as frequency of takeoffs and landings, the day/night distribution of flights, loudness of individual planes, duration of the noise, and flight patterns and operating procedures. The FAA classifies all areas with a noise exposure forecast of over a certain level as incompatible with residential living. By FAA's own estimates, over 3.5 million Americans now live in areas classified as unsuitable according to the scale they have developed.

The bill provides for a study to be made of the question of setting cumulative noise levels. The time for study has passed, Mr. President. We must act to relieve the assault of constant noise on these millions of people, and millions more who tolerate levels of noise close to FAA's maximum. EPA should be instructed to continue the work of FAA in this area, and to make use of other research done by private and public agencies and should be required to promulgate levels of cumulative noise which must be complied with by airport operators throughout the country.

The next step would be to determine appropriate land use compatible with the population and air traffic. Localities would be directed to cooperate with EPA in working out a 10-year plan to achieve the established goals. I believe the first step must be taken now to identify and enforce cumulative noise exposure levels.

The problem of emission standards must also be pursued. Ultimately, the answer to the problem of aircraft noise will lie in a reduction of actual noise emission from individual airplanes. Toward this end, I introduced many months ago a proposal to require the retrofitting of all existing aircraft which do not meet noise-emission standards that have been set by FAA for all new types of aircraft put into service after January 1, 1972. The FAA ruling does not apply to any planes previously in service, nor does it apply to future production of present-generation planes now in use, such as the 747, 737, 727, 707, DC–8, and D–9.

My retrofit proposal would fill the monstrous ear-splitting gap between the new standards—and hopefully stricter standards which will be made possible in the next few years—and the noise levels which are being tolerated from existing aircraft. The average airliner is kept in operation for 10 to 20 years. By 1976 there will be 400 to 600 747's in service, compared to the present fleet of about 110.

A program of retrofit can mean the difference between doing something now about noise pollution and waiting another 10 or 20 years for the next generation of airliners to fully replace current planes.

My original retrofit proposal contains a deadline date for completion of the procedure by January 1, 1976. It involves lining the nacelle, or cowling, of a jet engine with soundproofing material, and enlarging the size of the engine's exhaust outlets. This procedure would reduce sound emission at least 50 percent and would be performed on about 1,700 to 1,900 of the present types of airplanes which will be in service by the deadline date.

The concept of retrofit has been attacked by some as being too expensive. But I ask the question: "What is the cost of the alternative?"

The noise level in American cities has doubled in the past 16 years. By 1985, two persons on an average American street corner will not be able to converse normally if they are more than 2 feet apart unless vehicular and aircraft noise are reduced from their current levels, according to a NASA study last year. Citizens will "have to scream" at each other, in the words of a recent report. By the year 2000, everyone in major metropolitan areas will be stone deaf, according to a report by the International Standardization Organization.

The health hazard caused by excessive noise, as I pointed out earlier, is just beginning to be studied and understood.

How do you express the cost in dollars, Mr. President, of the loss of sleep and the effects of fitful sleep for literally millions of citizens each night, due to aircraft approaching in takeoff and landing patterns?

How do you assess the cost of learning loss of schoolchildren who have difficulty hearing their teachers?

The scope of the problem is enormous. It is the responsibility of the Congress and the Federal agencies with the required expertise to see that effective steps are taken, now, to attack the problem at its source. We must begin with whatever means are within our power and available technology. Further study and research is needed, and will be provided for in the bill we are about to consider. But more is needed as well. And more can be done. I hope we will not only pass this bill, but strengthen it in the ways I have suggested.

KANSAS CITY INTERNATIONAL AIRPORT

Mr. EAGLETON. Mr. President, later this fall there will be an event in Missouri which merits some singular attention. Kansas City will dedicate a new $250 million international airport.

While new airports are not yet commonplace they are emerging frequently enough to minimize their news value. What distinguishes Kansas City's new airport, over and above the various design features that are unique, is that it reflects an evolution of this great middle American city that has transpired almost without notice.

The time has long passed when Kansas City had wheat piled in the streets or ran cattle down the main avenue. Kansas City today has a beautiful balanced economy; it manufactures just about everything. On a per capita basis it is first in the country in the manufacture of automobiles and trucks, vending machines and greeting cards. Per unit of population, it is first in retail sales, first in the number of consulting engineers, in printing and in publishing.

The central location of Kansas City—which our new airport will dramatically enhance—is further reflected in the great concentration of A.T. & T. facilities and long line headquarters, in Western Electric and United Utilities, the third largest telephone company in the country. It is a regional center for the news wire services.

Its location is one reason why the Federal Government selected Kansas City as a regional headquarters for major Federal agencies.

I ask unanimous consent that a recent report by the Associated Press on the new international airport at Kansas City be printed in the RECORD. Please bear in mind that this airport is only one of a total of some $3.2 billion in public and private construction projects underway that are reshaping the character of this fine city.

This airport is planned for the 1990's and is tangible evidence of Kansas City's growth into an inland capital.

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

KANSAS CITY, Mo.—Even before this city's new $250 million international airport opens for business in November, it will have generated nearly a tripling of new investment dollars in its immediate area.

So far, the new airport, located within Kansas City's limits and only about 20 minutes from the downtown central business district, has spurred $322 million in newly-approved construction projects. And, another $300 million in proposed projects awaits city-council approval.

Since work on the 5,000-acre airport began, construction cranes have jutted the Kansas City skyline, representing $3.? billion in building, that city officials have projected will result in a $10 billion boost to the city's economy over the next few years.

Most of the new construction throughout the area, not all of it necessarily a direct result of the airport, will come about over the next 12 to 18 months. This includes twin stadiums for professional football and baseball, colleges, hospitals, hotels, office buildings, a convention center and a major theme amusement park. The construction represents the largest per-person—$2,500—investment in growth of any city in the United States.

Donald R. Woodard, city planning director, says development around the new airport could be larger in scope than in any other American city. "There is plenty of room for growth", he says, "and we expect the airport to foster many new enterprises that can take advantage of Kansas City's location as a natural international distribution center. The city is just about at the nation's geographical center, will soon become the nation's first inland free trade zone, and the airport has the most advanced cargo handling facilities in the world."

In fact, air cargo in Kansas City increased 337 per cent during the 1960's although the city did not have an international airport. The city handled more than 174.8 million pounds of air cargo in 1970 which is equivalent to 35 pounds of merchandise per household for the surrounding six-state region.

With Kansas City International Airport, *KCI*, in operation the amount of air cargo handled is expected to reach 320 million pounds in 1975 and 640 million pounds in 1980.

Unlike Los Angeles International Airport or John F. Kennedy Airport in New York, Woodard said, "KCI's area development will be controlled by a 100-square-mile zoning ordinance plan in Missouri."

The land protection plan was adopted by the city council two years ago. It is the larg-

est airport protection plan in the nation, with compliance enforced through occupancy permit procedures and utility services. There are seven land control classifications ranging from Park Greenbelts to industrial property.

"The plan was formulated to protect not only the city's investment at KCI, but also the developers and people who will live and work around the airport," Woodard said. "In fact, we feel the plan is an added incentive for development, since it is designed to encourage airport-related activity."

An airport-related development at KCI is Trans World Airlines $56 million national maintenance complex. TWA, one of eight commercial airlines serving the area, employs 10,000 persons.

Along with former Mayor Ilus W. Davis, Trans World Airlines set KCI in motion five years ago by spearheading a successful $150 million revenue bond issue. The issue, first of three used to finance the airport, passed by a 24 to 1 vote.

Davis, banker and senior partner in a Kansas City law firm, is watching proudly as dividends from the bond investments become visible.

"Nothing this city has ever done will reap greater benefits than our new airport," Davis said while ticking off airport-related projects such as the TWA complex, Shell Oil Company's $100 million Tiffany Centro planned business community, the 140-acre Oppenheimer Industrial Park and the $100 million Gateway Plaza international business center.

In addition, the city planning commission has reviewed 18 office building proposals and commercial developments on 415 acres, nine service facilities and nine hotels with total annual payrolls expected to exceed $14.5 million.

Construction, however, is just part of the greater Kansas City picture. Davis said KCI will offer additional economic benefits by attracting new business, influencing office additions, expanding employment opportunities, increasing airport land values—which broaden the city's tax base—sparking new residential construction.

City economists estimate the increased development near KCI will funnel $489,440 in additional taxes into the city over the next two years. Generally, land that was selling for $800 per acre five years ago around KCI has increased to $8,000. The increases will not peak until 1975.

Contrary to belief, major airports lately have adverse effects on value of surrounding real estate, Bruce Macy, chief economist with the not-for-profit Midwest Research Institute in Kansas City, said, "Land values around Kansas City International will continue to go up while improving the general economic base of the area."

For example, Macy said, "land values near O'Hara International Airport in Chicago increased from $400 per acre in 1947 to $20,000, in 1960 when the airport became fully operational. Three years later, development swelled the value to $50,000 per acre. Similarly, land around Los Angeles International Airport more than doubled in two years, from $50,000 an acre in 1960 to $110,000 two years later."

Macy said, "KCI, will stimulate residential construction on land not located in noise-control zones and where the master plan permits single—or multi-family dwellings." He said, "an expanded residential housing market will be an additional indirect economic gain for greater Kansas City."

"The residential market potential that the airport and airport-related employment represents seems to encourage the growth of large, attractive residential areas near the airport," Macy commented.

He said, "a study indicates that more than 30,000 homes had been built within a mile of metropolitan airports in Newark, N.J., New York, Chicago, Dallas, Denver and Los Angeles. A similar market will exist in two counties near KCI," he said, "with those counties accounting for 52.5 per cent of Kansas City's new housing demand through 1975.

Woodard said, "area planning studies indicate KCI will result in development of six new towns of at least 50,0000 by 1990." "On the basis of an average three persons per dwelling unit." Woodard said, "those towns will require 100,000 new dwelling units in the KCI vicinity. Seventy per cent of those dwellings would be multi-family units."

"Undoubtedly, ease of access and a short home-to-work travel time would influence airport employees in their choosing where to live," Macy said.

"Along with employment generated by industrial growth around the airport, employment at KCI will greatly expand the market for residential development."

He said TWA has 5,800 employees at KCI and will have 20,000 by 1980. The airlines and the city aviation department labor force will be 10,000, when KCI opens, rising to 25,400 in 1975, and 42,500 by 1990. Air transportation at present generates 4 per cent of the greater Kansas City employment. It will generate 8 per cent by 1990.

Woodard said, "airports also have an impact upon office space additions. He said generally between 10 and 20 per cent of new office space additions will occur around a new airport."

"Historically", Davis said, "industrial development in Kansas City has occurred because of, or been influenced by, transportation facilities. He said KCI is expected to attract at least 20 industrial parks, on 44,443 acres and to result in about 25,000 new jobs.

"Because the city has a one-cent earning tax, new jobs will increase that tax source as yet another economic benefit," Davis said. "I doubt we'll ever be able to measure the precise financial impact of KCI. But we'll certainly be able to see it."

PEACEFUL TRADE IN NONSTRATEGIC ITEMS WITH THE PEOPLES' REPUBLIC OF CHINA

Mr. MAGNUSON. Mr. President, as many Senators know, for more than 15 years I have advocated peaceful trade in nonstrategic items with the Peoples' Republic of China. I firmly believe that such trade not only benefits both nations economically, but can do much to improve understanding and ease tensions.

Thus, I applauded the dropping of official barriers to trade with China when it occurred last year. However, I also warned that the mere dropping of trade barriers would not instantly propel us into the China market. Although there is a strong potential market for feed grains, chemical fertilizers, certain types of metals, transportation and communication equipment, and a wide range of machinery products, it will take an aggressive and competitive sales effort to obtain a portion of this market.

Recently, an article published in the Washington Post detailed one such successful effort—the sale of $125 million in commercial jet aircraft by the Boeing Co. This is by far the largest successful transaction to date. The article provides an interesting case study.

Because I believe that the article provides a good deal of information that is of interest to Senators and to those interested in selling to the Peoples' Republic of China. I ask unanimous consent that it be printed in the RECORD.

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

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

SELLING TO CHINA: IT TAKES PATIENCE

(By Robert J. Samuelson)

When Byron Miller crossed into China on April 15, he had no reason to be optimistic, and he wasn't.

Miller, 46, an ex-Navy flyer, is a slender, unimposing man with a thin face and a receding hairline. He talks quietly, but has a keen memory and an eye for detail that serves him well in what he does, which is selling jets for the Boeing Co. And he had been doing it long enough, 14 years to be exact, to know that the trip to China would probably amount to nothing more than a series of technical discussions, followed by an agonizing waiting period in Seattle to see whether the Chinese really wanted to buy American jets or were simply being curious.

Miller's appraisal would prove spectacularly inaccurate.

He would spend most of the next five months in China, grow a mustache in Peking, and sell ten Boeing 707 jets to the CAAC, China's infant airline, for $125 million—the biggest, most spectacular sale to China yet.

It may endure as the high-water mark of U.S.-China commerce for some time. China isn't a big trading nation; last year, according to U.S. specialists, its total foreign trade amounted to about $4.5 billion—almost evenly divided between imports and exports. Unlike most nations, China pays cash for almost everything it buys abroad, eschewing normal credit arrangements (although it does extend credit to developing countries). Such a pay-as-you-go policy leaves little room for luxuries.

VAST NEEDS

Viewed over the panorama of the next 10 to 15 years, the needs are vast. With 25 per cent more land mass than the continental United States, China's embryonic transportation network now has only about one-eighth the rail mileage (25,000 miles against 205,000) and one-fifth the roadways (670,000 against 3.7 million), according to a paper prepared for the Joint Economic Committee. And most of the roads are still dirt or gravel.

The existing air network is probably even less developed than the rail or highway systems. Three to five airports are equipped to handle big, international jets. Air traffic control is primitive, relying heavily on visual flying. "Air service in China stops at dusk and starts at dawn," says Secor Browne, chairman of the U.S. Civil Aeronautics Board, "and when it's cloudy, you don't go."

The CAAC's fleet, according to all available reports, consists primarily of several hundred Soviet-built, propeller-driven planes. The schedule of flights is light; U.S. visitors to major airports, such as Shanghai, report four or five a day, International service is virtually non-existent. On foreign routes, the CAAC ventures infrequently only to North Korea, North Vietnam, Burma, Mongolia and Siberia.

"To get from Seattle to Peking, if you don't have to go through the visa [procedure] in Hong Kong, would take you a minimum of three days," Miller recalls. First, a flight to Hong Kong; then a train to Canton; and, finally, a flight to Peking. "There's one flight a day"—two days a week direct and the other five indirect. The pace is leisurely. On the indirect flights, "you stop and everyone gets off and has lunch. After an hour and a half, you get on again . . ."

In fact, the tempo may be too leisurely for a China determined to end its political, geographic and economic isolation. That was why Miller and six other Boeing executives were in Peking. After the 707s are delivered between the summer of 1973 and the spring of 1974, they will almost certainly be used in expanding the CAAC's international air service—possibly to Western Europe and Canada.

Significantly, the only other major U.S. export to China (aside from a wheat sale) also relates to ending her isolation in a fundamental way: They are two RCA satellite earth stations (one in place, the other to be built), which will provide instantaneous teletypewriter or telephone contact with any part of the world, ending China's almost exclusive dependence on a small number of unreliable, high frequency radio circuits.

Nor will the CAAC wait for its first 707 before inaugurating longer foreign flights. The first route to Europe—probably to Albania or Romania, via Afghanistan and Pakistan—may begin as early as October or November, using Soviet IL–62 jets. During the last two years, the Chinese have shopped around the world for modern jets and have bought almost anything that looked interesting: five IL–62s (a four-engine jet roughly comparable to the 707); 12 British Tridents (a three-engine, medium-range jet) for delivery in 1973 and 1974; and even three British-French supersonic Concordes for delivery in 1976 or 1977.

All this may make the purchase of the 707s look like part of a carefully planned grand design, but if the Chinese indeed had everything worked out in advance, they staged a masterful charade that kept the Americans on edge throughout months of false starts and frustration.

THE CONTACT MEN

International trade is a wholly unspontaneous process. Even in a favorable political and economic climate, it requires the aid of unseen allies: personal contacts, credit arrangements, shipping agreements and—above all—a measure of common trust and understanding. Two decades of total trade embargo had obliterated these connections between the United States and China; according to the Commerce Department in 1970, the last year of the embargo, U.S. exports to China amounted to less than $1,000, consisting primarily of magazines, books or automobile parts shipped through third countries for use at foreign embassies.

Ignorance might have deterred Boeing, but it didn't. Bombarded by rumors of Chinese interest, the company established a China file in mid-1971. The initiative, if nothing else, reflected Boeing's desperate search for business of any sort. Suffering from sharp declines in airline and government spending, company employment had dropped from 150,000 to 55,000 between 1968 and 1971. Its giant project of the Seventies, the 747, was limping along; the airlines, finding they had many more seats than passengers, simply weren't ordering many more of the $24 million planes.

Just home from an assignment in Europe, Byron Miller took over the China file in the fall of 1971. By that time, Boeing had become easy prey for a vast array of self-professed trade experts—"closet operators, out to turn a quick dollar," Miller would call them later—with alleged contacts in Peking. Getting in touch with the Chinese, Boeing had discovered, was like communicating with the Almighty: Most prayer went unanswered, but it seemed prudent to consult anyone in priest's clothing who claimed to understand the unfathomable ways of the Deity.

So that is what Boeing did. Rumors and proposals trickled in from all over the globe, London, Japan, Eastern Europe, Pakistan. Boeing checked them out. The authors of some of these schemes showed no scruples in hiding their intimacy with the highest Chinese officials.

In the aftermath of President Nixon's China voyage, for example, one man presented himself to Miller, flashing a letter in elegant Chinese script, which he graciously consented to translate. It was, he said, a thank-you note from Premier Chou En-lai, expressing China's gratitude to him for his crucial role in helping make the arrangements for the President's trip. That unselfish act, the letter allegedly went on, would not be overlooked as China developed her trade with the West. The man presented himself as an officially anointed, modern-day Marco Polo, ready to guide Boeing to the Chinese treasury.

More maddening than these encounters, which may have given Boeing officials something to chuckle about but nothing more, were the fruitless efforts to get an audience with the Chinese through official channels. President Nixon's trip may have opened the way to China, but Boeing officials insist that no deal was made and that, if the subject of jets was discussed at all, word of it never reached Seattle. Inquiries were made at the Chinese embassy in London; after the President's trip, a request for a visit to the Canton Trade Fair was presented to the Chinese Embassy in Ottawa. These approaches met with nothing but silence.

The final, desperate stratagem to establish contact was too simple to work, but, in one of those truth-is-stranger-than-fiction episodes, it did. Miller mailed a letter to the China National Machinery Import and Export Corporation in early March; three weeks later, an invitation to the Canton Trade Fair and then to Peking (to discuss jets) arrived in Seattle by cable.

PARAGRAPH BY PARAGRAPH

It is easy to visualize everything proceeding smoothly thereafter. The Chinese, having determined what foreign air routes they want to fly, decide that the 707s—used by 54 other airlines—are their best buy. The bedazzled Americans have a wonderful stay in China, splitting their time between negotiating, sightseeing and feasting on splendid Chinese cuisine. All the while, they savor their impending fame.

In reality, the talks jolted along with all the tranquility and certitude of a bumper-car ride.

"We had heard that the Chinese prefer things to be very simple—that they like a short contract," Miller says. "We found that to be utter nonsense. Our purchase agreement . . . is 125 pages of very detailed contractual matter. We went through that thing ten times, paragraph by paragraph. It was very arduous."

Bargaining followed a gruelling pace: morning and afternoon sessions, six days a week. Despite an initial announcement that they wanted U.S. jets, Chinese negotiators seemed determined to keep the upper hand by haggling over contractual language or details (disagreement over the price for spare parts almost caused the sale to collapse) and carefully controlling what information they revealed. The Boeing team didn't officially know, for example, how many planes—or the exact type—China wanted until more than six weeks after the talks started.

The passion for confidentiality hasn't disappeared with time. Miller still won't identify the chief Chinese negotiators by name. All his correspondence to Peking, he says, is addressed simply to the China National Machinery Import and Export Corp.

During the negotiations, Miller had to return twice to the United States—once to prepare formal sales proposals for all Boeing's commercial jets (the Chinese hadn't yet specified which they wanted), and one to secure a government export license. (Boeing officials, having been given verbal assurances that such a license would probably be granted, offered to negotiate a conditional agreement, subject to issuance of the license, but the Chinese team rejected that idea quickly. Their answer, as Miller recalls, was simple: "You take care of your government problems, we'll take care of ours."

BRING YOUR OWN FOOD

If the Chinese were hard-nosed at the bargaining table, they were gracious hosts, but the five long months in a Peking hotel weren't nearly as glamorous as might be expected. The Boeing team toured all the city's major sights—the Ming Tombs, the Zoo, the Great Wall, and the Summer Palace—and received frequent invitations to operas or basketball games of visiting international teams.

But these diversions couldn't relieve the tedium of the negotiating sessions, break the repetitiveness of restaurant eating or cure the sense of isolation. "There was really nothing to do in the off hours," Miller says. You stayed in your hotel and that was about it, except for sightseeing . . . We had no embassy and couldn't get any news. Occasionally, we'd be able to get a copy of the British Embassy News (a summary prepared by the British staff), but it was all British-oriented."

In the hotel restaurant—they stayed at the Hotel of Nationalities, which was used by President Nixon's entourage—"you could tell the old China hands by looking at their tables." The veterans had their own food stock—instant coffee, salad dressing or anything else that wasn't available locally and could be squeezed into a suitcase.

By the third trip, Miller and the Boeing team had picked up some of the tricks: They jammed bottles of Tang (no orange juice was available at the hotel) and salad dressings into their suitcases, arranged for copies of Time and Newsweek to be mailed from Hong Kong (the transit time was six to eight days) and brought tennis rackets to play at the International Club.

Since his return, Miller, now unofficial dean of America's China traders, has become a minor celebrity of sorts, briefing government officials on the negotiations and catering to the demands of a curious press. Boeing, with bad memories of its SST publicity debacle, is clearly happy to be associated with something that is at once so uncontroversial and so fashionable.

BY INVITATION ONLY

Despite his ultimate success, Miller is no visionary about the future of Boeing's China trade. The CAAC's appetite for jets may be almost insatiable, but the actual number of purchases is likely to be limited by China's relations with the West, the amount it can afford to spend on planes (or its willingness to accept credit terms) and, finally, the speed with which it can modernize its air network.

Even if China buys more planes they may not be American. The Chinese, after all, have favored so many different countries with their orders that future needs could be satisfied from any one of a number of sources. In conventional airline terms the selection of so many models (from the Soviet IL–62s to the Concordes) doesn't make much sense; most airlines try to minimize the different types of planes, hoping to reduce training costs and spare sparts stockpiles.

"I think it's a shakedown (period)," Miller says. "I think they're purchasing these planes so they can compare." He could be wrong. China may only be using the jet purchase as a part of her foreign policy—a form of commercial reward—or avoiding becoming dependent on any one country for aircraft.

Whatever happens, Miller has drawn one lesson from his most recent experience: China buys on its own terms. When can he expect to sell more jets? "I'm awaiting an invitation to come back. That's the only way you're going to do business in China—by invitation."

PENSION REFORM LEGISLATION

Mr. GRIFFIN. Mr. President, I call upon the majority leadership to schedule Senate consideration at the earliest possible date of the pension reform bill now on the calendar, S. 3598.

The original bill was unanimously reported by the Labor and Public Welfare Committee, and it was later amended by

the Finance Committee. While the amended version of the bill is too weak, that is no reason for not calling it up. A decision to schedule this bill for Senate action is needed now, and if there is an opportunity to consider it, I am confident the Senate can pass meaningful pension reform legislation in this session of Congress.

Of course, I regret that the pension bill, in its present form, as reported by the Finance Committee, is a weak bill. But despite that fact, the bill does provide a vehicle for the Senate to work its will once the bill is before us the Senate would be able to consider strengthening amendments.

This Senator and the distinguished senior Senator from New York (Mr. JAVITS) have pledged to offer amendments to restore the meaning and teeth to this bill if the Senate is given a chance to act, and I am confident that the votes are available in the Senate to strengthen this bill. But first, we must have the opportunity to consider it.

Mr. President, we now have—for the first time in 12 years—a pension bill on the Senate calendar and consideration of it awaits only a decision by the majority leadership. On July 18 of this year, the distinguished majority leader listed a number of bills considered to be of primary importance for the Senate to act on this session—CONGRESSIONAL RECORD, page S11131. Pension legislation was included on the list at that time.

The time for action is now.

Mr. President, at the time the pension bill was referred to the Finance Committee both its chief sponsor, the distinguished Senator from New York (Mr. JAVITS), and I were on the floor of the Senate. In light of the legitimate jurisdictional claim of the Finance Committee over related tax aspects, it was felt that referral to that committee could not be opposed. However, the Senator from New York and this Senator were successful in requiring the Finance Committee to report the bill back to the Senate in 1 week.

Unfortunately, the Finance Committee held no hearings on this bill or on any of the related pension bills pending before the committee. Consideration was scheduled with very little notice to committee members, making it virtually impossible for Senators supporting the pension bill to be present. In fact, only one of the five Senators filing dissenting views to the Finance Committee report was able to be present.

Mr. President, I regret that the Finance Committee acted in this way. But the committee did report a bill which provides at least a vehicle through which the Senate can work its will. We can, and we will amend this bill to make it meaningful legislation if we get the opportunity.

Although I generally support the stronger version of the bill as it was reported by the Labor and Public Welfare Committee, I believe even that version should be improved.

For example, the vesting standard in the bill should apply retrospectively to all benefits earned before the date of enactment, instead of being limited to those persons who have reached age 45 as of that date. Of the several pension bills that have been introduced in this Congress, only my bill, S. 2485, would require the vesting of workers' benefits earned before enactment. While I am pleased that the Labor Committee adopted this concept in part, I firmly believe that each and every worker should be given the same protection.

As a noted pension consultant, Mr. Thomas Paine, of Hewitt Associates, recently stated in the September issue of the Pension and Welfare News:

> After waiting this long for a legislated vesting standard, it seems empty to vest only future (benefits), thus delaying the reality of truly meaningful protection for many more years.

In view of the Labor Committee's finding that the median pension benefit paid in 1970 was less than $100 per month, the vesting of past benefits takes on added significance.

Furthermore, a cost study of pension vesting done for the committee by the actuarial firm of Grubbs and Co., indicates that the cost of vesting all previously earned benefits is not significantly greater than vesting only those workers age 45 and over on the date of enactment. This firm found that the maximum increase in cost to employers by requiring vesting of all past earned benefits, as opposed only to those benefits earned by a worker age 45 and over, would be only 0.2 percent of payroll costs.

Second, under the Labor and Public Welfare Committee version of S. 3598, a pension plan must provide that 30 percent of an employee's benefits are vested after 8 years of service, 50 percent after 10 years, and 100 percent after 15 years. This compares with the 100 percent vesting requirement after 10 years of service in my proposal.

Of course, the provisions in the Labor Committee bill do represent a substantial improvement over current requirements, since an estimated 23 percent of all pension plan members at present are covered by plans with no vesting. However, I believe federally imposed vesting standards should go beyond what the average plan provides today. The 100 percent, 10-year vesting standard which I have proposed is already included in plans covering more than 21 percent of all pension plan participants.

Third, I am opposed to continuous service requirements in pension plans which say, in effect, that a worker must start all over again in obtaining his or her vested rights if there is a break in service. S. 3598 would limit to three years any such requirement.

Fourth, the vesting and funding requirements in the bill would become effective 3 years after date of enactment. A 3-year delay in making the vesting standards effective means that hundreds of workers may forfeit their hard-earned benefits during this waiting period.

According to a Treasury Department study, an additional three and a half million American workers, including nearly a million over age 50, would be vested if a 10-year vesting standard were in effect today. Many of these older workers who reach retirement before the end of the 3-year period will have nothing to show for their labors. For those nearing retirement, a change in jobs during the 3-year period may preclude them from obtaining a vested right even under the more liberal vesting requirements of S. 3598. Consequently, I believe the effective date of the vesting requirements should be no longer than 1 year after the date of enactment. This should allow ample time for plans to be amended to conform to the new requirements.

Fifth, under the insurance program of S. 3598, there would be a monthly ceiling on insurance benefits of $500. By placing such a ceiling on insurance benefits, many skilled and semiskilled workers will not receive the full benefits they would otherwise be entitled to if the plan had not terminated. Such a limitation could have a particularly severe impact in industries such as aerospace where there are many highly skilled workers on the unemployment rolls.

Sixth, the provisions of S. 3598 would apply only to plans with 25 or more participants. However, there is a higher frequency of inadequate vesting and pension plan terminations among the smaller plans. For instance, a 1965 Labor Department study of pension plan terminations over a 10-year period indicated the median number of workers covered by terminated pension plans was only 13.

In view of these problems among the smaller plans, the legislation I introduced last year would require that all plans with 15 or more employees conform to vesting insurance, disclosure and fiduciary requirements. An increase in the scope of protection for smaller plans is essential and should be tested to determine whether effective legislation of these small plans is indeed possible.

Mr. President, it is of great importance that the Senate be given an opportunity to work its will on the pending pension legislation. The pension bill now on the Senate calendar provides a vehicle for reform in this vital area of concern to the working men and women of our Nation. Accordingly, Mr. President, I urge the majority leadership to schedule this bill for Senate action.

THE 70TH ANNIVERSARY OF FOUNDING OF RUSSELL MILLS, INC., OF ALEXANDER CITY, ALA.

Mr. ALLEN. Mr. President, Alexander City, Ala., is home for more than 15,000 Alabamians, and it is the headquarters of Russell Mills, Inc., a thriving textile industry of my home State. It is a city of many churches, comfortable homes, good schools, progressive businesses, and hospitable people. This week the citizens of Alexander City are commemorating the 70th anniversary of the founding in their city of Russell Mills, Inc., a homegrown industry which has been owned and operated since it began by the Russell family. This company stands second to none in its excellent relationships with its employees and their families, in its fine cooperation with the surrounding community, and in its use of new production and management technologies which help keep it among the most

modern producers of textiles in the nation.

The Alexander City Outlook, one of Alabama's finest community newspapers, is recording this 70th anniversary through a special commemorative edition, and its editor has honored me with a request that I prepare an article for publication in this special edition.

I feel that observances such as this are of great value in reminding Americans of every age that opportunity for success is at hand for those with vision, ability and energy and the willingness to use them.

I ask unanimous consent that the article which I have prepared on the occasion of the 70th anniversary of Russell Mills, Inc., be printed in the RECORD.

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

THE 70TH ANNIVERSARY OF RUSSELL MILL'S INC., OF ALEXANDER CITY, ALA.

It is sometimes easy, in the excitement of announcing location in Alabama of a new industrial plant by a nationally-based firm, to lose sight of the fact that until a relatively few years ago, industrial development in Alabama was mostly a home-grown affair.

This fact is brought out today in a dramatic fashion with the observance of the 70th anniversary of Russell Mills, Inc. of Alexander City.

Within the lifetime of many Alabamians, we are witnessing a real-life Horatio Alger success story in which Benjamin Russell, and those who have followed him, showed vision, initiative, courage, experienced judgment and hard work to lay the foundations of an industrial complex which has brought progress and improvement to an entire community and to our State.

The son of one of the earliest settlers of the Alexander City area, Benjamin Russell never lost the pioneering spirit that gives some men and women the vision to see a distant goal and the ability and the energy to reach that goal. Russell Mills, Inc., as it is today, is a living memorial to its founder and to his children, Benjamin C. and Robert, both deceased, Thomas D. Russell, the company's president, and Mrs. Elizabeth Alison, who guided the company through some of the roughest economic shoals in American history. In just 70 years, the company has grown from one small knitting mill located in a 50 by 100 foot wooden building to an industrial complex containing 55 acres of floor space in the 10 mills in Alexander City, two in Dadeville, one in Hanover and one to open soon in Coosa County. These plants give employment to more than 4,700 Alabamians who earned a payroll last year of $27 million, and the company purchased more than $5 million worth of Southern-grown cotton.

But it takes more than spindles, looms, knitting machines and sewing machines to make a business successful. It takes people, in this case the thousands of men and women who work for Russell Mills today and those many thousands who have worked for the company during its 70 years. Most of these men and women own and live in Alexander City and on small farms within a radius of about 20 miles of Alexander City.

They are an industrious, God-fearing, friendly, hard-working, law-abiding, patriotic people who put duty above self, and love of God, family and country above all else. These are the attributes which have attracted new industry into Alabama and which have helped establish a nation-wide reputation for Alabamians as a people who give a full day's work for a full day's pay.

Sharing their bounty with those who helped make it possible, the company and the Russell family have built schools and parks and libraries and hospitals for their employees and the people of Tallapoosa County, and the financial rewards which have come to Russell Mills have been used to make more jobs and more opportunities for Alabamians.

It is impossible to recognize the 70th anniversary of Russell Mills without also recognizing the driving interests of Ben Russell that have brought economic and social growth to the entire State. It was his foresight and drive that developed the well-known Florida Short Route, bringing tourists through Alabama on their way north and south.

It was his driving force that resulted in development of improved varieties of cotton that make our cotton equal to any grown anywhere in the South.

He was one of the first to recognize the value of growing pine trees as a crop on worn-out cotton land, and he was one of the Nation's first developers of recreation sites when he recognized the potential of the great lake being backed up by the Martin Dam built in 1925 on the Tallapoosa River near his home.

Ben Russell had a hand in organizing the State Chamber of Commerce in 1937 and was its president for three years, during which he criss-crossed Alabama preaching the need for industrial expansion and improvement in agricultural methods.

He was first chairman of the board for what is now the Southern Research Institute, and he created a family foundation that has contributed millions of dollars to local and state educational institutions and paid for many scholarships for worthy students.

Today, the products of Russell Mills are worn in every part of the world, and, as the country's largest manufacturer of athletic wearing apparel, it is appropriate that University of Alabama and Auburn University athletic teams lead a long list of college and professional teams that wear Russell-Southern Clothing made in Alabama.

This observance of the 70th anniversary of Russell Mills repeats the story of a pioneering family which supplied the moral, spiritual and intellectual leadership enabling native Alabamians to use their God-given human and natural resources for the gain of themselves and their fellow men. This story bears out the saying. "That which we give, we keep. It is only that which we keep that we lose."

REVENUE SHARING FUNDS FOR LOCAL PENNSYLVANIA COMMUNITIES UNDER H.R. 14370

Mr. SCHWEIKER. Mr. President, many of my constituents have been inquiring about the distribution of funds to local Pennsylvania communities under the State and Local Fiscal Assistance Act of 1972, H.R. 14370. The supply of the supplemental report which sets forth this distribution is limited, so that it is not possible to send copies to everyone who inquires.

In an effort to make this important information more generally available, I ask unanimous consent that the pages from the supplemental report on H.R. 14370 showing the distribution of funds to local governments in Pennsylvania be reprinted in the RECORD.

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

Revenue sharing funds for Pennsylvania

[In dollars]

Total State grant to all locals	182,651,654
Amount returned to Pennsylvania State government is	606,927
Adams County area	286,672
Adams County govt	147,933
Total to all cities over 2,500	63,811
Total to all cities under 2,500	17,229
Total to all townships	59,701
Gettysburg Borough	22,534
Littlestown Borough	9,373
McSherrystown Borough	31,905
Allegheny County area	35,097,620
Allegheny County govt	15,194,072
Total to all cities over 2,500	19,765,597
Total to all cities under 2,500	137,951
Total to all townships	0
Aspinwall Borough	25,734
Avalon Borough	92,541
Baldwin Borough	305,036
Bellevue Borough	144,133
Ben Avon Borough	23,925
Bethel Park Borough	261,935
Brackenridge Borough	52,058
Braddock Borough	197,501
Brentwood Borough	154,982
Bridgeville Borough	96,106
Carnegie Borough	139,019
Casile Shannon Borough	122,615
Cheswick Borough	27,684
Churchill Borough	22,279
Clarion City	337,986
Coraopolis Borough	110,760
Grafton Borough	76,927
Dormont Borough	193,996
Dravosburg Borough	65,482
Duquesne City	256,224
McDonald Borough (part)	6,100
E. McKeesport Borough	39,258
E. Pittsburgh Borough	67,503
Edgewood Borough	53,897
Emsworth Borough	44,579
Etna Borough	81,575
Forest Hills Borough	85,027
Fox Chapel Borough	14,508
Glassport Borough	111,528
Green Tree Borough	68,159
Homestead Borough	141,675
Ingram Borough	51,523
Borough of Jefferson	66,536
Liberty Borough	25,177
McKeesport City	852,814
McKees Rocks Boroughs	223,000
Millvale Borough	90,509
Monroeville Borough	281,085
Mount Oliver Borough	108,968
Munhall Borough	194,188
North Braddock Borough	243,379
Oakmont Borough	61,492
Pitcairn Borough	47,364
Pittsburgh City	11,679,788
Pleasant Hills Borough	95,132
Port Vue Borough	85,153
Rankin Borough	11,473
Sewickley Borough	50,708
Sharpsburg Borough	83,224
Springdale Borough	69,167
Swissvale Borough	211,330
Tarentum Borough	70,707
Trafford Borough (part)	1,269
Turtle Creek Borough	186,565
Verona Borough	73,447
Versailles Borough	32,285
West Homestead Borough	85,086
West Mifflin Borough	452,053
West View Borough	47,130
Whitehall Borough	110,129
White Oak Borough	79,938
Wilkinsburg Borough	433,020
Wilmerding Borough	72,264
Plum Borough	142,509
Franklin Park Borough	26,383
Armstrong County area	1,016,524
Armstrong County govt	444,146
Total to all cities over 2,500	195,079
Total to all cities under 2,500	183,231
Total to all townships	194,068
Ford City Borough	67,059
Kittanning Borough	98,494
Leechburg Borough	29,526
Beaver County area	3,158,115
Beaver County govt	1,117,863

Total to all cities over 2,500	1,369,151
Total to all cities under 2,500	163,997
Total to all townships	507,763
Aliquippa Borough	438,603
Ambridge Borough	188,186
Baden Borough	29,254
Beaver Borough	36,672
Beaver Falls City	254,131
Conway Borough	27,507
Ellwood City Borough (part)	9,892
Freedom Borough	28,738
Midland Borough	61,974
Monaca Borough	77,583
New Brighton Borough	71,282
Rochester Borough	55,152
Borough of Economy	56,464
Big Beaver Borough	11,254
Ohioville Borough	22,461
Bedford County area	401,009
Bedford County govt	183,058
Total to all cities over 2,500	34,590
Total to all cities under 2,500	67,053
Total to all townships	116,308
Bedford Borough	34,590
Berks County area	3,356,538
Berks County govt	986,301
Total to all cities over 2,500	1,600,681
Total to all cities under 2,500	255,968
Total to all townships	513,588
Birdsboro Borough	20,673
Boyertown Borough	19,219
Fleetwood Borough	13,880
Hamburg Borough	24,290
Kenhorst Borough	21,674
Kutztown Borough	34,712
Laureldale Borough	22,989
Mount Penn Borough	10,732
Reading City	1,324,985
Shillington Borough	27,354
Sinking Spring Borough	15,210
West Reading Borough	37,573
Wyomissing Borough	27,390
Blair County area	2,361,655
Blair County govt	779,440
Total to all cities over 2,500	1,191,116
Total to all cities under 2,500	119,123
Total to all townships	271,976
Altoona City	1,080,882
Hollidaysburg Borough	19,396
Roaring Spring Borough	22,635
Tyrone Borough	68,203
Bradford County area	737,332
Bradford County govt	386,516
Total to all cities over 2,500	155,144
Total to all cities under 2,500	74,766
Total to all townships	120,905
Athens Borough	54,702
Sayre Borough	57,010
Towanda Borough	43,433
Bucks County area	3,312,299
Bucks County Govt	1,523,892
Total to all cities over 2,500	315,427
Total to all cities under 2,500	132,467
Total to all townships	1,340,512
Bristol Borough	87,450
Doylestown Borough	37,483
Morrisville Borough	63,206
Perkasie Borough	26,077
Quakertown Borough	53,658
Sellersville Borough	32,780
Telford Borough (part)	4,828
Yardley Borough	9,945
Butler County area	1,577,774
Butler County govt	687,589
Total to all cities over 2,500	273,526
Total to all cities under 2,500	143,457
Total to all townships	473,203
Butler City	229,869
Slippery Rock Borough	32,500
Zelienople Borough	11,157
Cambria County area	3,398,423
Cambria County government	1,292,955
Total to all cities over 2,500	1,183,591
Total to all cities under 2,500	400,367
Total to all townships	521,510
Barnesboro Borough	28,487
East Conemaugh Borough	19,159
Ebensburg Borough	21,020
Emporium Borough	22,846
Geistown Borough	27,559
Johnstown City	923,578
Nanty Glo Borough	35,845
Patton Borough	16,341
Portage Borough	30,933
Southmont Borough	10,746
Spangler Borough	17,209
Westmont Borough	27,869
Cameron County area	77,816
Cameron County Government	33,580
Total to all cities over 2,500	0
Total to all cities under 2,500	30,352
Total to all townships	13,884
Carbon County area	842,880
Carbon County government	338,924
Total to all cities over 2,500	373,557
Total to all cities under 2,500	38,559
Total to all townships	91,840
Jim Thorpe Borough	111,649
Lansford Borough	63,809
Leighton Borough	52,714
Palmerton Borough	63,023
Summit Hill Borough	47,629
Weatherly Borough	7,911
Nesquehoning Borough	26,825
Centre County area	856,266
Centre County govt	359,504
Total to all cities over 2,500	290,158
Total to all cities under 2,500	42,575
Total to all townships	164,029
Bellefonte Borough	62,092
Philipsburg Borough	39,926
State College Borough	188,140
Chester County area	1,847,164
Chester County govt	819,026
Total to all cities over 2,500	432,845
Total to all cities under 2,500	46,807
Total to all townships	548,486
Coatesville City	95,984
Downingtown Borough	43,934
Kennett Square Borough	26,834
Malvern Borough	9,915
Oxford Borough	15,280
Parkesburg Borough	15,347
Phoenixville Borough	103,005
Spring City Borough	13,120
West Chester Borough	109,426
Clarion County area	378,240
Clarion County govt	154,935
Total to all cities over 2,500	56,592
Total to all cities under 2,500	80,148
Total to all townships	86,565
Clarion Borough	56,592
Clearfield County area	1,138,533
Clearfield County government	474,182
Total to all cities over 2,500	293,189
Total to all cities under 2,500	124,223
Total to all townships	246,938
Clearfield Borough	101,137
Curwensville Borough	39,500
DuBois City	152,552
Clinton County area	647,197
Clinton County government	319,941
Total to all cities over 2,500	170,535
Total to all cities under 2,500	83,076
Total to all townships	73,645
Lock Haven City	118,268
Renojo Borough	52,268
Columbia County area	674,655
Columbia County government	271,542
Total to all cities over 2,500	236,668
Total to all cities under 2,500	58,202
Total to all townships	198,243
Berwick Borough	114,916
Bloomsburg town	121,751
Crawford County area	1,314,843
Crawford County government	471,367
Total to all cities over 2,500	379,598
Total to all cities under 2,500	170,336
Total to all townships	23,548
Meadville City	251,144
Titusville City	128,454
Cumberland County area	1,093,343
Cumberland County govt	457,121
Total to all cities over 2,500	364,462
Total to all cities under 2,500	41,951
Total to all townships	229,803
Camp Hill Borough	50,894
Carlisle Borough	114,179
Lemoyne Borough	30,019
Mechanicsburg Borough	51,523
New Cumberland Borough	58,042
Shippensburg Borough (part)	49,918
Wormleysburg Borough	9,887
Dauphin County area	3,018,043
Dauphin County govt	1,077,204
Total to all cities over 2,500	1,370,138
Total to all cities under 2,500	132,502
Total to all townships	438,199
Harrisburg City	1,149,316
Highspire Borough	11,083
Hummelstown Borough	17,653
Lykens Borough	31,946
Middletown Borough	28,124
Millersburg Borough	17,130
Penbrook Borough	18,593
Steelton Borough	96,293
Delaware County area	6,076,805
Delaware County govt	2,350,254
Total to all cities over 2,500	1,523,905
Total to all cities under 2,500	55,142
Total to all townships	2,147,504
Aldan Borough	15,490
Brookhaven Borough	22,828
Chester City	891,103
Clifton Heights Borough	27,346
Collingdale Borough	33,525
Colwyn Borough	13,572
Darby Borough	80,551
East Lansdowne Borough	13,916
Eddystone Borough	9,931
Folcroft Borough	35,999
Glenolden Borough	29,924
Lansdowne Borough	43,642
Marcus Hook Borough	45,873
Media Borough	19,960
Morton Borough	8,698
Norwood Borough	42,421
Prospect Park Borough	43,715
Ridley Park Borough	27,954
Sharon Hill Borough	27,955
Swarthmore Borough	19,068
Upland Borough	32,845
Yeadon Borough	37,590
Elk County area	626,713
Elk County government	232,320
Total to all cities over 2,500	287,584
Total to all cities under 2,500	0
Total to all townships	106,810
Johnsonburg Borough	88,500
Ridsway Borough	72,049
St. Marys Borough	127,035
Erie County area	5,201,655
Erie County government	1,469,930
Total to all cities over 2,500	3,043,365
Total to all cities under 2,500	199,535
Total to all townships	488,825
Corry City	112,413
Edinboro Borough	35,000
Erie City	2,765,816
Girard Borough	14,709
North East Borough	38,357
Union City Borough	47,438
Wesleyville Borough	29,633
Fayette County area	2,768,425
Fayette County govt	1,236,216
Total to all cities over 2,500	629,931
Total to all cities under 2,500	287,630
Total to all townships	614,648
Brownsville Borough	78,488
Connellsville City	220,500

Revenue sharing funds for Penna.—Con.

[In dollars]

MasonTown Borough	21,085
Uniontown City	309,858
Forest County area	66,534
Forest County govt	47,999
Total to all cities over 2,500	0
Total to all cities under 2,500	4,752
Total to all townships	13,782
Franklin County area	1,042,277
Franklin County govt	527,111
Total to all cities over 2,500	291,653
Total to all cities under 2,500	32,108
Total to all townships	191,404
Chambersburg Borough	105,063
Greencastle Borough	16,913
Shippensburg Borough (Part)	12,153
Waynesboro Borough	157,464
Fulton County area	162,459
Fulton County govt	100,500
Total to all cities over 2,500	0
Total to all cities under 2,500	23,603
Total to all townships	38,356
Greene County area	810,440
Greene County govt	488,617
Total to all cities over 2,500	51,587
Total to all cities under 2,500	21,578
Total to all townships	248,658
Waynesburg Borough	51,587
Huntingdon County area	627,266
Huntingdon County govt	341,935
Total to all cities over 2,500	108,492
Total to all cities under 2,500	57,277
Total to all townships	119,562
Huntingdon Borough	70,422
Mount Union Borough	38,071
Indiana County area	924,179
Indiana County govt	458,027
Total to all cities over 2,500	198,414
Total to all cities under 2,500	79,855
Total to all townships	187,883
Blairsville Borough	25,905
Indiana Borough	172,509
Jefferson County area	694,934
Jefferson County govt	242,103
Total to all cities over 2,500	279,780
Total to all cities under 2,500	79,453
Total to all townships	93,599
Brockway Borough	32,388
Brookville Borough	52,496
Punxsutawney Borough	150,886
Reynoldsville Borough	44,009
Juniata County area	165,886
Juniata County govt	100,199
Total to all cities over 2,500	0
Total to all cities under 2,500	15,587
Total to all townships	50,100
Lackawanna County area	4,595,520
Lackawanna County govt	1,491,267
Total to all cities over 2,500	2,816,809
Total to all cities under 2,500	142,951
Total to all townships	144,493
Archbald Borough	57,439
Blakely Borough	20,463
Carbondale City	139,604
Clarks Summit Borough	33,499
Dickson City Borough	71,235
Dunmore Borough	205,868
Moosic Borough	46,552
Old Forge Borough	156,384
Olyphant Borough	73,727
Scranton City	1,883,909
Taylor Borough	81,052
Throop Borough	47,077
Lancaster County area	2,580,204
Lancaster County govt	906,103
Total to all cities over 2,500	976,035
Total to all cities under 2,500	83,484
Total to all townships	614,582
Akron Borough	9,754
Columbia Borough	70,548
East Petersburg Borough	10,553
Elizabethtown Borough	27,167
Ephrata Borough	32,781
Lancaster City	696,221
Lititz Borough	25,620
Manheim Borough	26,417
Marietta Borough	13,087
Millersville Borough	19,811
Mount Joy Borough	24,258
New Holland Borough	17,828
Lawrence County area	1,609,012
Lawrence County govt	480,244
Total to all cities over 2,500	790,200
Total to all cities under 2,500	108,154
Total to all townships	230,414
Ellwood City Borough (part)	87,292
New Castle City	679,445
New Wilmington Borough	23,463
Lebanon County area	1,134,736
Lebanon County government	555,870
Total to all cities over 2,500	338,861
Total to all cities under 2,500	57,016
Total to all townships	182,990
Lebanon City	274,926
Myerstown Borough	25,362
Palmyra Borough	38,572
Lehigh County area	3,069,467
Lehigh County government	769,907
Total to all cities over 2,500	1,837,423
Total to all cities under 2,500	55,691
Total to all townships	406,446
Alentown City	1,406,470
Bethlehem City (part)	251,994
Catasauqua Borough	41,371
Coplay Borough	27,168
Emmaus Borough	44,895
Borough of Fountain Hill	38,819
Slattington Borough	26,706
Luzerne County area	5,019,123
Luzerne County government	1,848,437
Total to all cities over 2,500	2,480,280
Total to all cities under 2,500	172,022
Total to all townships	518,384
Ashley Borough	32,837
Dallas Borough	21,360
Dupont Borough	15,531
Duryea Borough	49,437
Edwardsville Borough	48,620
Exeter Borough	39,837
Forty Fort Borough	36,578
Freeland Borough	77,047
Hazleton City	353,906
Kingston Borough	118,575
Larksville Borough	39,581
Luzerne Borough	34,109
Nanticoke City	112,006
Pitision City	122,006
Plymouth Borough	73,463
Swoyersville Borough	119,412
West Hazleton Borough	51,850
West Pittston Borough	38,608
West Wyoming Borough	19,306
Wilkes Barre City	1,053,397
Wyoming Borough	21,501
Lycoming County area	1,743,885
Lycoming County govt	527,059
Total to all cities over 2,500	880,701
Total to all cities under 2,500	95,547
Total to all Townships	240,578
Jersey Shore Borough	38,044
Monioursville Borough	37,974
Muncy Borough	22,313
S. Williamsport Borough	61,819
Williamsport City	720,551
McKean County area	822,962
McKean County Govt	277,284
Total to all cities over 2,500	304,015
Total to all cities under 2,500	71,483
Total to all townships	170,186
Bradford City	229,044
Kane Borough	53,080
Port Allegany Borough	21,891
Mercer County area	2,067,728
Mercer County govt	955,785
Total to all cities over 2,500	1,016,730
Total to all cities under 2,500	95,213
Total to all townships	0
Farrell City	247,511
Greenville Borough	152,195
Grove City Borough	69,497
Mercer Borough	24,890
Sharon City	456,598
Sharpsville Borough	60,040
Mifflin County area	453,514
Mifflin County govt	246,181
Total to all cities over 2,500	99,567
Total to all cities under 2,500	8,246
Total to all townships	99,520
Burnham Borough	25,111
Lewistown Borough	74,457
Monroe County area	626,085
Monroe County govt	369,718
Total to all cities over 2,500	123,686
Total to all cities under 2,500	14,384
Total to all townships	118,296
E. Stroudsburg Borough	72,412
Stroudsburg Borough	51,274
Montgomery County area	3,990,258
Montgomery County govt	1,237,056
Total to all cities over 2,500	622,592
Total to all cities under 2,500	51,285
Total to all townships	2,079,326
Ambler Borough	24,160
Bridgeport Borough	24,290
Collegeville Boro	9,884
Conshohocken Borough	40,683
Hatboro Borough	31,619
Jenkintown Borough	18,553
Lansdale Borough	60,273
Narberth Borough	17,630
Norristown Borough	219,480
North Wales Borough	12,931
Pottstown Borough	113,645
Rockledge Borough	7,942
Royersford Borough	12,909
Souderton Borough	19,718
Telford Borough (part)	8,875
Montour County area	244,033
Montour County govt	98,419
Total to all cities over 2,500	97,961
Total to all cities under 2,500	2,760
Total to all townships	44,893
Danville Borough	97,961
Northampton County area	3,592,678
Northampton County govt	1,090,101
Total to all cities over 2,500	1,854,391
Total to all cities under 2,500	215,531
Total to all townships	432,656
Bangor Borough	45,574
Bethlehem City (part)	775,697
Easton City	610,894
Hellertown Borough	62,207
Nazareth Borough	64,168
Northampton Borough	95,597
Nacatasauqua Borough	22,296
Pen Argyl Borough	36,900
Wilson Borough	134,056
Northumberland County area	1,470,862
Northumberland County govt	771,500
Total to all cities over 2,500	651,291
Total to all cities under 2,500	48,070
Total to all townships	0
Kulpmont Borough	33,000
Milton Borough	107,595
Mount Carmel Borough	11,582
Northumberland Borough	92,115
Shamokin City	165,619
Sunbury City	167,594
Watsontown Borough	7,787
Perry County area	243,364
Perry County govt	100,281
Total to all cities over 2,500	0
Total to all cities under 2,500	62,847
Total to all townships	80,230
Philadelphia County area	43,791,552
Philadelphia County govt	0
Total to all cities over 2,500	43,758,115

Revenue sharing funds for Penna.—Con.

[In dollars]

Total to all cities under 2,500	0
Total to all townships	0
Philadelphia City	43,758,115
Pike County area	150,187
Pike County govt	69,525
Total to all cities over 2,500	0
Total to all cities under 2,500	28,012
Total to all townships	52,650
Potter County area	281,558
Potter County govt	163,035
Total to all cities over 2,500	29,000
Total to all cities under 2,500	52,389
Total to all townships	37,135
Coudersport Borough	29,000
Schuylkill County area	3,063,222
Schuylkill County government	1,834,000
Total to all cities over 2,500	1,229,222
Total to all cities under 2,500	0
Total to all townships	0
Ashland Borough	46,500
Coaldale Borough	50,500
Frackville Borough	67,500
McAdoo Borough	45,000
Mahanoy City Borough	78,500
Minersville Borough	124,000
Orwigsburg Borough	31,500
Port Carbon Borough	48,000
Pottsville City	442,722
St. Clair Borough	26,000
Schuylkill Haven Borough	45,000
Shenandoah Borough	103,500
Tamaqua Borough	120,500
Snyder County area	395,262
Snyder County government	133,367
Total to all cities over 2,500	65,655
Total to all cities under 2,500	69,864
Total to all townships	126,376
Selinsgrove Borough	65,655
Somerset County area	1,088,163
Somerset County government	499,944
Total to all cities over 2,500	135,890
Total to all cities under 2,500	126,323
Total to all townships	326,006
Meyersdale Borough	42,500
Somerset Borough	44,909
Windber Borough	48,480
Sullivan County area	85,089
Sullivan County government	45,416
Total to all cities over 2,500	0
Total to all cities under 2,500	16,705
Total to all townships	22,969
Susquehanna County area	401,345
Susquehanna County government	215,746
Total to all cities over 2,500	0
Total to all cities under 2,500	107,402
Total to all townships	78,196
Tioga County area	564,651
Tioga County government	306,854
Total to all cities over 2,500	78,214
Total to all cities under 2,500	80,755
Total to all townships	98,828
Mansfield Borough	32,000
Wellsboro Borough	46,214
Union County area	318,124
Union County government	119,698
Total to all cities over 2,500	90,183
Total to all cities under 2,500	9,543
Total to all townships	108,701
Lewisburg Borough	82,108
Mifflinburg Borough	8,075
Venango County area	993,972
Venango County government	352,385
Total to all cities over 2,500	407,225
Total to all cities under 2,500	55,872
Total to all townships	178,490
Franklin City	124,783
Oil City	275,442
Polk Borough	7,000
Warren County area	710,654
Warren County Govt	281,380
Total to all cities over 2,500	218,338
Total to all cities under 2,500	80,865
Total to all townships	130,072
Warren Borough	218,338
Washington County area	3,344,648
Washington County Govt	1,266,842
Total to all cities over 2,500	914,629
Total to all cities under 2,500	332,974
Total to all townships	830,202
Bentleyville Borough	11,709
California Borough	54,587
Canonsburg Borough	125,992
Centreville Borough	56,577
Charleroi Borough	67,630
Donora Borough	100,463
McDonald Borough (part)	13,217
Monongahela City	79,010
Washington City	405,445
Wayne County area	417,325
Wayne County government	217,792
Total to all cities over 2,500	51,775
Total to all cities under 2,500	32,072
Total to all townships	109,687
Honesdale Borough	51,775
Westmoreland County area	4,810,451
Westmoreland County government	1,587,442
Total to all cities over 2,500	1,788,269
Total to all cities under 2,500	269,580
Total to all townships	1,165,161
City of Arnold	80,450
Derry Borough	17,803
Greenburg City	200,939
Irwin Borough	26,087
Jeannette City	201,323
Lairobe Borough	136,941
Monessen City	308,807
Mount Pleasant Borough	30,232
New Kensington City	256,275
N. Belle Vernon Boro	23,437
Scottdale Borough	77,460
South Greensburg Borough	35,433
S. W. Greensburg Boro	23,317
Trafford Borough (part)	44,151
Vandergrift Borough	175,214
West Newton Borough	30,336
Youngwood Borough	24,336
Lower Burrell City	95,727
Venango County area	993,972
Venango County government	352,385
Total to all cities over 2,500	407,225
Total to all cities under 2,500	55,872
Total to all townships	178,490
Franklin City	124,783
Oil City	275,442
Polk Borough	7,000
Warren County area	710,654
Warren County government	281,381
Total to all cities over 2,500	218,338
Total to all cities under 2,500	80,865
Total to all townships	130,072
Warren Borough	218,338
Washington County area	3,344,648
Washington County government	1,266,842
Total to all cities over 2,500	914,629
Total to all cities under 2,500	332,974
Total to all townships	830,202
Bentleyville Borough	11,709
California Borough	54,587
Canonsburg Borough	125,992
Centreville Borough	56,577
Charleroi Borough	67,630
Donora Borough	100,463
McDonald Borough (part)	13,217
Monongahela City	79,010
Washington City	405,445
Wayne County area	411,325
Wayne County government	211,192
Total to all cities over 2,500	51,775
Total to all cities under 2,500	32,072
Total to all townships	109,687
Honesdale Borough	51,775
Westmoreland County area	4,810,451
Westmoreland County government	1,587,442
Total to all cities over 2,500	1,788,269
Total to all cities under 2,500	269,580
Total to all townships	1,165,161
City of Arnold	80,450
Derry Borough	17,803
Greensburg City	200,939
Irwin Borough	26,087
Jeannette City	201,323
Latrobe Borough	136,941
Monessen City	308,807
Mount Pleasant Borough	30,232
New Kensington City	256,275
North Belle Vernon, Borough	23,437
Scottdale Borough	77,460
South Greensburg Borough	35,433
South West Greensburg Borough	23,317
Trafford Borough (part)	44,151
Vandergrift Borough	175,214
West Newton Borough	30,336
Youngwood Borough	24,336
Lower Burrell City	95,727
Wyoming County area	262,894
Wyoming County government	125,777
Total to all cities over 2,500	0
Total to all cities under 2,500	46,909
Total to all townships	90,209
York County area	2,345,055
York County government	828,841
Total to all cities over 2,500	697,907
Total to all cities under 2,500	252,151
Total to all townships	566,156
Dallastown Borough	12,714
Hanover Borough	51,502
Red Lion Borough	28,717
West York Borough	41,248
Wrightsville Borough	11,134
York City	552,511

CONSUMER PROTECTION AGENCY BILL

Mr. FANNIN. Mr. President, I read with interest a recent column in the local press which contains some observations very relevant to the Consumer Protection Agency bill that would send Federal agents into agency and court proceedings at Federal, State, and local levels.

The columnist says that:

The pervasive conviction of the times is of being stifled, of freedom lost, of being unable to work our will on events.

The columnist favorably quotes from a book in progress by Robert Stavins of the University of Maryland. The book's purpose is to document the extent and nature of what has happened in law and government that gives substance to how our basic liberties are being eroded through the imposition of super bureaucracies. Mr. Stavins says:

You never see a guy with boots and a German shepherd, so [these gradual losses of freedom] are not easily recognized.

The columnist says that:

Mr. Stavin's analysis shows a continuous process by which the forms and divisions of our society are being broken down—and with their crumbling go both our ancient protections and our power to do for ourselves. The most obvious examples are to be found in law where extraordinary powers, once reserved only for short emergencies, have become the ordinary power of the state, executed on a daily basis.

The distinction between public and pri-

vate is being rubbed away. You can say, that we are all becoming servants of the state.

As an example, the columnist cites the fact that there are now over 200 Federal statutes giving the Government control over what we used to think of as private corporations.

Other figures cited as examples are the fact that one of every six employed persons works for the government; one out of every hundred employed people "is a cop of one sort or another." All of these employees of the government are working in what Mr. Stavins is quoted as calling, "A custodial, nonwork, nonproductive system."

According to this popular columnist:

At the same time, the dispersed and counter-checking forms of power and sovereignty that once resided in local and state governments are being destroyed. All are being converted into purely administrative units tied to Washington's Computers.

This columnist says:

Recourse to political solutions, is exceedingly iffy. The tendency of our development over the past half century, as Stavins points out, is to depoliticize every question and make it a matter to be decided by the bureaucracy's expertise.

This columnmist, who is respected by many, points out that:

Whole areas of public debate disappear from sight. This has happened with banking, fiscal policy, much of foreign affairs and a good deal of education.

I have not mentioned the columnist's name because I did not want his relevant observations to be clouded by his well known political persuasions.

He is not William Buckley, James J. Kilpatrick, Joseph Alsop, or either Rowland Evans, or Robert Novak.

He is none other than Nicholas von Hoffman, Washington's resident ultraliberal and a man of similar persuasion to many of the more zealous proponents of this bill outside the Congress. I often disagree with Mr. von Hoffman's views on many subjects. But I find much merit in his views as I have quoted them. They appeared in the Washington Post of August 30, 1972.

There is no doubt that this bill that adds two new Federal bureaucracies in Washington is also intended to increase Federal control over State and local governments as well through local intervention and grants-in-aid with long Federal strings on them.

As Chairman SAM ERVIN said in the committee report about the Federal-State workings of this bill, it "is nothing more than a bureaucratic barbell that is sure to give the out-of-condition taxpayer a hernia, if not a broken back."

The precept of this bill is that some Federal agencies are not now giving adequate consideration to the interests of consumers. All right. That may be a problem that we should attempt to solve. But rather than finding out which agencies are causing consumers problems, and rather than attempting to solve these problems positively once identified, we are asked to approve an administrative, discretionary, blunderbuss attack on Government, by Government.

Abraham Lincoln fought against attempts to perish from this earth a government of the people, by the people, for the people. Mr. von Hoffman expresses these same fears with some justification. He no doubt would agree that this very bill is a major step toward Government of the Government, by the Government, against the Government.

We are asked to approve the creation of an independent bureaucracy with powers not only to forcefully intrude into any other governmental unit's operations, but to disrupt these operations at will through the use of unprecedented legal powers to foster its own ideas, without guidelines.

With infinitesmally few exceptions, such as the operations of the Central Intelligency Agency, this new CPA would be able to enter as of unchallengeable right the public and internal deliberations of every Federal department, commission, administration, council, bureau, division, office, service, task force, board, group, team, or even individual—the workings of any Federal unit, no matter what its bureaucratic classification.

And not only that, the proposed CPA, as part of its negative purpose, would be able to appeal to the courts the final actions of these units.

The story does not stop here, either. The bill defines an agency "action" to include "nonaction" under section 401 (3). Therefore, under section 203(d), the proposed CPA could request any of its sister agencies to take a particular action that was desired by the CPA—such as revocation of a license after investigation.

If that sister agency replied that it did not have time to do the CPA's bidding because it had other higher-priority matters to attend to, the CPA could take that recalcitrant sister agency to court under section 204 and attempt to get the courts to enforce its request no matter what the sister agency's priorities were.

If the sister agency were then forced to drop its priority concerns and satisfy the desires of the CPA, the CPA would forcefully intrude into the day-to-day deliberations by this sister agency to make sure that the proceeding that the CPA forced them to initiate came out the way CPA wanted it to come out before all the facts were in.

If it were a proceeding which by law had to be decided on the record, the CPA could introduce witnesses, subpena documents and cross-examine other persons under available procedural powers and make sure that the record was stacked in its favor at taxpayer expense.

If it were an informal activity, such as an investigation, the CPA could use both its sister agency's discovery powers as well as its own unprecedented fishing expedition powers under section 207(b). That section precludes the CPA from using its far-reaching and court enforceable information demands against the person to whom they are addressed, but only in a formal proceeding.

Thus, in an informal activity such as an investigation that might lead to a formal proceeding, the CPA can use this unprecedented power and feed it to the investigating agency. No investigating agency, including the Federal Bureau of Investigation, has anything close to the sweeping powers proposed in section 207(b).

If the CPA's sister agency comes to a decision contrary to what the CPA's predetermined position was, the CPA may take the issue to court, and dump the whole record upon the overburdened judiciary.

We would have two agencies endowed by Congress with the mantle of expertise. One, an expertise and responsibility to protect the interests of the public. The other, an expertise and responsibility to protect the lesser included interests of consumers. The courts will have to choose between these two experts.

The only way in which the courts will be able to so choose will be to hold their own administrative process. Thus, we shall have come full circle, and put back into the courts what the administrative process was designated to remove.

And what about the lowly consumer? Where does he come into all this decisionmaking? How does he get his ideas expressed? Does the CPA hold a hearing of consumers before it intervenes in a second hearing by another agency with primary jurisdiction? Not on your life. Supporters of this bill tell us such a process would not be efficient; it would take too long.

So the CPA, with all of its discretionary omniscience, makes a determination as to what position it will take, and any consumers who think differently will have to do battle with the CPA in a proceeding of another agency.

Who do you think will win? Under this bill, the CPA would have more power than any other party in that proceeding, and probably more money for advocating its views than would any other party. In many respects, the CPA would have more power for this purpose than the agency holding the proceeding. Consumers will soon learn that it is useless to attempt to do battle with their own Protection Agency. The now flowering attempts at private consumer advocacy will wilt and die on the vine.

Let us look at what the majority of the Government Operations Committee says in its committee report on this bill. Let us use one of their own examples, because obviously they are of the opinion that they can sense the needs of the American consumer in this area.

On page 14 of the report, it says that:

The committee realizes that in choosing which interests of consumers it will advocate, the CPA will necessarily have to choose among competing consumer interests.

Also on that page, the report states that:

The committee does not expect the CPA to resolve such conflicts.

The report says:

Using its best judgment, the CPA will usually determine which side to represent.

Note carefully that it is the intent of the committee to let the CPA use its best judgment as to which consumer group to attack. Neither the committee nor the bill attempts to offer guidelines on the subject. All they offer is unprecedented power for the CPA to exercise more discretion than any other Federal unit now in existence. And this is dis-

cretionary power that could greatly affect our entire economy.

Let us look at one of the examples that the committee gives to illustrate how the CPA will be given a free hand to make up its own mind and not only oppose an action of one of its sister agencies, but to oppose portions of its own consumer constituency who—by the express provisions of section 210(e)—cannot challenge the agency that is working in their name, but against them.

On page 14, the committee says that it will leave to the discretionary resolution of the CPA which side of the "hexachlorophine controversy" to use its sweeping advocacy powers to promote. There is little doubt that whichever side the CPA takes as being in the interests of consumers, that side will win. A look at sections 203, 204 and 207(b) will show any lawyer that. The report, again on page 14, says concerning hexachlorophine that:

> One group of consumers, interested in primarily in maintaining a sterile, therapeutic environment, will favor continued use of the chemical, while another group, more concerned with possible harmful side effects, will argue for strict limitations or total exclusion of its use.

The committee report on that page merely tells the CPA to "use its best judgment." Also on that page, the report says that:

> The committee believes the CPA must listen to the business viewpoint, as it does to consumers.

Let us look into this example a bit deeper. As we all know from reading the papers, the Food and Drug Administration just banned the consumer use of hexachlorophine.

According to the majority on the Government Operations Committee—which must have looked into the matter before writing legislative history on the subject—a substantial interest of consumers was adversely affected by that FDA decision. Also, according to the press repors, the businessmen who make soap and other products out of hexachlorophine for consumer use were adversely—and, according to them, unfairly—affected.

Under section 203(f) of this bill, if it were law, those consumers mentioned in the report who do not like the idea of FDA banning one of their favorite products, as well as those businessmen who manufacture and sell these products, could petition the CPA to stop this FDA action. Or, of course, the CPA could take the initiative to do this without even knowing what the views of consumers were.

Under section 204, the CPA—even though it did not participate in the proceeding leading to the FDA action—could force the FDA to reconsider the matter administratively and lift the ban while so reconsidering. If FDA refused, it would take FDA to court.

Under section 207(c), the CPA would order the FDA to turn over to it all of its documents, papers, and records on the subject, including trade secrets, the names of persons who gave information against their employers, profit and loss statements, and a host of other sensitive materials not covered by the pitifully few exceptions listed.

If the case was at the court level, the CPA could use its sweeping subpena-like powers in section 207(b) to order any doctor, nurse, businessman, or whistle blower to submit reports and written answers to any questions on the subject—at their own expense and under oath. If they refused, they could be taken to court under this section and prosecuted without a jury for contempt and sent to jail until they answered.

As a mater of fact, through a strange use of the terms "which" and "whose" on page 21 at lines 23 and 24, it would appear that the CPA could so order any consumer whose actions are related to this issue, so long as that consumer was employed in a trade, business, or industry which substantially affects commerce.

If the case was at the formal rehearing level at FDA, the CPA could still use these extraordinary fishing expedition powers to get the FDA to reverse its own decision. It would not have been able to do this under the reported bill, but under a liberalizing amendment accepted last Friday, it could use these powers so long as the information extracted from its victims was not used personally against them in the proceeding. Thus, the amendment adopted Friday would appear to limit what was a safeguard against super powers in all proceedings to merely a safeguard in quasicriminal proceedings.

Now what about consumer groups on the other side of the question who wish to see a certain product banned? Even if they had the money and time to argue their case before the FDA or the court, they would not stand a chance. They would have nowhere near the power of CPA, nor would they be able to use publicity as would CPA to gain its position. It goes without saying that CPA, being a Federal agency, will do what all these agencies do—among the first employees hired will be public relations and press types whose principle duty will be to promote the image of the agency and its positions, all of which becomes very important when the agency returns with a request that would double its budget.

Now what does the court do when it gets a case, CPA versus FDA? Congress gave both these agencies the duty to make a difficult decision to protect the interests of consumers. Both are what the courts call expert agencies—at least the courts call such agencies that now. When this bill is passed, the principle of the courts deferring to the will of Congress as expressed by administrative agencies will go down the drain.

Anyway, what does the court do when faced with this challenge against the Government, by the Government, for the Government? All of course, at taxpayer expense, including court costs. The court cannot do anything but go into the factual record in detail and make what, in effect, will be an administrative agency decision at the judicial level. The courts will be forced to administer the laws and make public policy.

This is the very type of protection that Mr. von Hoffman was talking about. The Government, rather than perfecting the consumer's right to challenge the Government, will take that right away from the consumer and challenge itself on behalf of the consumer. We are, therefore, specifically legislating a split in the Government, while at the same time diminishing considerably the private rights of consumers by poaching them.

What I object to mostly about this bill is its negative and overreaching reaction to some very real problems. Even the sponsors admit that they have no idea as to where the CPA is going to intrude, and what position it will take once it does intrude.

If we are to admit that the interests of consumers are not only pervasive but often contradictory, it seems to me that we cannot grant such overwhelming, discretionary, disruptive powers to protect these interests. Quite frankly, we are being asked to sign a blank check which may or may not bankrupt us—a decision which will only be made by some unknown political appointees.

I cannot sign such a check without major reservations, or at least putting a conditional endorsement on the back. When I think of the many affected programs over which I am supposed to have oversight responsibilities, or which affect my great State, I shudder at delegating such strong disruptive powers to an unknown entity and based on an unproved theory that the best way to protect consumers is to pit one protective agency against another.

In reading the letters on this bill by various Federal agencies to Senator ALLEN, I was shocked at its potentiality for disruption. What do I do if the CPA, in "using its best judgment," decides to attack the golden eagle passport program or the building of a vitally needed dam in my State—or attacks, on behalf of power consumers, those who are fighting a proposal to build a dam that is not in the larger public interest? What can I do under this bill? Issue a press release saying, although I signed a blank check, I would not have acted the way the CPA did if I could make the decision?

I am disturbed by this bill in its present form. That should not be taken as an indication of opposition to further efforts at improving Federal consumer protection, or even the creation of an independent consumer protection agency that would do this properly.

A middle-of-the-road proposal was suggested in each of the four minority or supplemental views. It is called the "Amicus Approach," because it embodies some of the more positive concepts of amicus curiae advocacy.

The amicus amendment would, of course, allow the CPA far more power than that of a mere amicus curiae. But during the CPA's initial years, at least, this amicus power would be used to assist other agencies and the courts in giving due consideration to the interests of the consumer. It would not, as proposed in the present bill, be a power that would be used to create a system of government by combat.

I read in Friday's Washington Post that the principal objection to the amicus amendment by those who favor trial

by combat under this bill was that the amicus amendment would make the agency a "toothless tiger."

Well, I wonder whether it is wise for us to give birth to a toothful tiger, and let it loose upon the economy with nothing but a committee report which says the tiger should use its own best judgments. Tigers have to destroy to live. Tigers often go mad and kill for the sake of killing. Tigers are, for the most part, uncontrollable. The CPA need not be a tiger, nor destroy, to greatly improve Federal, State and local consumer protection efforts.

The amicus amendment would allow for great strides in consumer protection, but it would not put a tiger in our ranks. It would allow the CPA to enter and forcefully argue in any proceeding or activity of its choice, but not to disrupt them. It would allow for effective court appearances as of right, without adding unnecessary burdens on our already overburdened judiciary. It is a trial period approach, anticipating that the CPA will soon come back to Congress, and the President—as it is required to do under section 202(b)—and ask for more power, more teeth.

At that point, the CPA can tell us explicitly what power is needed and where, and we can gladly give it to the CPA.

That would be acting responsibly to overcome known problems with solutions proposed by an expert agency and ratified by us with a knowledge of what we are doing.

I urge Senators to read the committee report, particularly the views of Senators ERVIN, ALLEN, GURNEY, and BROCK. And, if they have time, to read the letters submitted by Federal agencies—letters that show great alarm at the prospects contained in this bill.

SOCIAL SECURITY AMENDMENTS OF 1972

The PRESIDING OFFICER (Mr. GAMBRELL). Under the previous order, the Chair lays before the Senate H.R. 1, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 1) to amend the Social Security Act, to make improvements in the medicare and medicaid programs, to replace the existing Federal-State public assistance programs, and for other purposes.

Mr. LONG. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The Senate proceeded to consider the amendment.

Mr. ROTH. Mr. President, I offer an amendment to the amendment by the Senator from Louisiana (Mr. LONG).

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

Strike all of title IV of the amendment and title V, down to and including all of section 532 of the amendment, and insert the following:

"TITLE IV—PROGRAMS FOR FAMILIES WITH CHILDREN

"PART A—TESTING OF ALTERNATIVE PROPOSALS FOR ASSISTANCE TO FAMILIES WITH DEPENDENT CHILDREN

"AUTHORIZATION FOR CONDUCT OF TEST PROGRAM

"SEC. 401. (a) For purposes of this part—

"(1) the term "family assistance tests' means (A) the programs contained in title IV of H.R. 1, Ninety-second Congress, first session, as passed by the House of Representatives, or (B) the program referred to in clause (A) as amended by amendment numbered 1669, Ninety-second Congress, second session, introduced in the Senate on October 2, 1972.

"(2) the term 'workfare test program' means the program contained in parts A and B, title IV of H.R. 1, Ninety-second Congress, second session, as reported to the Senate by the Committee on Finance on September 26, 1972, and

"(3) the term 'family' means a family with children.

"(b)(1) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the 'Secretary') is authorized, effective January 1, 1973, to plan for and conduct, in accordance with the provisions of this section, not more than three test programs. One of such programs shall be the family assistance test program defined in subsection (a)(1)(A) of this section, one of such programs shall be the family assistance program defined in subsection (a)(1)(B) of this section, and one of such programs shall be the workfare test program.

"(2) Whenever the workfare test program is commenced, there shall commence, on the same date as such program, both family assistance test programs. Except as may otherwise be authorized by the Congress, no test program under this section shall be conducted for a period of less than twenty-four months or more than forty-eight months, and to the maximum extent practical each such test program shall be conducted for the same length of time.

"(3) Any such test program shall be conducted only in and with respect to an area which consists of one or more States, one or more political subdivisions of a State, or part of a political subdivision of a State, and shall be applicable to all the individuals who are residents of the State or the area of the State in and with respect to which such program is conducted.

"(4) During any period for which any such test program is in effect in any State or in any area of a State, individuals residing in such State or the area of the State in which such program is in effect shall not be eligible for aid or assistance under any State plan or program for which the State receives Federal financial assistance under part A of title IV of the Social Security Act.

"(5) The Secretary, in determining the areas in which test programs under this section shall be conducted, shall select areas with a view to assuring—

"(A) that the number of participants in any such program will (to the maximum extent practicable) be equal to the number of participants in any other such program; and

"(B) that the area in which any family assistance test program is conducted shall be comparable (in terms of size and composition of population, of average per capita income, rate of unemployment, and other relevant criteria) to an area in which a workfare test program is conducted.

"(c)(1) No test program under this section shall be conducted in any State (or any area thereof) unless such State shall have entered into an agreement with the Secretary under which the State agrees—

"(A) to participate in the costs of such test program; and

"(B) to cooperate with the Secretary in the conduct of such program.

"(2) Under any such agreement, no State shall be required to expend, with respect to any test program conducted within such State (or any area thereof), amounts greater than the amount which would have been expended with respect to such State or area thereof (as the case may be), during the period that such test program is in effect, under the State plan of such State approved under part A of title IV of the Social Security Act. For purposes of determining the amount any State would have under such a plan during the period that any such test program is in effect within such State (or any area thereof), it shall be assumed that the rate of State expenditure (from non-Federal funds) under such plan would be equal to the average of State expenditure (from non-Federal funds) under such plan for the twelve-month period immediately preceding the commencement of such test program.

"(d)(1) The Secretary shall, upon completion of any plans for and prior to the commencement of any test program under this section, submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a complete and detailed description such program and shall invite and give consideration to the comments and suggestions of such committees with respect to such program.

"(2) During the period that test programs are in operation under this section, the Secretary shall from time to time (but not less frequently than once during any six-month period) submit to the Congress a report on such programs. Each such report shall contain full and complete information and data with respect to such programs and the operation thereof, together with such recommendations and comments of the Secretary with respect to such programs as he deems desirable.

"(3) At the earliest practicable date after the termination of all test programs authorized to be conducted by this section, the Secretary shall submit to the Congress a full and complete report on such programs and their operation together with (A) the Secretary's evaluation of such programs and such comments or recommendations of the Secretary with respect to such programs as he deems desirable and (B) his recommendations (if any) for legislation to revise or replace the provisions of part A of title IV of the Social Security Act.

"(e)(1) The Secretary shall—

"(A) in the planning of any test program under this section; or

"(B) in assembling information, statistics, or other materials, to be contained in any report to Congress under this section;

consult with, and seek the advice and assistance of, the General Accounting Office and the General Accounting Office shall consult with the Secretary and furnish such advice and assistance to him upon request of the Secretary or at such times as the Comptroller General deems desirable.

"(2) The operations of any test program conducted under this section shall be reviewed by the General Accounting Office, and the books, records, and other documents pertaining to any such program or its operation shall be available to the General Accounting Office at all reasonable times for purposes of audit, review, or inspection. The books, records, and documents of each such program shall be audited by the General Accounting

Office from time to time (but not less frequently than once each year).

"(3) During the period that test programs are in operation under this section, the Comptroller General shall from time to time (but not less frequently than once during any six-month period) submit to the Congress a report on such programs which shall contain full and complete information and data with respect to such programs and the operation thereof, together with such recommendations and comments of the Comptroller General with respect to such programs as he deems desirable.

"(4) At the earliest practicable date after the termination of all test programs authorized to be conducted by this section, the Comptroller General shall submit to the Congress a full and complete report on such programs and their operation together with his evaluation of, and comments and recommendations (if any), with respect to such programs.

"(f) In the administration of test programs under this section, the Secretary shall provide safeguards which restrict the use or disclosure of information identifying participants in such programs to purposes directly connected with the administration of such programs (except that nothing in this subsection shall be construed to prohibit the furnishing of records or information concerning participants in such programs to the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives).

"(g) For the purpose of enabling the Secretary to formulate operational plans and to conduct test programs under this section, there are hereby authorized to be appropriated for each fiscal year $400,000,000.

"(h) Nothing in this Act shall be construed as a commitment, on the part of the Congress, to enact (at any future time) legislation to establish, on a permanent basis, any program tested pursuant to this section or any similar program.

"(i) Section 204(c)(2) of the Social Security Amendments of 1967 is repealed.

"PART B—EMPLOYMENT WITH WAGE SUPPLEMENT

"SEC. 420. The Social Security Act is amended by adding after title XIX thereof the following new title:

"TITLE XX—EMPLOYMENT WITH WAGE SUPPLEMENT

"ELIGIBILITY

"SEC. 2001. Every individual who is a head of family (as defined in section 2003(f)) and is a citizen of the United States (or an alien lawfully admitted for permanent residence in the United States or otherwise permanently residing in the United States under color of law) and who—

"(a) is employed in regular employment (as defined in section 2003(b)) in the United States (but not in the Commonwealth of Puerto Rico)—

"(1) which is compensated at a rate which—

"(A) is not less than the applicable rate (if any) required under Federal, State, or local law, and

"(B) is less than (but not less than three-fourths of) the minimum wage (as defined in section 2003(d)), and

"(2) in a position the compensation for which—

"(A) has not, during the three-month period preceding the date on which such individual is placed in such position, been reduced, or (if such compensation has been reduced during such period) the Secretary is satisfied (on the basis of evidence presented to him) that such compensation was not reduced in contemplation of the availability of the payment of wage supplement benefits under this subpart with respect to such position, and

"(B) is not reduced during the period that such individual is employed in such position, unless (i) such compensation is reduced after such individual has been employed in such position for a three-month period, or (ii) the Work Secretary is satisfied (on the basis of evidence presented to him) that the reduction in such compensation is or was not made because of the availability of the payment of wage supplement benefits under this part with respect to such positions;

"(b) makes application (filed in such form and manner and with such official as may be prescribed under regulations prescribed by the Secretary) for wage supplement benefits; shall be entitled to receive the wage supplement payments authorized by this part for each week that the conditions of clauses (a) and (b) are met, commencing with the week following the week in which his application for such benefits is filed with the Secretary.

"AMOUNT OF WAGE SUPPLEMENT

"SEC. 2002. (a) For each week any individual who is entitled to wage supplement benefits under this title shall be paid a wage supplement equal to the amount produced by multiplying (1) the number of hours (not in excess of 40) for which such individual performed services (whether or not for the same employer) in regular employment (which meets the requirements of section 2001(a)) by (2) three-fourths of the excess of (A) the minimum wage (as defined in section 2003(d)) over (B) the hourly wage (as defined in subsection (a)) paid or payable to such individual for the services performed by him in such employment.

"(b) The term 'wage', as used in subsection (a)(2)(B), shall have the meaning assigned to such term by section 3(m) of the Fair Labor Standards Act of 1938.

"DEFINITIONS

"SEC. 2003. For purposes of this title—

"(a) The term 'Secretary' means the Secretary of Labor.

"(b) The term 'regular employment' means any employment provided by a private or public employer.

"(c) The term 'United States', when used in a geographic sense, means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands and Guam."

"(d) The term 'minimum wage' means the hourly wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)), or $2.00 per hour, whichever is less.

"(e) The term 'family' means two or more individuals—

"(1) each of whom (in the case of adult individuals) is the parent (or stepparent), grandparent (or step-grandparent), brother (or stepbrother), sister (or stepsister), uncle, aunt, first cousin, nephew, or niece, of a child referred to in clause (2);

"(2) at least one of whom is a child who is in the care of or dependent upon another of such individuals who bears to such child one of the relationships specified in clause (1); and

"(3) who are living in a place of residence in the United States maintained by one or more of them as his or their own home, except that no child who is living away from home while attending school shall, by reason of clause (4), be excluded as a member of a family on account of his absence from the family residence.

"(f) The term 'head of family', when used in reference to any family, means—

"(1) in case there is included among the members of the family an individual, who is the father of a child who is a member of the family, such individual (unless he is disabled);

"(2) in case there is no individual in the family who meets the criteria specified in clause (1) and there is included among the members of the family an individual, who is the mother of a child who is a member of the family, such individual (unless she is disabled);

"(3) in case there is no individual in a family who meets the criteria specified in clause (1) or (2), any other individual who is member of such family (other than a child or an individual who is disabled) and who undertakes to provide for the support of the children who are members of such family; except that (A) not more than one such individual shall, at any time, be regarded as the head of family of the family of which he is a member, and (B) no such individual shall be regarded as the head of family of any family if the Secretary determines that there is no child in such family other than a child which has been placed in such family in order to enable a member thereof to participate in the employment with wage supplement program established under this title.

"(g) The term 'child' means an individual who is unmarried and who—

"(1) has not attained the age of 18; or

"(2) has attained such age but has not attained the age of 21 and is a 'full-time student' (as such term is applied for purposes of section 202(d)).

"(h) The term 'disabled', when used in reference to any individual, means the inability of such individual to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment.

"PART C—CHILD SUPPORT

"CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY

"SEC. 430. (a) The Social Security Act is amended by adding after part C of title IV thereof the following new part:

"PART D—CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY

"APPROPRIATION

"SEC. 451. For the purposes of enforcing (1) the support obligations owed by absent parents to children receiving assistance under part A of this title, (2) the residual monetary obligation owed to the United States by absent parents, and (3) the criminal penalties for nonsupport against absent parents, there is hereby authorized to be appropriated to the Attorney General for each fiscal year a sum sufficient to carry out the purposes of this part.

"DUTIES OF ATTORNEY GENERAL

"SEC. 452. (a) The Attorney General shall enforce the support rights assigned to him under section 402(a)(26) by applicants for and recipients of assistance under part A of this title, utilizing all funds and authority which are available to him for this purpose. To the extent required, he shall locate absent parents, determine paternity in order to establish duty to support, obtain support orders, collect support payments by use of voluntary agreements or other means, and enforce the residual monetary obligation owed the United States and the criminal provisions for nonsupport by such parents.

(b)(1) The Attorney General shall, in accordance with procedures applicable to the recovery of obligations due the United States including, where appropriate, the use of voluntary agreements, and in accordance with the priorities for distribution specified in section 455, collect and distribute amounts from enforcement of obligations under paragraph (2). Whenever any individual is determined to be liable to the United States for any amount under this section, the Attorney General may make certification of such amount to the Secretary of the Treasury for collection pursuant to the provisions of section 6305 of the Internal Revenue Code of 1954. The Attorney General shall reimburse the Secretary of the Treasury for any costs involved.

"(2) The Attorney General is authorized to bring civil action in any court of competent jurisdiction (including the courts in any State or political subdivision thereof) against an absent parent to secure (A) support obligations assigned to him under section 402(a)(26), and (B) the residual monetary obligation owed to the United States as defined in section 457, except that all of part of such obligation may be suspended or forgiven by the Attorney General upon a finding of good cause. In taking actions against an absent parent, the Attorney General shall give priority to obtaining orders and proceeding with collections required under subsection (b)(2)(A).

"(3) The Attorney General may enter into voluntary agreements to recover support obligations assigned under section 402(a)(26), if there is no court order in effect directing payment of such obligation or if there is such an order in effect but there is no reasonable expectation that it can be enforced or that the obligation can be collected. Any voluntary agreement so made shall provide that support payments will not cease if the family ceases to receive assistance under part A of this title, and the amounts payable under such agreement, if there is no court order in effect, may be collected as authorized under the provisions of this part.

"(c) The Attorney General and the Director of the Office of Economic Opportunity are directed to enter into an appropriate arrangement under which the services of attorneys participating in legal services programs established pursuant to section 222(a)(3) of the Economic Opportunity Act of 1964 will be made available to the Attorney General to assist him in carrying out his functions under this part. The Attorney General shall, to the maximum extent feasible, utilize the services of such attorneys in the performance of such functions and may make the services of such attorneys available to States or political subdivisions to assist them in carrying out the purposes of this part. The Office of Economic Opportunity shall be reimbursed by the Attorney General for the costs incurred in providing such services.

"(d) The Attorney General shall require that each United States attorney designate an assistant United States attorney to be responsible for enforcement of the provisions of this part in his judicial district and maintain liaison with and assist the States and political subdivisions thereof in their child support efforts. Each assistant United States attorney so designated shall prepare and submit to the Attorney General for submission to the Congress quarterly reports on all activities undertaken pursuant to this section.

"(e)(1) There is hereby established in the Treasury a revolving fund to be known as the Federal Child Support Fund (hereinafter referred to as the 'fund') which shall be available to the Attorney General without fiscal year limitation, to enable him to carry out his responsibilities under this part.

"(2) Except as provided in sections 454(d) and 458, all moneys appropriated pursuant to section 451 for the purpose of funding Federal activities under this part and all moneys collected by the Federal Government pursuant to this part (including support payments and payments by way of reimbursement received from Federal agencies, States and political subdivisions thereof, and individuals) shall be paid into the fund and shall be disbursed by the Attorney General from time to time in accordance with the provisions of this part.

"(3) There is hereby appropriated to the fund, out of any moneys in the Treasury not otherwise appropriated, amounts equal to the amounts collected under section 6305 of the Internal Revenue Code of 1954, reduced by the amounts credited or refunded as overpayments of the amounts so collected. The amounts appropriated by the preceding sentence shall be transferred at least quarterly from the general fund of the Treasury to the fund on the basis of estimates made by the Secretary of the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(f) The Attorney General shall notify the Secretary of the failure of the State agency administering the plan approved under part A of this title to comply with the requirements of section 402(a)(26).

"(g) The Attorney General shall maintain complete records of all amounts collected under this part and of the costs incurred in collecting such amounts and shall, not later than June 30 of each year (commencing with June 30, 1974), submit to the Congress a written report on all activities undertaken pursuant to the provisions of this part.

"PARENT LOCATOR SERVICE

"SEC. 453. (a) The Attorney General shall establish and conduct, within the Department of Justice, a Parent Locator Service which shall be used to obtain and transmit to any authorized person (as defined in subsection (c)) information as to the whereabouts of any absent parent when such information is to be used to locate such parent for the purpose of enforcing support obligations against such parent.

"(b) Upon request, filed in accordance with subsection (d) of any authorized person (as defined in subsection (c)) for the most recent address and place of employment of any individual, the Attorney General shall, notwithstanding any other provision of law, provide through the Parent Locator Service such information to such person, if such information—

"(1) is contained in any files or records maintained by the Attorney General or by the Department of Justice; or

"(2) is not contained in such files or records, but can be obtained by the Attorney General, under the authority conferred by subsection (e), from any other department, agency, or instrumentality, of the United States or of any State.

The Attorney General shall give priority to requests made by any authorized person described in subsection (c)(1).

"(c) As used in subsection (a), the term 'authorized person' means—

"(1) any agent or attorney of the United States or of any State or any political subdivision to which support collection functions have been delegated under section 454, who has the duty or authority to seek to recover any amounts under section 452;

"(2) the court which has authority to issue an order against an absent parent for the support and maintenance of a child, or any agent of such court; and

"(3) the parent, guardian, attorney, or agent of a child (other than a child receiving aid under part A of this title) without regard to the existence of a court order against an absent parent who has a duty to support and maintain any such child.

"(d) A request for information under this section shall be filed in such manner and form as the Attorney General shall by regulation prescribe and shall be accompanied or supported by such documents as the Attorney General may determine to be necessary.

"(e)(1) Whenever the Attorney General receives a request submitted under subsection (b) which he is reasonably satisfied meets the criteria established by subsections (a), (b), and (c), he shall promptly undertake to provide the information requested from the files and records maintained by any of the departments, agencies, or instrumentalities of the United States or of any State.

"(2) Notwithstanding any other provision of law, whenever the individual who is the head of any department, agency, or instrumentality of the United States receives a request from the Attorney General for information authorized to be provided by the Attorney General under this section, such individual shall promptly cause a search to be made of the files and records maintained by such department, agency, or instrumentality with a view to determining whether the information requested is contained in any such files or records. If such search discloses the information requested, such individual shall immediately transmit such information to the Attorney General; and, if such search fails to disclose the information requested, such individual shall immediately so notify the Attorney General. The costs incurred by any such department, agency, or instrumentality of the United States or of any State in providing such information to the Attorney General shall be reimbursed by him. Whenever such services are furnished to an individual specified in subsection (c)(3), a fee shall be charged such individual. The fee so charged shall be deposited in the Fund and shall be used to reimburse the Attorney General or his delegate for the expense of providing such services.

"(f) The Attorney General, in carrying out his duties and functions under this section, shall enter into arrangements with State agencies administering or supervising the administration of State plans approved under part A of this title, under which the offices operated under such plans will accept from parents, guardians, or agents of a child described in subsection (c)(3) and transmit to the Attorney General requests for information with regard to the whereabouts of absent parents and will otherwise cooperate with the Attorney General in carrying out the purposes of this section.

"DELEGATION OF SUPPORT COLLECTION FUNCTIONS TO STATES OR POLITICAL SUBDIVISIONS

"SEC. 454. (a) The Attorney General shall delegate to any State having a plan approved under part A of this title the authority to recover the child support obligation assigned to the United States under section 402(a)(26) if he determines that such State has an effective program (in accordance with the standards established in subsection (b)) for locating absent parents, determining paternity, obtaining support orders, and collecting amounts of money owed by parents for the support and maintenance of their child or children. Such a delegation may be made to a political subdivision of any such State upon a finding that the State as a whole does not have an effective program for locating absent parents, determining paternity, obtaining support orders, and collecting child support but that such political subdivision does have an effective program which meets the standards established in subsection (b).

"(b) The Attorney General shall not approve any program pursuant to subsection (a) unless such program provides—

"(1) for the development and implementation of a program under which such State or political subdivision will undertake—

"(A) in the case of a child born out of wedlock with respect to whom an assignment under section 402(a)(26) of this title is effective, to establish the paternity of such child, and

"(B) in the case of any child with respect to whom such assignment is effective, to secure support for such child from his parent (or from any other person legally liable for such support), utilizing any reciprocal arrangements adopted with other States to obtain or enforce court orders for support, and

"(2) for the establishment of an organizational unit in the State or political subdivision administering the program under this section;

"(3) for entering into cooperative arrangements with appropriate courts and law enforcement officials (A) to assist the State

or political subdivision administering the program under this section, including the entering into of financial arrangements with such courts and officials in order to assure optimum results under such program, and (B) with respect to any other matters of common concern to such courts or officials and the State or political subdivision administering the program under this section;

"(4) that the State or political subdivision will establish a service to locate absent parents utilizing—

"(A) all sources of information and available records; and

"(B) the Parent Locator Service in the Department of Justice;

"(5) that the State or political subdivision will, in accordance with standards prescribed by the Attorney General, cooperate with the State or political subdivision of another State or with the Attorney General in administering a program under this part—

"(A) in establishing paternity, if necessary,

"(B) in locating an absent parent residing in the State (whether or not permanently) against whom any action is being taken under this part in another State,

"(C) in securing compliance by an absent parent residing in such State (whether or not permanently) with a voluntary agreement or an order issued by a court of competent jurisdiction against such parent for the support and maintenance of a child or children of such parent with respect to whom aid is being provided under the plan of such other States, and

"(D) in carrying out other functions required by this part;

"(6) that the State or political subdivisions may enter into voluntary agreements to recover child support obligations delegated under subsection (a), if there is no court order in effect directing payment of such obligation or if there is such an order in effect but there is no reasonable expectation that it can be enforced or that the obligation can be collected. Any voluntary agreement so made shall provide that support payments will not cease if the family ceases to receive assistance under part A of this title, and the amounts payable under such agreement, if there is no court order in effect, may be collected as authorized under the provisions of this part;

"(7) that the State or political subdivision require, as a condition of the absent parent being permitted to make support payments on a voluntary basis, the execution by such parent of an appropriate affidavit (which shall be recorded in the records of the court or other appropriate agency) in which such parent acknowledges the paternity of such child or children;

"(8) that, if the State uses voluntary agreements under paragraph (6), it will establish an administrative mechanism for enforcing such agreements;

"(9) that such State or political subdivision will comply with such other requirements as the Attorney General determines to be necessary to the establishment of an effective program for locating absent parents, determining paternity, obtaining support orders, and collecting support payments including, but not limited to, requiring a full record of collections and disbursements; and

"(10) that the State or political subdivision shall reimburse the Attorney General for the costs incurred by the Federal Government in enforcing and collecting support obligations assigned under this section.

"(c) The Attorney General shall, upon the request of any State or political subdivision to which he has delegated the authority to recover the child support obligation assigned to the United States under section 402(a)(26), make available to such State or political subdivision (1) the services of attorneys participating in legal services programs who are, by reason of the agreement required by section 452(c), assisting the Attorney General in carrying out his functions under this part, and (2) upon a showing by the State or political subdivision that such State or political subdivision made diligent and reasonable efforts in utilizing their own collection mechanisms, the collection facilities of the Department of the Treasury (subject to the same requirements of certification by the Attorney General imposed by section 452(b) and subject to such limitations on the frequency of making such certification as may be imposed by the Attorney General).

"(d) From the sums appropriated therefor, the Attorney General shall pay to each State or political subdivision which has a program approved under this section, for each quarter, beginning with the quarter commencing January 1, 1973, an amount equal to 75 percent of the total amounts expended by such State or political subdivision during such quarter for the operation of the program approved under this section except as provided in sections 455(b)(2), 456, and 459.

"DISTRIBUTION OF PROCEEDS FROM SUPPORT COLLECTIONS

"SEC. 455. (a) Amounts collected as support obligations assigned under section 402(a)(26) shall be distributed in the following order of priority—

"(1) If a State or its agent makes the collection, the proceeds of such collection shall be distributed, beginning with the first dollar, as follows—

"(A) the family shall be paid the larger of—

"(i) 100 percent of such proceeds if they are equal to or less than the amount of the assistance payment which would otherwise be made, or

"(ii) an amount of such proceeds that is equal to the lesser of (I) the amount required by a court order to be paid for child support or (II) the amount agreed upon by the parties to a voluntary child support agreement,

any any proceeds so paid that are in excess of the amount of the assistance payment otherwise payable shall be deemed to reduce the residual monetary obligation to the Federal Government by a like amount;

"(B) such amounts as may be necessary to reimburse the State for such State's share of assistance payments (with appropriate reimbursement of the political subdivision if it participated in the financing) made to the family prior to the date on which the support obligation was collected shall be paid to such State, and any amounts so paid shall be deemed to reduce the residual monetary obligation to the Federal Government by a like amount; and

"(C) such amounts as may be necessary to reduce or eliminate the residual monetary obligation to the Federal Government by the absent parent shall be paid to the Federal Government and deposited in the fund.

"(2) If a political subdivision or its agent makes the collection, the proceeds of such collection shall be distributed, beginning with the first dollar, as follows—

"(A) the family shall be paid the larger of—

"(i) 100 percent of such proceeds if they are equal to or less than the amount of the assistance payment which would otherwise be made, or

"(ii) an amount of such proceeds that is equal to the lesser of (I) the amount required by a court order to be paid for child support or (II) the amount agreed upon by the parties to a voluntary child support agreement,

and any proceeds so paid that are in excess of the amount of the assistance payment otherwise payable shall be deemed to reduce the residual monetary obligation to the Federal Government by a like amount;

"(B) such amounts as may be necessary to reimburse the political subdivision for its share of assistance payments made to the family prior to the date on which the support obligation was collected shall be paid to such political subdivision, and any amounts so paid shall be deemed to reduce the residual monetary obligation to the Federal Government by a like amount; and

"(C) such amounts as may be necessary to reduce or eliminate the residual monetary obligation to the Federal Government by the absent parent shall be paid to the Federal Government and deposited in the fund.

"(3) If the Attorney General makes the collection, the proceeds of such collection shall be distributed, beginning with the first dollar, as follows—

"(A) the family shall be paid the larger of—

"(i) 100 percent of such proceeds if they are equal to or less than the amount of the assistance payment which would otherwise be made, or

"(ii) an amount of such proceeds that is equal to the lesser of (I) the amount required by a court order to be paid for child support or (II) the amount agreed upon by the parties to a voluntary child support agreement,

and any proceeds so paid that are in excess of the amount of the assistance payment otherwise payable shall be deemed to reduce the residual monetary obligation to the Federal Government by a like amount; and

"(B) such amounts as may be necessary to reduce or eliminate the residual monetary obligation to the Federal Government by the absent parent shall be paid to the Federal Government and deposited in the fund.

Whenever payments are made pursuant to paragraph (2)(A) or (3)(A) to a family residing in a State which does not have an approved support program under this part, the Attorney General shall so certify to the Secretary, who shall reduce the amount of any grant made to such State under part A of this title by an amount equal to the amount so certified and deposit such amount into the Fund, except that such reduction shall not be greater than the amount of the assistance payment such family would have received from such State had the payment under paragraph (2)(A) or (3)(A) not been made.

"(b) Whenever a family for whom support payments have been collected and distributed under this part ceases to receive assistance under part A of this title, the Attorney General, or the State or political subdivision to which the Attorney General has delegated the authority to collect support obligations pursuant to this part, shall—

"(1) continue to collect such support payments from the absent parent for a period of three months from the month following the month in which such family ceased to receive assistance under part A of this title, and pay all amounts so collected to the family; and

"(2) at the end of such three-month period, if the Attorney General (A) is authorized to do so by the individual on whose behalf the collection will be made and (B) finds that the absent parent has not met his support obligation for the period of twenty-four consecutive months immediately preceding the end of such three-month period or throughout the term of such obligation, whichever is shorter, continue to collect such support payments from the absent parent until he has met his support obligation for a period of twenty-four consecutive months, and pay the net amount of any amount so collected to the family after deducting any costs incurred in making the collection from the amount of any recovery made.

"INCENTIVE PAYMENT TO LOCALITIES

"SEC. 456. When a political subdivision of a State makes the enforcement and collection

of the support obligation assigned under section 402(a)(26) (either within or outside of such State, and whether as the agent of such State or as the agent of the Attorney General), an amount equal to 25 percent of any amount collected and required to be distributed as provided in sections 455(a)(1)(A) and (B), or in sections 455(a)(2)(A) and (B), as appropriate, to reduce or eliminate assistance payments, shall be paid to such State or political subdivision from amounts which would otherwise represent the Federal share of assistance to the family of the absent parent.

"RESIDUAL MONETARY OBLIGATIONS TO THE UNITED STATES

"SEC. 457. There is hereby imposed on any absent parent whose child or children have received assistance payments under part A of this title a residual monetary obligation to the United States. Such obligation shall be in an amount that is equal to the total amounts of payments made to the family of an absent parent each month under the State plan approved under part A of this title, or, if less, 50 percent of the monthly income of the absent parent for each such month (but not less than $50 per month), except that during any month in which an absent parent is meeting his support obligations by paying the full amount of a court ordered support payment or the full amount of the support payment which he has agreed to pay according to the terms of a voluntary support agreement entered into between him and the Attorney General (or his delegate), whichever is larger, no obligation shall be imposed. Interest on any such amount shall accrue at the rate of 6 percent per annum, but the total amount of such obligation (including interest thereon) shall be reduced by the amount of any sums collected by a State or political subdivision which represent such State or political subdivision's share of assistance payments made under the State plan approved under part A of this title.

"REGIONAL LABORATORIES TO ESTABLISH PATERNITY THROUGH ANALYSIS AND CLASSIFICATION OF BLOOD

"SEC. 458. (a) The Secretary shall establish, or arrange for the establishment or designation, in each region of the United States, a laboratory which he determines to be qualified to provide services in analyzing and classifying blood for the purpose of determining paternity, and which is prepared to provide such services to courts and public agencies in the region to be served by it.

"(b) Whenever a laboratory is established or designated for any region by the Secretary under this section, he shall take such measures as may be appropriate to notify appropriate courts and public agencies (including agencies administering any public welfare program within such region) that such laboratory has been so established or designated to provide services, in analyzing and classifying blood for the purpose of determining paternity, for court and public agencies in such region.

"(c) The facilities of any such laboratory shall be made available without cost to courts and public agencies in the region to be served by it.

"(d) There is hereby authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section.

"CONSENT BY THE UNITED STATES TO GARNISHMENT AND SIMILAR PROCEEDINGS FOR ENFORCEMENT OF CHILD SUPPORT AND ALIMONY OBLIGATIONS

"SEC. 460. Notwithstanding any other provision of law, moneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, the United States (including any agency or instrumentality thereof and any wholly owned Federal corporation) to any individual, including members of the armed services, shall be subject, in like manner and to the same extent as if the United States were a private person, to legal process brought for the enforcement, against such individual, of his legal obligations to provide child support or make alimony payments.

"PENALTY FOR NONSUPPORT

"SEC. 461. (a) Any individual who is the parent of any child or children and who is under a legal duty to provide for the support and maintenance of such child or children (as required under the law of the State where such child or children reside) but fails to perform such duty and has left, deserted, or abandoned such child or children and such child or children receive assistance payments to provide for their support and maintenance which are funded in whole or in part from funds appropriated therefor by the Federal Government shall, upon conviction, be penalized in an amount equal to 50 percent of the residual monetary obligation owed to the United States, or fined not more than $1,000, or imprisoned for not more than one year, or any combination of these three penalties.

"(b) This section does not preempt any State law imposing a civil or criminal penalty on an absent parent for failing to provide support and maintenance to his child or children to whom such parent owes a duty to support."

Conforming Amendments to Title XI

(b) Section 1106 of such Act is amended—

(1) by striking out the period at the end of the first sentence of subsection (a) and inserting in lieu thereof the following: "and except as provided in part D of title IV of this Act.";

(2) by adding at the end of subsection (b) the following new sentence: "Notwithstanding the preceding provisions of this subsection, requests for information made pursuant to the provisions of part D of title IV of this Act for the purpose of using Federal records for locating parents shall be complied with and the cost incurred in providing such information shall be paid for as provided in such part D of title IV."; and

(3) by striking out subsection (c).

COLLECTION OF CHILD SUPPORT OBLIGATIONS

(c)(1) Subchapter A of chapter 64 of the Internal Revenue Code of 1954 (relating to collection of taxes) is amended by adding at the end thereof the following new section:

"SEC. 6305. COLLECTION OF CERTAIN LIABILITY TO THE UNITED STATES.

"Upon receiving a certification from the Attorney General under section 452(b)(1) of the Social Security Act with respect to any individual, the Secretary or his delegate shall assess and collect the amount certified by the Attorney General in the same manner, with the same powers, and (except as provided in this section) subject to the same limitations as if such amount were a tax imposed by subtitle C the collection of which would be jeopardized by delay, except that—

"(1) no interest or penalties shall be assessed or collected, and

"(2) for such purposes, paragraphs (4), (6), and (8) of section 6334(a) (relating to property exempt from levy) shall not apply."

(2) The table of sections for such subchapter is amended by adding at the end thereof the following new item:

"SEC. 6305. COLLECTION OF CERTAIN LIABILITY TO THE UNITED STATES"

(d) The amendments made by subsections (a), (b), and (c) shall become effective on January 1, 1973.

AMENDMENTS TO PART A OF TITLE IV

"SEC. 430A. (a) Section 402(a)(8)(A) of the Social Security Act is amended—

"(1) by striking out 'and' at the end of the clause (i);

"(2) by striking out the semicolon at the end of clause (ii) and inserting in lieu thereon a comma; and

"(3) by adding at the end of clause (ii) the following new clause:

"'(iii) $20 per month, with respect to the dependent child (or children), relative with whom the child (or children) is living, and other individual (living in the same home as such child (or children)) whose needs are taken into account in making such determination, of all income derived from support payments collected pursuant to part D; and'.

"(b) Section 401(a)(9) is amended to read as follows: '(9) provide safeguards which permit the use or disclosure of information concerning applicants of recipients only to (A) public officials who required such information in connection with their official duties, or (B) other persons for purposes directly connected with the administration of aid to families with dependent children;'.

"(c) Section 402(a)(10) is amended by inserting immediately before 'be furnished' the following: ', subject to paragraphs (24) and (26),'.

"(d) Section 402(a)(11) is amended to read as follows: '(11) provide for prompt notice (including the transmittal of all relevant information) to the Attorney General of the United States (or the appropriate State official or agency (if any) designated by him pursuant to part (D)) of the furnishing of aid to families with dependent children with respect to a child who has been deserted or abandoned by a parent (including a child born out of wedlock without regard to whether the paternity of such child has been established);'.

"(e) Section 402(a) is further amended—

"(1) by striking out 'and' at the end of paragraph (22); and

"(2) by striking out the period at the end of paragraph (23) and inserting in lieu thereof a semicolon and the following: '(24) provide (A) that, as a condition of eligibility under the plan, each applicant for or recipient of aid shall furnish to the State agency his social security account number (or numbers, if he has more than one such number), and (B) that such State agency shall utilize such account numbers, in addition to any other means of identification it may determine to employ, in the administration of such plan; (25) contain such provisions pertaining to determining paternity and securing support and locating absent parents as are prescribed by the Attorney General of the United States in order to enable him to comply with the requirements of part D; and (26) provide that, as a condition of eligibility for aid, each applicant or recipient will be required—

"'(A) to assign to the United States any rights to support from any other person he may have (i) in his own behalf or in behalf of any other family member for whom he is applying for or receiving aid, and (ii) which have accrued at the time such assignment is executed, and which will accrue during the period ending with the third month following the month in which he (or such other family members) last receive aid under the plan or within such later month as may be determined under section 455(b), and

"'(B) to cooperate with the Attorney General or the State or local agency he has delegated under section 454, (i) in establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, and (ii) in obtaining support payments for herself and for a child with respect to whom such aid is claimed, or in obtaining any other payments or property due herself or such child.'

"(f) Sections 402(a)(17), (18), (21), and (22), and section 410 of such Act are repealed.

"(g) The amendments made by this section shall become effective on January 1, 1973."

PART D—CHILD CARE AND CHILD WELFARE SERVICES

SEC. 431. (a) The Social Security Act is amended by adding after title XX thereof (as added by section 420 of this Act) the following new title:

"TITLE XXI—CHILD CARE

"FINDINGS AND DECLARATION OF PURPOSE

"SEC. 2101. (a) The Congress finds and declares that—

"(1) the present lack of adequate child care services is detrimental to the welfare of families and children in that it limits opportunities of parents for employment or self-improvement, and often results in inadequate care arrangements for children whose parents are unable to find appropriate care for them;

"(2) low-income families and dependent families are severely handicapped in their efforts to attain or maintain economic independence by the unavailability of adequate child care services;

"(3) many other families, especially those in which the mother is employed, have need for child care services, either on a regular basis or from time to time; and

"(4) there is presently no single agency or organization, public or private, which is carrying out the responsibility of meeting the Nation's needs for adequate child care services.

"(b) It is therefore the purpose of this title to promote the availability of adequate child care services throughout the Nation by providing for the establishment of a Bureau of Child Care which shall have the responsibility and authority to meet the Nation's unmet needs for adequate child care services, and which, in meeting such needs, will give special consideration to the needs for such services by families in which the mother is employed or preparing for employment, and will promote the well-being of all children by assuring that the child care services provided will be appropriate to the particular needs of the children receiving such services.

"ESTABLISHMENT AND ORGANIZATION OF BUREAU OF CHILD CARE

"SEC. 2102. (a) In order to carry out the purposes of this title, there is hereby established a Bureau of Child Care (hereinafter in this title referred to as the 'Bureau').

"(b)(1) The powers and duties of the Bureau shall be vested in a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) The Director shall have the power to appoint (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service) such personnel as he deems necessary to enable the Bureau to carry out its functions under this title. All personnel shall be appointed solely on the ground of their fitness to perform their duties and without regard to political affiliation, sex, race, creed, or color. The Director may (without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates) fix the compensation of personnel. The amount of the compensation payable to any employee shall be reasonably related to the compensation payable to State employees performing similar duties in the State in which such employee is employed by the Bureau; except that, in no case shall the amount of the compensation payable to any employee be greater than that payable to Federal employees performing similar services. For purposes of the preceding sentence, personnel employed in the principal office of the Bureau shall be deemed to be performing services in the District of Columbia (which shall be deemed to be a State for such purposes), and personnel performing services in more than one State shall be deemed to be employed in the State in which their principal office or place of work is located.

"(3) The Director is authorized to obtain the services of experts and consultants on a temporary or intermittent basis in accordance with the provisions of section 3109 of title 5, United States Code, but at rates for individuals not to exceed the per diem equivalent of the rate authorized for GS–18 by section 5332 of such title.

"(4) The Director shall establish, within the Bureau, an Office of Program Evaluation and Auditing the functions of which shall be to assure that standards established under this title with respect to child care services and facilities providing such services will be met, and that funds of or under the control of the Bureau will be properly used. The Director shall utilize such Office to carry out the duties (relating to evaluation of facilities) imposed upon him under section 2104(c)(2).

"DUTIES AND POWERS

"SEC. 2103. (a) It shall be the duty and function of the Bureau to meet the needs of recipients of assistance under title IV of this Act, and persons who have been or are likely to become applicants for or recipients of such aid, for child care services and, to the maximum extent economically feasible, the needs of the Nation for child care services.

"(b)(1) In carrying out such duty and function, the Bureau shall, through utilization of existing facilities for child care and otherwise, provide (or arrange for the provision of) child care services in the various communities of each State. Such child care services shall include the various types of care included in the term 'child care services' (as defined in section 2118(b)) to the extent that the needs of the various communities may require.

"(2) The Bureau shall charge and collect a reasonable fee for the child care services provided by it (whether directly or through arrangements with others). The fee so charged for any particular type of child care services provided in any facility shall be uniform for all children receiving such types of services in such facility. Any such fee so charged may be paid in whole or in part by any person (including the Bureau, as provided in subsection (e), or any other public agency) which agrees to pay such fee or a part thereof.

"(3) The Bureau shall not enter into any arrangement with any person under which the facilities or services of such person will be utilized by the Bureau to provide child care services unless such person agrees (A) to accept any child referred to such person by the Bureau for child care services on the same basis and under the same conditions as other children applying for such services, and (B) to accept payment of all or any part of the fee imposed for such services from any public agency which shall agree to pay such fee or a part thereof from Federal funds.

"(c) In providing child care services in the various communities of the Nation, the Bureau shall accord first priority (1) to the needs for child care services of families on behalf of whom child care services will be paid in whole or in part from funds appropriated to carry out part A of title IV and section 2109 of this title and who are in need of such services to enable a member thereof to accept or continue in employment or participate in training to prepare such member for employment, and (2) to arranging for care in facilities providing hours of child care sufficient to meet the child care needs of children whose mothers are employed full time.

"(d) In providing for child care services the Bureau shall first place children in facilities which receive funds from sources other than funds made available under this title including, if the parents of such children agree, child development programs.

"(e)(1) From the sums available to carry out the provisions of this title for each fiscal year, the Bureau is authorized to assist low-income families in meeting the costs of child care services where such services are necessary to enable an adult member of such family to engage in employment.

"(2) The amount of the subsidy provided to any family under this subsection shall be determined in accordance with a schedule established by the Director, after taking into account the number of families needing such assistance, the amount of assistance needed by such families, and the amount of the funds available for the provision of such assistance. Such schedule shall (A) provide that the amount of subsidy payable to any family shall be equal to a per centum of the costs incurred by such family for the child care services with respect to which such subsidy is paid, (B) be related to ability of such family to pay the costs of such services (as determined by family size and income), and (C) be designed to assure that the amount of the subsidy payable to any family is not greater than the minimum amount necessary to enable such family to secure such services.

"(f) In carrying out its duties and functions under this title, the Bureau shall have power—

"(1) to acquire (by purchase, gift, devise, lease, or sublease), and to accept jurisdiction over and to hold and own, and dispose of by sale, lease, or sublease, real or personal property, including but not limited to a facility for child care, or any interest therein for its purposes;

"(2) to operate, manage, superintend, and control any facility for child care under its jurisdiction and to repair, maintain, and otherwise keep up any such facility; and to establish and collect fees, rentals, or other charges for the use of such facility or the receipt of child care services provided therein;

"(3) to provide child care services for the public directly or by agreement or lease with any person, agency, or organization, and to make rules and regulations concerning the handling of referrals and applications for the admission of children to receive such services; and to establish and collect fees and other charges, including reimbursement allowances, for the provision of child care services: Provided, That, in determining how its funds shall be used for the provision of child care services within a community, the Bureau shall take into account any comprehensive planning for child care which has been done, and shall generally restrict its direct operation of programs to situations in which public or private agencies are unable to develop adequate child care;

"(4) to provide advice and technical assistance to persons desiring to enter into an agreement with the Bureau for the provision of child care services to assist them in developing their capabilities to provide such services under such an agreement;

"(5) to prepare, or cause to be prepared, plans, specifications, designs, and estimates of costs for the construction and equipment of facilities for child care services in which the Bureau provides child care directly;

"(6) to construct and equip, or by contract cause to be constructed and equipped, facilities (other than home child care facilities) for child care services: Provided, That the Bureau shall take into account any comprehensive planning for child care that has been done;

"(7) to train persons for employment in providing child care services, with particular emphasis on training persons receiving assistance under part A of title IV;

"(8) to procure insurance, or obtain indemnification, against any loss in connection with the assets of the Bureau or any liability

in connection with the activities of the Bureau, such insurance or indemnification to be procured or obtained in such amounts, and from such sources, as the Board deems to be appropriate;

"(9) to cooperate with any organization, public or private, the objectives of which are similar to the purposes of this title; and

"(10) to do any and all things necessary, convenient, or desirable to carry out the purposes of this title, and for the exercise of the powers conferred upon the Bureau in this title.

"STANDARDS FOR CHILD CARE

"SEC. 2104. (a) In order to assure that adequate standards of staffing, health, sanitation, safety, and fire protection are met, the Bureau shall not provide or arrange for the provision of child care of any type or in any facility unless the applicable requirements set forth in the succeeding provisions of this section are met with respect to such care and the facility in which such care is offered.

"(b)(1) The ratio of the number of children receiving child care to the number of qualified staff members directly engaged in providing such care (whether as teachers' aids or in another capacity) shall be such as the Director may determine to be appropriate for the type of child care provided and the age of the children involved, but in no case shall the Director require a ratio of less than—

"(A) eight to one, in case such care is provided in a home child care facility; or

"(B) ten to one, in case such care is provided in a day nursery facility, nursery school, child development center, play group facility, or preschool child care center.

For purposes of applying the ratios set forth in clauses (A) and (B) of the preceding sentence, any child under age three shall be considered as two children.

"(2) In the case of any facility (other than a facility to which paragraph (1) is applicable) the ratio of the number of children receiving child care therein to the number of qualified staff members providing such care shall not be greater than such ratio as the Director may determine to be appropriate to the type of child care provided and the age of the children involved, except that such ratio shall not be greater than twenty-five to one.

"(3) As used in this subsection, the term 'qualified staff member' means an individual who has received training in, or demonstrated ability in, the care of children.

"(c)(1) Any facility in which the Bureau provides child care (whether directly or through arrangements with others) must—

"(A)(i) in the case of facilities that are not homes, meet such provisions of the Life Safety Code of the National Fire Protection Association (twenty-first edition, 1967) as are applicable to the type of facility; except that the Bureau may waive for such periods as it deems appropriate, specific provisions of such code which, if rigidly applied, would result in unreasonable hardship upon the facility, but only if the Bureau makes a determination (and keeps a written record setting forth the basis of such determination) that such waiver will not adversely affect the health and safety of the children receiving care in such facility and (ii) in the case of facilities that are homes, meet requirements adopted by the local area (or a comparable area, if none have been adopted for the local area) for application to general residential occupancy;

"(B) contain (or have available to it for use) adequate indoor and outdoor space for children for the number and ages of the children served by such facility; have separate rooms or areas for cooking, and have separate rooms for toilets;

"(C) have floors and walls of a type which can be cleaned and maintained and which contain or are covered with no substance which is hazardous to the health or clothing of children;

"(D) have such ventilation and temperature control facilities as may be necessary to assure the safety and reasonable comfort of each child receiving care therein;

"(E) provide safe and comfortable facilities for the variety of activities children engage in while receiving care therein;

"(F) provide special arrangements or accommodations, for children who become ill, which are designed to provide rest and quiet for ill children while protecting other children from the risk of infection or contagion; and

"(G) make available to children receiving care therein such toys, games, books, equipment, and other material as are appropriate to the type of facility involved and the ages of the children receiving care therein.

"(2) The Director, in determining whether any particular facility meets minimum requirements imposed by paragraph (1) of this subsection, shall evaluate, not less often than once each year, on the basis of inspections made by personnel employed by the Bureau or by others through arrangements with the Bureau, such facility separately and shall make a determination with respect to such facility after taking into account the location and type of care provided by such facility as well as the age group served by it.

"(d) The Bureau shall not provide (directly or through arrangements with other persons) child care in a child care facility or home child care facility unless—

"(1) such facility requires that, in order to receive child care provided by such facility, a child must have been determined by a physician (after a physical examination) to be in good health and must have been immunized against such diseases and within such prior period as the Director may prescribe in order adequately to protect the children receiving care in such facility from communicable disease (except that no child seeking to enter or receiving care in such a facility shall be required to undergo any medical examination, immunization, or physical evaluation or treatment (except to the extent necessary to protect the public from epidemics of contagious diseases, if his parent or guardian objects thereto in writing on religious grounds);

"(2) such facility provides for the daily evaluation of each child receiving care therein for indications of illness;

"(3) such facility provides adequate and nutritious (though not necessarily hot) meals and snacks, which are prepared in a safe and sanitary manner;

"(4) such facility has in effect procedures designed to assure that each staff member thereof is fully advised of the hazards to children of infection and accidents and is instructed with respect to measures designed to avoid or reduce the incidence or severity of such hazards;

"(5) such facility has in effect procedures under which the staff members of such facility (including voluntary and part-time staff members) are required to undergo, prior to their initial employment and periodically thereafter, medical assessments of their physical and mental competence to provide child care;

"(6) such facility keeps and maintains adequate health records on each child receiving care in such facility and on each staff member (including any voluntary or part-time staff member) of such facility who has contact with children receiving care in such facility; and

"(7) such facility has in effect, for the children receiving child care services provided by such facility, a program under which emergency medical care or first aid will be provided to any such child who sustains injury or becomes ill while receiving such services from such facility, the parent of such child (or other proper person) will be promptly notified of such injury or illness, and other children receiving such services in such facility will be adequately protected from contagious disease.

"(e) The Bureau shall not provide (directly or through arrangements with other persons) child care, in any child care facility or home child care facility, to any child unless there is offered to the parent or parents with whom such child is living (or, if such child is not living with a parent, the guardian or other adult person with whom such child is living) the opportunity of (A) meeting and consulting, from time to time, with the staff of such facility on the development of such child, and (B) observing, from time to time, such child while he is receiving care in such facility.

"(f) Any nursery school, kindergarten, or child development center in which care is provided must meet applicable State or local educational standards.

"PHYSICAL STRUCTURE AND LOCATION OF CHILD CARE FACILITIES

"SEC. 2105. (a) There may be utilized, to provide child care authorized by this title, new buildings especially constructed as child care facilities, as well as existing buildings which are appropriate for such purpose (including, but not limited to, schools, churches, social centers, apartment houses, public housing units, office buildings, and factories).

"(b) The Director, in selecting the location of any facility to provide child care under this title, shall, to the maximum extent feasible, give consideration to such factors as whether the site selected therefor—

"(1) is conveniently accessible to the children to be served by such facility, in terms of distance from the homes of such children as well as the length of travel-time (on the part of such children and their parents) involved;

"(2) is sufficiently accessible from the place of employment of the parents of such children so as to enable such parents to participate in such programs, if any, as are offered to parents by such facility; and

"(3) is conveniently accessible to other facilities, programs, or resources which are related to, or beneficial in, the development of the children of the age group served by such facility.

"EXCLUSIVENESS OF FEDERAL STANDARD; PENALTY FOR FALSE STATEMENT OR MISREPRESENTATION

"SEC. 2106. (a) Any facility in which child care services are provided by the Bureau (whether directly or through arrangements with other persons) shall not be subject to any licensing or similar requirements imposed by any State (or political subdivision thereof), and shall not be subject to any health, fire, safety, sanitary, or other requirements imposed by any State (or political subdivision thereof) with respect to facilities providing child care.

"(b) If any State (or political subdivision thereof), group, organization, or individual feels that the standards imposed, or proposed to be imposed, by the Bureau under section 2104(c)(1) for child care facilities (or any type of class of child care facilities) are less protective of the welfare of children than those imposed on such facilities by such State (or political subdivision thereof, as the case may be), such State (or political subdivision thereof), group, organization, or individual may, by filing a request with the Bureau, obtain a hearing on the matter of the standards imposed or proposed to be imposed by the Bureau with respect to such facilities.

"(c) Whoever knowingly and willfully makes or causes to be made, or induced or seeks to induce the making of, any false statement or representation of a material fact with respect to the conditions or operation of any facility in order that such facility may qualify as a facility in which child care services are provided by the Bureau (whether directly or through arrangements with other

persons) shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $2,000 or imprisoned for not more than six months, or both, and any such facility shall be ineligible, for two years following such conviction, to participate in any child care program that is in whole or in part funded by the United States.

"RECONSIDERATION OF CERTAIN DECISIONS

"SEC. 2107. Whenever any group or organization has presented to the Bureau a proposal, under which such group or organization would provide child care services on behalf of the Bureau, which has been rejected by the Bureau, such group or organization, upon request filed with the Director may have a reconsideration of such proposal by the Bureau.

"CONFIDENTIALITY OF CERTAIN INFORMATION

"SEC. 2108. The Bureau shall impose such safeguards with respect to information held by it concerning applicants for and recipients of child care as are necessary or appropriate to assure that such information will be used only for purposes directly connected with the administration of this title, that the privacy of such applicants or recipients will be protected, and that, when such information is used for statistical purposes, it will be used in such manner as not to identify the particular individuals involved.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 2109. In addition to such sums as may be available to the Bureau from the Child Care Fund established under section 2110, there is hereby authorized to be appropriated to carry out the provisions of this title, for the fiscal year beginning July 1, 1972, the sum of $800,000,000, and for each fiscal year thereafter, such sums as may be necessary.

"REVOLVING FUND

"SEC. 2110. (a) There is hereby established in the Treasury a revolving fund to be known as the Federal Child Care Fund (hereinafter in this title referred to as the 'Fund') which shall be available to the Bureau without fiscal year limitation to carry out its purposes, functions, and duties under this title.

"(b) There shall be deposited in the Fund—

"(1) funds appropriated under section 2109; and

"(2) the proceeds of all fees, rentals, charges, interest, or other receipts (including gifts) received by the Bureau.

"(c) Except for expenditures from the Federal Child Care Capital Fund (established by section 2111(d)) and expenditures from appropriated funds, all expenses of the Bureau (including salaries and other personnel expenses) shall be paid from the Fund.

"(d) If the Bureau determines that the moneys in the fund are in excess of the current needs of the Bureau, it may invest such amounts therefrom as it deems advisable in obligations of the United States or obligations the payment of principal and interest of which is guaranteed by the United States.

"REVENUE BONDS OF BUREAU

"SEC. 2111. (a) The Bureau is authorized (after consultation with the Secretary of the Treasury) to issue and sell bonds, notes, and other evidences of indebtedness (hereafter in this section collectively referred to as 'bonds') whenever the Director determines that the proceeds of such bonds are necessary, together with other moneys available for operation of the Bureau from the Fund, to provide funds sufficient to enable the Bureau to carry out its purposes and functions under this title with respect to the acquisition, planning, construction, remodeling, or renovation of facilities for child care or sites for such facilities; except that (1) no such bonds shall be sold prior to July 1, 1975, (2) no more than $50,000,000 of such bonds shall be issued and sold during any fiscal year, and (3) the outstanding balance of all bonds so issued and sold shall not at any one time exceed $250,000,000.

"(b) Any such bonds may be secured by assets of the Bureau, including, but not limited to, fees, rentals, or other charges which the Bureau receives for the use of any facility for child care which the Bureau owns or in which the Bureau has an interest. Any such bonds are not, and shall not for any purpose be regarded as, obligations of the United States.

"(c) Any such bonds shall bear such rate of interest, have such dates of maturity, be in such denominations, be in such form, carry such registration privileges, be executed in such manner, be payable on such terms, conditions, and at such place or places, and be subject to such other terms and conditions, as the Director may prescribe.

"(d)(1) There is hereby established in the Treasury a fund to be known as the 'Federal Child Care Capital Fund' (hereinafter in this title referred to as the 'Capital Fund'), which shall be available to the Bureau without fiscal year limitations to carry out the purposes and functions of the Bureau with respect to the acquisition, planning, construction, remodeling, renovation, or initial equipping of facilities for child care services, or sites for such facilities.

"(2) The proceeds of any bonds issued and sold pursuant to this section shall be deposited in the Capital Fund and shall be available only for the purposes and functions referred to in paragraph (1) of this subsection.

"COLLECTION AND PUBLICATION OF STATISTICAL DATA

"SEC. 2112. The Bureau shall collect, classify, and publish, on a monthly and annual basis, statistical data relating to its operation and child care provided (directly or indirectly) by the Bureau together with such other data as may be relevant to the purposes and functions of the Bureau.

"REPORTS TO CONGRESS

"SEC. 2113. (a) The Director shall, not later than January 30 following the close of the first session of each Congress (commencing with January 30, 1974), submit to the Congress a written report on the activities of the Bureau during the period ending with the close of the session of Congress last preceding the submission of the report and beginning, in the case of the first such report so submitted, with the date of enactment of this title, and in the case of any such report thereafter, with the day after the last day covered by the last preceding report so submitted. As a separate part of any such report, there shall be included such data and information as may be required fully to apprise the Congress of the actions which the Bureau has taken to improve the quality and availability of child care services, together with a statement regarding the future plans (if any) of the Bureau to further improve the quality of such services.

"(b) The Director shall conduct, on a continuing basis, a study of the standards for child care under section 2104, and shall report to the Congress, not later than January 1, 1977, the results of such study, together with his recommendations (if any) with respect to changes which should be made in establishing such standards.

"APPLICABILITY OF OTHER LAWS

"SEC. 2114. (a) The provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), or other provisions of law relating to competitive bidding, shall not be applicable to the Bureau; nor shall any other provision of law limiting the authority of instrumentalities of the United States to enter into contract be applicable to the Bureau in respect to contracts entered into by the Bureau for the provision of child care services in a home child care facility, temporary child care home, or a night care home.

"(b) The provisions of the Public Buildings Act of 1959 (40 U.S.C. 601–615) shall not apply to the acquisition, construction, remodeling, renovation, alteration, or repair of any building of the Bureau or to the acquisition of any site for any such building for use as a child care facility.

"RESEARCH AND DEMONSTRATIONS

"SEC. 2115. The Secretary, in the administration of section 426, shall consult with and cooperate with the Bureau with a view to providing for the conduct of research and demonstrations which will be applicable to child care services.

"NATIONAL ADVISORY COUNCIL ON CHILD CARE

"SEC. 2116. (a)(1) For the purpose of providing advice and recommendations for the consideration of the Director of the Bureau in matters of general policy in carrying out the purposes and functions of the Bureau, and with respect to improvements in the administration by the Bureau of its purposes and functions, there is hereby created a National Advisory Council on Child Care (hereinafter in this section referred to as the 'Council').

"(2) The Council shall be composed of the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Secretary of Housing and Urban Development, and eight individuals, who shall be appointed by the Director (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service), and who are not otherwise in the employ of the United States.

"(3) Of the appointed members of the Council, not more than three shall be selected from individuals who are representatives of social workers or child welfare workers or nonprofit organizations or are from the field of education, and the remaining appointed members shall be selected from individuals who are representatives of consumers of child care (but not including more than one individual who is a representative of any organization which is composed of or represents recipients of such assistance).

"(b) Each appointed member of the Council shall hold office for a term of three years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his successor was appointed shall be appointed for the remainder of such term, and except that the terms of office of the appointed members first taking office shall expire, as designated by the Director at the time of appointment, four on June 30, 1974, four on June 30, 1975, and four on June 30, 1976.

"(c) The Council is authorized to engage such technical assistance as may be required to carry out its functions, and the Director shall, in addition, make available to the Council such secretarial, clerical, and other assistance and such pertinent data prepared by the Bureau as the Council may require to carry out its functions.

"(d) Appointed members of the Council shall, while serving on the business of the Council, be entitled to receive compensation at the rate of $100 per day, including traveltime; and while so serving away from their homes or regular places of business, they shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"COOPERATION WITH OTHER AGENCIES

"SEC. 2117. (a)(1) The Bureau is authorized to enter into agreements with public and other nonprofit agencies or organizations whereby children receiving child care provided by the Bureau (whether directly or through arrangements with other persons) will be provided other services con-

ducive to their health, education, recreation, or development.

"(2) Any such agreement with any such agency or organization shall provide that such agency or organization shall pay the Bureau in advance or by way of reimbursement, for any expenses incurred by it in providing any services pursuant to such agreement.

"(b) The Bureau may also enter into cooperative arrangements with the State health authority and the State agency primarily responsible for State supervision of public schools to utilize such agencies in the provision of health services and education for children receiving child care.

"DEFINITIONS

"SEC. 2118. For purposes of this title—

"(a) The term 'Bureau' means the Bureau of Child Care established pursuant to section 2102.

"(b) The term 'child care services' means the provision, by the person undertaking to care for any child, of such personal care, protection, and supervision of each child receiving such care as may be required to meet the child care needs of such child, including services provided by—

"(1) a child care facility;

"(2) a home child care facility;

"(3) a temporary child facility;

"(4) an individual as a provider of at-home child care;

"(5) a night care facility; or

"(6) a boarding facility.

"(c) The term 'child care facility' means any of the following facilities:

"(1) day nursery facility;

"(2) nursery school;

"(3) kindergarten;

"(4) child development center;

"(5) play group facility;

"(6) preschool child care center;

"(7) school age child care center;

"(8) summer day care program facility;

but only if such facility offers child care services to not less than six children; and in the case of a kindergarten, nursery school, or other daytime program, such facility is not a facility which is operated by a public school system, and the services of which are generally available without charge throughout a school district of such system;

"(d) The term 'home child care facility' means—

"(1) a family day care home;

"(2) a group day care home;

"(3) a family school day care home; or

"(4) a group school age day care home.

"(e) The term 'temporary child care facility' means—

"(1) a temporary child care home;

"(2) a temporary child care center; or

"(3) other facility (including a family home, or extended or modified family home) which provides care, on a temporary basis, to transient children.

"(f) The term 'at-home child care' means the provision, to a child in his own home, of child care services, by an individual, who is not a member of such child's family or a relative of such child, while such child's parents are absent from the home.

"(g) The term 'night care facility' means—

"(1) a night care home;

"(2) a night care center; or

"(3) other facility (including a family home, or extended or modified family home) which provides care, during the night, of children whose parents are absent from their home and who need supervision during sleeping hours in order for their parents to be gainfully employed.

"(h) The term 'boarding facility' means a facility (including a boarding home, a boarding center, family home, or extended or modified family home) which provides child care for children on a twenty-four hour per day basis (except for periods when the children are attending school) for periods, in the case of any child, not longer than one month.

"(i) The term 'day nursery' means a facility which, during not less than five days each week, provides child care to children of preschool age.

"(j) The term 'nursery school' means a school which accepts for enrollment therein only children between two and six years of age, which is established and operated primarily for educational purposes to meet the developmental needs of the children enrolled therein.

"(k) The term 'kindergarten' means a facility which accepts for enrollment therein only children between four and six years of age, which is established and operated primarily for educational purposes to meet the developmental needs of the children enrolled therein.

"(l) The term 'child development center' means a facility which accepts for enrollment therein only children of preschool age, which is established and operated primarily for educational purposes to meet the developmental needs of the children enrolled therein, and which provides for the children enrolled therein care services, or instruction for not less than five days each week.

"(m) The term 'play group facility' means a facility which accepts as members thereof children of preschool age, which provides care or services to the members thereof for not more than three hours in any day, and which is established and operated primarily for recreational purposes.

"(n) The term 'preschool child care center' means a facility which accepts for enrollment therein children of preschool age, and which provides child care to children enrolled therein on a full-day basis for at least five days each week.

"(o) The term 'school age child care center' means a facility which accepts for enrollment therein only children of school age, and which provides child care for the children enrolled therein during the portion of the day when they are not attending school for at least five days each week.

"(p) The term 'summer day care program' means a facility which provides child care for children during summer vacation periods, and which is established and operated primarily for recreational purposes; but such term does not include any program which for children during summer vacation periods, is operated by any public agency if participation in such program is without charge and is generally available to residents of any political subdivision.

"(q) The term 'family day care home' means a family home in which child care is provided, during the day, for not more than eight children (including any children under age fourteen who are members of the family living in such home or who reside in such home on a full-time basis).

"(r) The term 'group day care home' means an extended or modified family residence which offers, during all or part of the day, child care for not less than seven children (not including any child or children who are members of the family, if any, offering such services).

"(s) The term 'family school age day care home' means a family home which offers child care for not more than eight children, all of school age, during portions of the day when such children are not attending school.

"(t) The term 'group school age day care home' means an extended or modified family residence which offers family-like child care for not less than seven children (not counting any child or children who are members of the family, if any, offering such services) during portions of the day when such children are not attending school.

"(u) The term 'temporary child care home' means a family home which offers child care, on a temporary basis, for not more than eight children (including any children under age fourteen who are members of the family, if any, offering such care).

"(v) The term 'temporary child care center' means a facility (other than a family home) which offers child care, on a temporary basis, to not less than seven children.

"(w) The term 'night care home' means a family home which offers child care, during the night, for not more than eight children (including any children under age fourteen who are members of the family offering such care).

"(x) The term 'boarding home' means a family home which provides child care (including room and board) to not more than six children (including any children under age fourteen who are members of the family offering such care).

"(y) The term 'boarding center' means a summer camp or other facility (other than a family home) which offers child care (including room and board) to not less than seven children.

"(z) The term 'facility', as used in connection with the terms 'child care', 'home child care', 'temporary child care', 'night care', or 'boarding care', shall refer only to buildings and grounds (or portions thereof) actually used (whether exclusively or in part) for the provision of child care services."

(b) Section 1101(a)(1) of the Social Security Act is amended by striking out "and XIX" and inserting in lieu thereof "XIX, XX, and XXI".

(c) Section 5316 of title 5, United States Code (relating to Executive Schedule pay rates at level V), is amended by adding at the end thereof:

"(131) Director of the Bureau of Child Care.".

(d) The amendments made by this section shall become effective on the date of enactment of this Act.

MODEL DAY CARE

SEC. 432. Title IV of the Social Security Act (as amended by this Act) is amended by adding at the end thereof the following new part:

"PART E—GRANTS TO STATES FOR ESTABLISHMENT OF MODEL DAY CARE

"APPROPRIATION

"SEC. 471. There are authorized to be appropriated for grants to States for development of model day care for children such sums as may be necessary during each of the fiscal years ending on June 30, 1973, June 30, 1974, and June 30, 1975. From the sums authorized to be appropriated pursuant to this section, the Secretary is authorized to approve grants to each State during such fiscal years in amounts up to $400,000 per year to pay all or part of the cost of developing model child care through the establishment and operation of a child care center or system and to provide training for individuals in the field of child care. Payments under this section may be in advance or by way of reimbursement."

CHILD WELFARE SERVICES

SEC. 433. (a) Effective with respect to fiscal years beginning after June 30, 1972, section 420 of the Social Security Act is amended by striking out "$55,000,000 for the fiscal year ending June 30, 1968, $100,000,000 for the fiscal year ending June 30, 1969, and $110,000,000 for each fiscal year thereafter" and inserting in lieu thereof $200,000,000 for the fiscal year ending June 30, 1973, $215,000,000 for the fiscal year ending June 30, 1974, $230,000,000 for the fiscal year ending June 30, 1975, $250,000,000 for the fiscal year ending June 30, 1976, and $270,000,000 for each fiscal year thereafter".

(b)(1) Section 442 (a)(1) of such Act is amended by striking out subparagraph (C) thereof.

(2) Section 425 of such Act is amended by striking out "or day care" and by insert-

ing "other than those defined in section 2018(c)" after "child care facilities".

(3) The amendments made by the preceding provisions of this subsection shall take effect July 1, 1973.

NATIONAL ADOPTION INFORMATION EXCHANGE SYSTEM

SEC. 434. The Social Security Act is amended by adding after section 426 of title IV thereof, the following new section:

"SEC. 427. (a) The Secretary is authorized to provide information, utilizing computers and modern data processing methods, through a national adoption information exchange system, to assist in the placement of children awaiting adoption and in the location of children for persons who wish to adopt children, including cooperative efforts with any similar programs operated by or within foreign countries, and such other related activities as would further or facilitate adoptions.

"(b) There are authorized to be appropriated $1,000,000 for the fiscal year ending June 30, 1973, and such sums as may be necessary for succeeding fiscal years, to carry out this section."

TITLE V—MISCELLANEOUS

PART A—PROVISIONS RELATING TO PUBLIC ASSISTANCE

REPORT ON QUALITY OF WORK PERFORMED BY WELFARE PORSONNEL

SEC. 501. (a) The Secretary of Health, Education, and Welfare shall conduct a full and complete study of ways of enhancing the quality of work performed by individuals employed in the administration and operation of State plans approved under titles I, IV, X, XIV, XV, and XVI of the Social Security Act for the purpose of arriving at standards of performance or other appropriate means of eliminating variations in the quality of work performed and encouraging the development of improved performance by such individuals.

(b) In conducting the study required by subsection (a), the Secretary is authorized to engage the assistance of individuals who have demonstrated knowledge and expertise in the area of welfare administration (including individuals who have direct contact with recipients) and from individuals who are themselves recipients under such State plans.

(c) The Secretary shall conduct the study required by subsection (a) and report his findings thereon together with appropriate recommendations to the Congress not later than January 1, 1974.

CRIMINAL OFFENSES BY WELFARE EMPLOYEES

SEC. 502. (a) (1) Part A of title XI of the Social Security Act (as designated by section 249F of this Act and amended by sections 216(a), 221, 241, 271, 272, 410, 411, and 431) is further amended by adding at the end thereof the following new section:

"CRIMINAL OFFENSES BY WELFARE EMPLOYEES

"SEC. 1126. Any officer or employee of the United States or of any State or of any political subdivision of such State acting in connection with the administration or operation of any State plan approved under title I, IV, X, XIV, XV or XVI, of this Act—

"(1) who is guilty of any extortion or willful oppression under color of State or Federal law; or

"(2) who knowingly allows the disbursement of greater sums than are authorized by law, or receives any fee, compensation, or reward, except as by law prescribed, for the performance of any duty; or

(3) who, with intent to defeat the application of any provision of title I, IV, X, XIV, XV, or XVI, of the Social Security Act or any State plan approved thereunder, fails to perform any of the duties of his office or employment; or

"(4) who conspires or colludes with any other person to defraud the United States, any State government, or any political subdivision of such State; or

"(5) who knowingly makes opportunity for any person to defraud the United States, any State government, or any political subdivision of such State; or

"(6) who does or omits to do any act with intent to enable any other person to defraud the United States, any State government, or any political subdivision of such State;

"(7) who makes or signs any fraudulent entry in any book, or makes or signs any fraudulent application, form, or statement, knowing it to be fraudulent; or

"(8) who, having knowledge or information of fraud committed by any person against the United States, any State government, or any political subdivision of such State under title I, IV, X, XII, XV, or XVI of the Social Security Act or any State plan approved thereunder, fails to report, in writing, such knowledge or information to the Secretary or his delegate, or, if the fraud is against a State government or any political subdivision of such State, to the individual designated to administer the State plan approved under such title or his delegate; or

"(9) who demands, or accepts, or attempts to collect directly or indirectly as payment or gift, or otherwise, any sum of money or other thing of value for the compromise, adjustment, or settlement of any charge or complaint for any violation or alleged violation of law, except as expressly authorized by law so to do;

shall be dismissed from office or discharged from employment and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 5 years, or both."

(2)(A) Effective January 1, 1974, section 1126 of the Social Security Act (as added by paragraph (1) of this subsection) is amended by striking out "title I, IV, X, XVI, XV, or XVI," each place it appears therein and inserting in lieu thereof "title IV, VI, or XV,".

(B) The amendments made by subparagraph (A) shall not apply to the Commonwealth of Puerto Rico, the Virgin Islands, or Guam.

(b) In addition to the requirements imposed by law as a condition of approval of a State plan under title I, VI, IV, X, XIV, XV, or XVI of the Social Security Act, there is hereby imposed the requirement (and the plan shall be deemed to require) that the State plan provide that any officer or employee of the State acting in connection with the State plan as approved under such title who shall be found guilty of a violation of section 1126 of such Act shall be dismissed from office or discharged from employment in addition to any other penalty imposed under such section 1126.

DEMONSTRATION PROJECTS TO REDUCE WELFARE DEPENDENCY

SEC. 503. (a) Section 1110(a) of the Social Security Act is amended by inserting after the period at the end thereof the following new sentence: "Of the funds appropriated under the preceding sentence for any fiscal year commencing after June 30, 1972, not less than 50 per centum thereof shall be used in projects relating to the prevention and reduction of dependency."

(b) Section 1115 is amended by inserting immediately after the matter at the end thereof the following new sentence: "Not less than 50 per centum of the amounts made available to the States under this section, for any fiscal year beginning after June 30, 1972, shall be used in projects relating to the prevention and reduction of welfare dependency."

LIMITATION ON REGULATORY AUTHORITY OF THE SECRETARY

SEC. 504. Section 1102 of the Social Security Act is amended by inserting immediately before the period at the end thereof the following: "; except that no rule or regulation which affects title I, IV, X, XIV, XV, or XVI of this Act shall be adopted unless such rule or regulation is related to a specific provision in such title and no rule or regulation so adopted shall be inconsistent with any provision of such title".

LIMITATION ON AUTHORITY OF SECRETARY WITH RESPECT TO ADVISORY COUNCILS

SEC. 505. Title XI of the Social Security Act is amended by adding after section 1127 the following new section:

"LIMITATION ON AUTHORITY OF SECRETARY WITH RESPECT TO ADVISORY COUNCILS

"SEC. 1128. Nothing in this Act shall be construed to authorize or permit the Secretary of Health, Education, and Welfare to prescribe any rule or regulation requiring any State, in the operation of a State plan approved under title I, IV, X, XIV, XV, or XVI of this Act, to establish or pay the expenses of any advisory council to advise the State with respect to such plan, its operation, or any program or programs conducted thereunder."

PROHIBITION AGAINST PARTICIPATION IN FOOD STAMP OR SURPLUS COMMODITIES PROGRAM BY PERSONS ELIGIBLE TO PARTICIPATE IN EMPLOYMENT OR ASSISTANCE PROGRAMS

SEC. 508. (a) Effective January 1, 1974, section 3(e) of the Food Stamp Act of 1964 is amended by adding at the end thereof the following new sentence: "No person who is determined to be eligible (or upon application would be eligible) for aid under a State plan approved under title XV of the Social Security Act, and no person who is eligible (or upon application would be eligible) to receive supplemental security income benefits under title XVI of such Act shall be considered to be a member of a household or an elderly person for purposes of this Act."

(b) Section 3(h) of such Act is amended to read as follows:

"(h) The term 'State agency', with respect to any State, means the agency of State government which is designated by the Secretary for purposes of carrying out this Act in such State."

(c) Section 10(c) of such Act is amended by striking out the first sentence.

(d) Clause (2) of the second sentence of section 10(e) of such Act is amended by striking out "used by them in the certification of applicants for benefits under the federally aided public assistance programs" and inserting in lieu thereof the following: "prescribed by the Secretary in the regulations issued pursuant to this Act".

(e) Section 10(e) of such Act is further amended by striking out the third sentence.

(f) Section 14 of such Act is amended by striking out subsection (e).

(g) Effective January 1, 1974, section 416 of the Act of October 31, 1949, is amended by adding at the end thereof the following new sentence: "No person who is determined to be eligible (or upon application would be eligible) for aid under a State plan approved under title XV of the Social Security Act, and no person who is eligible (or upon application would be eligible) to receive supplemental security income under title XVI of such Act, shall be eligible to participate in any program conducted under this section (other than nonprofit child feeding programs or programs under which commodities are distributed on an emergency or temporary basis and eligibility for participation therein is not based upon the income or resources of the individual or family)."

(h) Except as otherwise provided in this section, the amendments made by this section shall take effect on January 1, 1973.

PAYMENTS TO STATES FOR FOOD STAMP CASH-OUT

SEC. 509. (a) From the amounts appropriated therefor, the Secretary shall pay to each State (or political subdivision thereof) for

each quarter (commencing with the quarter beginning January 1, 1974) an amount equal to the total amount by which the payments by such State (or political subdivision) described in section 1616(a) of the Social Security Act (whether or not paid under an agreement entered into under such section) to any individual for any month, when increased by (1) the amount of such individual's other income (exclusive of income described in section 1612(b) of such Act but including income described in paragraph (2) of such section), and (2) the benefits, if any, paid under title XVI of such Act exceed the adjusted payment level (as defined in subsection (b)) of such State or the amount of such individual's income described in clauses (1) and (2), whichever is greater, but not counting so much of any such payment, when so increased, as exceeds the sum of such adjusted payment level plus the bonus value of food stamps (as defined in subsection (c)).

(b)(1) As used in this paragraph, the term "adjusted payment level", in the case of any State, means the amount of the money payment which an individual (or two or more individuals living in the same household) with no other income would have received under the State plan approved under title I, X, XIV or XVI of the Social Security Act, as such titles were in effect for October 1972, increased by a payment level modification.

(2) As used in this subparagraph, the term "payment level modification", in the case of any State, means that amount by which such State, which for October 1972 made money payments under its plan approved under title I, X, XIV or XVI of the Social Security Act, as such titles were in effect for such month to individuals with no other income which were less than 100 per centum of its standard of need, could have increased such money payments without increasing (if it reduced its standard of need under such plan so that such increased money payments equaled 100 per centum of such standard of need) the non-Federal share of expenditures for such money payments for October 1972 (as defined in subsection (d)).

(c) As used in this paragraph, the term "bonus value of food stamps" means—

(1) the face value of the coupon allotment which would have been provided for October 1972 to an individual (or two or more individuals living in the same household) under the Food Stamp Act of 1964, reduced by

(2) the charge which such individual (or individuals) would have paid for such coupon allotment,

if the income of such individual (or individuals) for such month had been equal to the adjusted payment level. The face value of food stamps and the charge therefor in October 1972 shall be determined in accordance with rules prescribed by the Secretary of Agriculture in effect for such month.

(d) As used in this paragraph the term "non-Federal share of expenditures for money payments for October 1972", in the case of any State, means—

(1) total expenditures by such State for money payments for such month under its State plan approved under title I, X, XIV, or XVI of the Social Security Act, as such title was in effect for such month reduced by

(2) the amount determined for such State for such month under subsection (a) (1) or (2) of section 1003, and subsection (a) (1) or (2) of section 1403), and section 1118 of such Act, and section 9 of the Act of April 19, 1950 (as such sections were in effect during such month).

ADMINISTRATIVE EXPENSES FOR TITLE XVI

SEC. 510. Appropriations for administrative expenses incurred during the fiscal year ending June 30, 1973, in developing the staff and facilities necessary to place in operation the supplemental security income program established by title XVI of the Social Security Act, as amended by this Act, may be included in an appropriation Act for such fiscal year.

TREATMENT OF RENT UNDER PUBLIC HOUSING

SEC. 511. (a) Section 9 of Public Law 92-213 is repealed.

(b) The amendment made by this section shall become effective on the first day of the month following the month in which this Act is enacted.

PROHIBITION AGAINST USE OF FEDERAL FUNDS TO UNDERMINE PUBLIC ASSISTANCE PROGRAMS

SEC. 512. Part A of title XI of the Social Security Act (as designated by section 249F of this Act) is amended by adding after section 1126 (as added by section 502(a) of this Act) the following new section:

"PROHIBITION AGAINST USE OF FEDERAL FUNDS TO UNDERMINE PROGRAMS UNDER THE SOCIAL SECURITY ACT

"SEC. 1127. (a)(1) Subject to paragraph (2), no Federal funds shall be used (whether directly or indirectly) to pay all or any part of the compensation or expenses of any attorney or other person who, as a part of his federally financed activity whether as an employee in the executive branch or under a grant or contractual arrangement with the executive branch (or other employment), engages in any activity, for or on behalf of any client or other person or class of persons, the purpose of which is (by litigation or by actions related thereto) to nullify, challenge, or circumvent any provision of the Social Security Act, or any of the purposes or intentions of the Congress in enacting any such title or provision thereof or relating thereto; and it shall be unlawful for any such attorney or other person who engages in any such federally financed activity to accept or receive any Federal funds to defray all or any part of his compensation.

"(2) The prohibition contained in paragraph (1) shall not apply to any particular case or lawsuit (or to any attorney or other person involved therein) if the Attorney General issues an order specifically waiving such prohibition with respect to such case or lawsuit; except that no such order shall become effective with respect to any case or lawsuit until 60 days after the Attorney General shall have submitted to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a notice of his intention to waive such prohibition with respect to such case or lawsuit.

"(b) Any person who authorizes the disbursement of any Federal funds, and any attorney or other person who receives or accepts any such funds, in violation of subsection (a), shall be held accountable for and required to make good to the United States the amount of funds so disbursed or received or accepted."

PART B—GENERAL PROVISIONS

CHANGE IN EXECUTIVE SCHEDULE—COMMISSIONER OF SOCIAL SECURITY

SEC. 520. (a) Section 5316 of title 5, United States Code (relating to positions at level V of the Executive Schedule), is amended by striking out:

"(51) Commissioner of Social Security, Department of Health, Education, and Welfare.".

(b) Section 5315 of title 5, United States Code (relating to positions at level IV of the Executive Schedule), is amended by adding at the end thereof the following:

"(97) Commissioner of Social Security, Department of Health, Education, and Welfare.".

(c) The amendments made by the preceding provisions of this section shall take effect on the first day of the first pay period of the Commissioner of Social Security, Department of Health, Education, and Welfare, which commences on or after the first day of the month which follows the month in which this Act is enacted.

EVALUATION OF SOCIAL SECURITY PROGRAMS

SEC. 521. Part A of title XI of the Social Security Act (as designated by section 249F of this Act) is amended by adding after section 1128 (as added by section 505 of this Act) the following new section:

"EVALUATION OF SOCIAL SECURITY PROGRAMS

"SEC. 1129. (a)(1) The Comptroller General is hereby authorized to make analyses and evaluations of programs under this Act.

"(2) The departments and agencies shall make available to the Comptroller General such information and documents as he considers necessary for him to complete his work under this subsection.

"(b)(1) No department or agency of the Federal Government shall enter into any contract for the conduct of, or employ any expert or consultant to conduct, any study or evaluation of any program which—

"(A) is established by or pursuant to this Act, or

"(B) receives Federal financial assistance pursuant to authority contained in this Act,

if the conduct of such study or evaluation involves the expenditure, from Federal funds, of an amount in excess of $25,000, unless, prior to the commencement of such study or evaluation, such department or agency shall have requested of, and obtained from, the Comptroller General approval for the conduct of such study or evaluation.

"(2) The Comptroller General shall not approve any request for the conduct of any study or evaluation of any program under paragraph (1), unless he determines that—

"(A) the conduct of such study or evaluation of such program is justified;

"(B) such department or agency cannot effectively conduct such study or evaluation through utilization of regular full-time employees of such department or agency; and

"(C) such study or evaluation will not be duplicative of any study or evaluation which is being conducted, or will be conducted within the next twelve months, by the General Accounting Office.

"(c)(1) To assist in carrying out his functions under this section, the Comptroller General may sign and issue subpenas requiring the production of negotiated contract and subcontract records and records of other non-Federal persons or organizations to which he has a right of access by law or agreement.

"(2) In case of disobedience to a subpena issued under the authority contained in paragraph (1), the Comptroller General may invoke the aid of any district court of the United States in requiring the production of the records referred to in paragraph (1). Any district court of the United States within the jurisdiction in which the contractor, subcontractor, or other non-Federal person or organization is found or resides or in which the contractor, subcontractor, or other non-Federal person or organization transacts business may, in case of contumacy or refusal to obey a subpena issued by the Comptroller General, issue an order requiring the contractor, subcontractor, or other non-Federal person or organization to produce the records; and any failure to obey such order of the court shall be punished by the court as a contempt thereof."

PART C—LIBERALIZATION OF RETIREMENT INCOME CREDIT; OTHER INTERNAL REVENUE CODE AMENDMENTS

RETIREMENT INCOME CREDIT

In General

SEC. 531. (a) Section 37 of the Internal Revenue Code of 1954 (relating to retirement income) is amended to read as follows:

"SEC. 37. RETIREMENT INCOME.

"(a) GENERAL RULES.—

"(1) JOINT RETURNS.—In the case of a joint return—

"(A) if either spouse has attained the age of 65 before the close of the taxable year, or

"(B) if neither spouse has attained the age of 65 before the close of the taxable year but one or both spouses have public retirement system pension income for the taxable year,

there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of the retirement income (as limited by subsection (b)) received by the husband and wife during the taxable year.

"(2) OTHER RETURNS.—In the case of a return by an unmarried individual and of a separate return by a married individual—

"(A) if the individual has attained the age of 65 before the close of the taxable year, or

"(B) if the individual has not attained the age of 65 before the close of the taxable year but has public retirement system pension income for the taxable year,

there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of the retirement income (as limited by subsection (b)) received by the individual during the taxable year.

"(b) LIMITATION OF RETIREMENT INCOME.—

"(1) IN GENERAL.—The amount of retirement income which may be taken into account for purposes of subsection (a) shall not exceed the following amounts (reduced as provided in paragraph (2)):

"(A) $2,500, in the case of an unmarried individual,

"(B) $2,500, in the case of a joint return where only one spouse is an eligible individual,

"(C) $3,750, in the case of a joint return where both spouses are eligible individuals, or

"(D) $1,875, in the case of separate return by a married individual.

"(2) REDUCTION.—Except as provided in paragraphs (3) and (4), the reduction under this paragraph in the case of any individual is—

"(A) any amount received by such individual as a pension or annuity—

"(i) under title II of the Social Security Act,

"(ii) under the Railroad Retirement Act of 1935 or 1937, or

"(iii) otherwise excluded from gross income, plus

"(B) in the case of any individual who has not attained age 72 before the close of the taxable year—

"(1) except as provided in clause (ii), one-half the amount of earned income received by such individual in the taxable year in excess of $2,000, or

"(ii) if such individual has not attained age 62 before the close of the taxable year, and if such individual (or his spouse under age 62) is an eligible individual as defined in subsection (d)(4)(B), any amount of earned income in excess of $1,000 received by such individual in the taxable year.

"(3) SPECIAL RULES FOR DETERMINING THE DEDUCTION PROVIDED IN PARAGRAPH (2).—

"(A) JOINT RETURNS.—In the case of a joint return, the reduction under paragraph (2) shall be the aggregate of the amounts resulting from applying paragraph (2) separately to each spouse.

"(B) SEPARATE RETURNS OF MARRIED INDIVIDUALS.—In the case of a separate return of a married individual, paragraph (2)(B)(i) shall be applied by substituting '$1,000' for '$2,000', and paragraph (2)(B)(ii) shall be applied by substituting '$500' for '$1,000'.

"(C) NO REDUCTION FOR CERTAIN AMOUNTS EXCLUDED FROM GROSS INCOME.—No reduction shall be made under paragraph (2)(A) for any amount excluded from gross income under section 72 (relating to annuities), 101 (relating to life insurance proceeds), 104 (relating to compensation for injuries or sickness), 105 (relating to amounts received under accident and health plans), 402 (relating to taxability of beneficiary of employees' trust), or 403 (relating to taxation of employee annuities).

"(4) SPECIAL RULE FOR CERTAIN INDIVIDUALS RECEIVING PUBLIC RETIREMENT SYSTEM PENSION INCOME.—In the case of a joint return where one spouse is an eligible individual as defined in subsection (d)(4)(A) and the other spouse is an eligible individual as defined in subsection (d)(4)(B), there shall be an additional reduction under paragraph (2) in an amount equal to the excess (if any) of $1,250 over the amount of the public retirement system pension income of the spouse who is an eligible individual as defined in subsection (d)(4)(B).

"(c) RETIREMENT INCOME.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'retirement income' means income from—

"(A) pensions and annuities (including public retirement system pension income and including, in the case of an individual who is, or has been, an employee within the meaning of section 401(c)(1), distributions by a trust described in section 401(a) which is exempt from tax under section 501(a)),

"(B) interest,

"(C) rents,

"(D) dividends, and

"(E) bonds described in section 405(b)(1) which are received under a qualified bond purchase plan described in section 405(a) or in a distribution from a trust described in section 401(a) which is exempt from tax under section 501(a),

to the extent included in gross income without reference to this section, but only to the extent such income does not represent compensation for personal services rendered during the taxable year.

"(2) CERTAIN INDIVIDUALS UNDER AGE 65.—In the case of—

"(A) a return by an unmarried individual who has not attained the age of 65 before the close of the taxable year,

"(B) a separate return by a married individual who has not attained the age of 65 before the close of the taxable year, and

"(C) a joint return if neither spouse has attained the age of 65 before the close of the taxable year,

the term 'retirement income' means only public retirement system pension income, and only so much of such income received by an individual during the taxable year as does not exceed $2,500.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PUBLIC RETIREMENT SYSTEM PENSION INCOME.—The term 'public retirement system pension income' means income from pensions and annuities under a public retirement system for personal services performed by the taxpayer or his spouse, to the extent included in gross income without reference to this section, but only to the extent such income does not represent compensation for personal services rendered during the taxable year. For purposes of this paragraph, the term 'public retirement system' means a pension, annuity, retirement, or similar fund or system established by the United States, a State, a possession of the United States, any political subdivision of any of the foregoing, or the District of Columbia.

"(2) EARNED INCOME.—The term 'earned income' has the meaning assigned to such term in section 911(b) except that such term does not include any amount received as a pension or annuity.

"(3) COMMUNITY PROPERTY LAWS DISREGARDED.—The determination of whether—

"(A) earned income, or

"(B) income from pensions and annuities for personal services (including public retirement system pension income and distributions to which subsection (c)(1)(A) applies),

is the income of a husband or wife shall be made without regard to community property laws.

"(4) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means an individual who—

"(A) has attained the age of 65 before the close of the taxable year, or

"(B) has not attained such age but has public retirement system pension income for the taxable year.

"(5) MARITAL STATUS.—Marital status shall be determined under section 153.

"(6) JOINT RETURN.—The term 'joint return' means the joint return of a husband and wife made under section 6013.

"(e) NONRESIDENT ALIEN INELIGIBLE FOR CREDIT.—No credit shall be allowed under this section to any non-resident alien."

Technical Amendments

(b)(1) Section 904 of the Internal Revenue Code of 1954 (relating to limitation on foreign tax credit) is amended by redesignating subsection (g) as subsection (h), and by inserting after subsection (f) the following new subsection:

"(g) COORDINATION WITH CREDIT FOR RETIREMENT INCOME.—In the case of an individual, for purposes of subsection (a) the tax against which the credit is taken is such tax reduced by the amount of the credit (if any) for the taxable year allowable under section 37 (relating to retirement income)."

(2) Section 6014(a) of such Code (relating to tax not computed by taxpayer) is amended by striking out the last sentence thereof.

(3) Section 6014(b) of such Code is amended—

(A) by striking out paragraph (4),

(B) by redesignating paragraph (5) as paragraph (4), and

(C) by inserting "or" at the end of paragraph (3).

Effective Date

(c) The amendments made by this section shall apply to taxable years beginning after December 31, 1972.

Mr. LONG. Mr. President, as I understand it, the Senator's amendment is basically the same as the amendment that he has previously offered, which was the pending amendment yesterday. The purpose of offering the amendment which I offered was to present to the Senator a parliamentary situation in which he could obtain a vote on his amendment rather than it being subject to a substitute, and after each substitute was voted down, additional substitutes being offered for it. In this situation, I believe the Senator from Delaware has a parliamentary situation in which he can have a vote on his amendment.

Personally, I expect to vote for the Roth amendment. I think that it offers us the best opportunity to lead the Senate out of the wilderness on title IV that is available to us.

Mr. President, I ask unanimous consent that my amendment and the Roth amendment be temporarily laid aside to permit the Senator from West Virginia to offer an amendment dealing with a different subject, with the understanding that when action on the Byrd amendment is completed, the Senate will return to the consideration of the Long amendment and the Roth amendment thereto.

The PRESIDING OFFICER. Is there objection to the request of the Senator

from Louisiana? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished manager of the bill. I call up an amendment which I have at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

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

Mr. ROBERT C. BYRD's amendment is as follows:

COVERAGE UNDER MEDICARE FOR COAL MINERS ENTITLED TO BLACK LUNG BENEFITS UNDER THE FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969

SEC. 2991. (a) Section 1811 of the Social Security Act (as amended by section 201(a)(1)(A)(2) of this Act) is further amended—

(1) by striking out "and" at the end of clause (1), and

(2) by striking out the period at the end of clause (2) and inserting in lieu thereof the following: ", and (3) coal miners (as defined in title IV, Part A, sec. 402 (d) of the Federal Coal Mine Health and Safety Act of 1969) who have been entitled to black lung benefits under such title for not less than 24 months, and who are not otherwise entitled to hospital insurance benefits under this title."

(b) Section 1817 of such Act is amended by adding at the end thereof the following new subsection:

"(i) There are authorized to be appropriated to the Trust Fund established by this section from time to time such sums as the Secretary deems necessary for any fiscal year on account of—

(1) payments made or to be made during such fiscal year from such trust Fund with respect to individuals entitled to hospital insurance benefits solely by reason of entitlement to black lung benefits under title IV of the Federal Coal Mine Health and Safety Act of 1969,

(2) the additional administrative expenses resulting or expected to result therefor, and

(3) any loss in interest to such Trust Fund resulting from the payment of such amounts, in order to place such Trust Fund in the same position at the end of such fiscal year in which it would have been if such black lung beneficiaries are not entitled to hospital insurance benefits.".

(c) Section 1831 of such Act (as amended by section 201(a)(1)(A)(3) of this Act) is further amended by inserting after the words "disabled individuals" the words ", including coal miners entitled to black lung benefits under title IV of the Federal Coal Mine Health and Safety Act of 1969."

(d) Section 1837 of such Act (after the new subsections added by sections 206(a) and 259(a) of this Act) is amended by adding at the end thereof the following new subsection:

"(i) Enrollment requirements under this section shall apply to coal miners entitled to black lung benefits in the same way and under the same applicable provisions as are applicable to disability insurance beneficiaries under title II of this Act.".

(e) Section 1838 of such Act (as amended by section 201(c)(3)(C) of this Act) is amended by adding at the end thereof the following new subsection:

"(e) Coverage period requirements under this section shall apply to coal miners entitled to black lung benefits in the same way and under the same applicable provisions as are applicable to disability insurance beneficiaries under title II of this Act.".

(f) Section 1839 of such Act (as amended by section 201(c)(5) of this Act) is amended by adding at the end thereof the following new subsection:

"(f) Amounts of premiums as established under this section shall apply to coal miners entitled to black lung benefits in the same way and under the same applicable provisions as are applicable to disability insurance beneficiaries under title II of this Act."

(g) Section 1840(a)(1) of such Act (as amended by section 201(c)(6)(A) of this Act) is further amended—

(1) by striking out "or" after "section 202" and inserting a comma in lieu thereof, and

(2) by inserting after "223," the following: "or to black lung benefits paid under title IV of the Federal Coal Mine Health and Safety Act of 1969,".

(h) Section 1840 of such Act (as amended by this Act) is further amended by adding at the end thereof the following new subsection:

"(j) The Secretary of the Treasury shall, from time to time, transfer from the general funds of the United States to the Federal Supplementary Medical Insurance Trust Fund the aggregate amount deducted under subsection (a)(1) of this section from the black lung benefits paid under title IV of the Federal Coal Mine Health and Safety Act of 1969 for the period to which such transfer relates.".

(i) Section 1870 of such Act (as amended by sections 261(a) and 281 (a)(2) and (b) of this Act) is amended by inserting "or title IV of the Federal Coal Mine Health and Safety Act of 1969" after "title II of this Act" wherever it appears in such section.

Mr. ROBERT C. BYRD. Mr. President, the purpose of my amendment is to provide medicare benefits for a small group of miners who are receiving black lung benefits, but who are under the age of 65, or are not otherwise eligible for medicare coverage.

I am advised by the medicare expert of the Senate Finance Committee that there are approximately 6,000 miners who are not entitled to social security disability benefits, and that the projected costs for covering them is $6 million. This is the group of miners which I am attempting to assist with my amendment. I am informed that under the provisions of H.R. 1, as reported by the Senate Finance Committee, those persons under the age of 65 who are receiving social security disability benefits, will henceforth be entitled to medicare coverage. However, the small group of miners that I am trying to reach with my amendment are not covered by that provision in H.R. 1, or any other provision of law. They will somehow "fall between the cracks" and be left out in the cold with no medical coverage. What I am attempting to accomplish with my amendment is to "patch up these cracks" to insure that this group of deserving and needy miners is not overlooked and left without medical coverage.

Although I stated earlier that there are potentially 6,000 black lung recipients who could be covered by my amendment, it is estimated that only 2,500 to 3,000 will actually be affected because it is estimated that as many as 3,000 are presently employed in some type of part-time work and this would exclude them from the benefits of my amendment.

Although my amendment will not affect a large number of individuals, I cannot overly emphasize how important this coverage would be to this small group. The majority of them are in such poor health and in such dire financial circumstances that, quite likely, whatever black lung benefits they do receive usually go, in large part, toward payment of the ever-continuing medical bills which they will be incurring for the balance of their lives, in an effort to alleviate their pain, suffering, and disablement resulting from their black lung condition. I think that every citizen of this country should take note of the fact that these individuals contracted this disease while working for the benefit of the Nation. They toiled beneath the surface of the earth, mining the fuel to run our factories and light and heat our homes. Surely, it is not too much to provide them, at this point in their lives, with the ability to procure medical treatment to ease their physical suffering to the extent possible.

I believe my amendment will correct an injustice and I urge its adoption.

Mr. LONG. Mr. President, I applaud the Senator from West Virginia for his interest in the coal miners of West Virginia and the other States of this Union. The Senator worked hard in his early years, and is still working hard. The work ethic has not departed from the philosophy of the Senator from West Virginia, and he has not forgotten those who work in less desirable jobs than the job he holds today. He remembers those who worked alongside him in the coal mines of West Virginia during his earlier years, and has never lost his interest in them.

I have discussed this amendment with the Senator from Utah (Mr. BENNETT), and we would be pleased to accept the amendment, and hope that the Senate will go along with us.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Louisiana, the manager of the bill, and also the distinguished ranking minority member (Mr. BENNETT).

I know that my distinguished senior colleague (Mr. RANDOLPH) would want to be added as a cosponsor, and I ask unanimous consent that his name be added as a cosponsor of the amendment.

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

The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment was agreed to.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the Senator from Delaware (Mr. ROTH) to the amendment of the Senator from Louisiana (Mr. LONG).

Mr. ROTH. Mr. President, first I ask unanimous consent that Mr. Nathan Hayward of my staff be permitted to be present on the floor during the consideration of my amendment, including the vote thereon.

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

Mr. ROTH. Mr. President, I thank the distinguished chairman of the Committee on Finance both for his words of support for my amendment and es-

pecially for his help in obtaining the parliamentary situation under which we can reach a vote on this most important proposal.

This is, as the chairman has said, basically the same amendment which I withdrew yesterday.

I am very pleased to have as the principal cosponsor of the measure the distinguished Senator from Virginia (Mr. BYRD) and, joining us, Senators BROCK, BUCKLEY, FANNIN, GAMBRELL, GOLDWATER, GURNEY, HANSEN, and SPONG.

Its major objective is to authorize a pilot test of each of the three major welfare reform proposals—the workfare plan reported out by the Finance Committee, Senator RIBICOFF's amendment No. 1614, introduced last week, and H.R. 1—title IV—as passed by the House last year. The language would authorize $200 million per year for the administration to conduct the three tests, over a 2–4 year horizon. Before the tests went into effect, the administration would have to submit its plans to the Finance and Ways and Means Committees for comment.

After the tests begin, both the administration and the GAO would report to Congress on test results every 6 months, and again at the completion of the program. It would then be up to Congress to digest the data and take positive action to authorize more permanent welfare reforms.

THE NEED FOR TESTING

Mr. President, H.R. 1 has been as hotly debated in House and Senate committees and on the floor as any piece of social legislation in recent years. The transcripts of testimony and legislative proceedings run well into the thousands of pages. Supporters of each of the three measures cite the alarming statistics which show that the number of beneficiaries under AFDC has risen nearly 150 percent during the decade 1960–70. Even more recently, 2.25 million people were added to the AFDC roles in 1971 alone. Costs, too, have climbed to such levels that many State treasuries are close to the breaking point, not to mention the increased costs of Federal participation. These skyrocketing caseloads and checks have added so substantially to our social and financial burdens that people in all walks of life, liberals and conservatives alike, cry out in frustration. Clearly, the current welfare crisis is one of our most urgent domestic problems, and we in Congress have the authority and the responsibility to help reverse this deteriorating trend.

Yet, proponents of these separate measures argue vehemently that competing reform proposals will not salve our welfare wounds. Opponents of family assistance, for example, feel either that its benefits are too low, or that it sets a dangerous precedent as a guaranteed minimum income for all. Likewise, many question the feasibility of finding jobs for the hundreds of thousands of currently unemployed, and therefore oppose the notion of guaranteed jobs as a replacement for welfare. It seems to me that if there is a common denominator in this debate, it must be uncertainty, coupled with frustration.

Each Member of Congress is well acquainted with the welfare problems of his or her constituents. We can only feel compassion for the disadvantaged trapped in urban ghettos or left to struggle in an economically dissipated community. But what answers are there to these conditions of poverty and human suffering?

CURRENT INCOME MAINTENANCE TESTS

Mr. President, it is gratifying to realize that Congress and the administration have worked together in the past to fashion four experiments in welfare reform. OEO and HEW are presently conducting four small pilot projects in New Jersey, North Carolina, Washington, Colorado, and Indiana in an effort to better understand the impact of a guaranteed income on welfare families.

But these have been very modest efforts involving less than a total of 10,000 people in the original sample sizes. Each plan differs from the next, and none of them bears an exact resemblance to the three major proposals now before the Senate. Limited test results have been collected and analyzed. But the fact of the matter is, Mr. President, that not even the administrators of these tests could feel secure enough in their interpretation of the pilots to be able to say, "This is the route we should definitely go."

These are pioneer social laboratories, and very valuable for their contribution to our understanding of complex economic and behavioral issues. None of them, though, deals directly with the "workfare" elements of the legislation, and their welfare benefit levels are, in most cases, considerably higher than either the $2,400 or $2,600 figures embodied in H.R. 1 and Senator RIBICOFF's latest amendment. In a sense, we have only reached the wind tunnel. What I am proposing is not only a mockup, but a full 2 to 4 year flight test for these landmark pieces of legislation.

IMPACTS OF THE THREE PROPOSALS

Anyone who has reviewed the very comprehensive committee reports on the pending bill cannot help but be struck by the enormous impact of these proposed reform measures. According to committee estimates, the House version of H.R. 1 would cost at least an additional $5.5 billion in fiscal year 1973, and a minimum of $23.5 billion by the end of its currently authorized 5-year life. The Finance Committee estimates its plan at $4.3 billion in 1974. Senator RIBICOFF has estimated that his latest compromise amendment would have a marginal cost of $3.9 billion in its first full year of operation. And if the medicare experience is any precedent—as I am sure it will be—these estimates will all prove to be on the low side.

More important than costs is the impact of these bills on the millions of people they are designed to reach. If the House estimates are achieved, 10½ million additional people will become eligible for welfare or "workfare" benefits, bringing the number of assisted people to more than 12 percent of our Nation's population. Under the Finance Committee version, guaranteed employment would be authorized for 1.2 million of the families currently receiving welfare but no longer eligible as recipients. Senator RIBICOFF calls for increased minimum payments and the creation of 300,000 public service jobs in the first year alone.

Mr. President, these are staggering statistics, and should not be taken lightly. Under H.R. 1, for example, the number of recipients in Puerto Rico would practically triple to nearly 1 million, meaning that 1 person in every 3 there would be under public assistance. Many States would more than double their welfare roles; every State would, of course, have its welfare lists increased. I emphasize these numbers not because I feel the Senate should disregard these people. On the contrary, Mr. President, it is because the potential impact of all three programs is so great that I argue now for prudence. No matter how grievous this national disease may be, we should not attempt to treat it with a remedy that has not been fully tested.

AN ANSWER TO CRITICS

Mr. President, I am thoroughly familiar with the rejoinder that pilot programs only delay therapeutic action, making the gap between those that have and those that do not grow even wider. But let me stress that a vote for testing is not a step backward, is not a retreat, is not even what some people decry as preserving the status quo. It seems to me that if my amendment is adopted, we will be saying to the administration, "Choose three pressing parts of the country—three States, or parts of them, three cities, or parts of them—and use this initiative to take three giant steps forward."

These pilot programs will be given time and money enough to prove their intrinsic value. During their trial, administration officials and the GAO will be reporting to Congress on their successes and failures.

These tests will, I hope, give us more complete answers to the many questions Congress must face. How will higher guaranteed benefits affect recipients' work incentives? Can meaningful public service jobs really be created overnight? How will private sector employers react to the opportunity to hire the previously unemployed in partnership with the Federal Government? Will the new administrative procedures for identifying welfare cheaters prove as effective as promised? Can States and the Federal bureaucracies really prune current operating expenses which are rising at a faster rate than the caseloads?

Mr. President, can we honestly expect to answer these and many other important questions without the benefit of practical experience? I earnestly want to see the current patchwork of programs reformed. There are too many injustices, too many inequalities, too many abuses for us to turn our backs.

Yet, reform has been postponed more than once, simply because Members of Congress could not agree on which direction to follow. As a second term Congressman, I strongly advocated the testing approach when family assistance was voted by the House in April 1970. My distinguished predecessor, John Williams, firmly believed in this approach,

and attempted to persuade the Senate in the closing days of the 91st Congress that this was a sensible course. Perhaps if we now had the benefit of 2 years of testing experience, our legislative dilemmas would be less painful.

AN EXAMPLE WORTH NOTING

Mr. President, I have recently worked very hard with doctors and foundations to bring to this country an awareness of the misery caused by the many varieties of arthritis. It is a painful and merciless crippler, which affects the entire fabric of our society. Like the welfare problem, it reaches every State and congressional district, every city and rural county. I have been most impressed by the energy and dedication of the men and women working in laboratories and rehabilitation centers to try to combat the effects of arthritis and find a cure or preventative for the disease.

And yet, despite the suffering that arthritis creates, these scientists are constantly challenging their findings with laboratory and clinical testing. They are not, nor can they afford to be, satisfied with a simple panacea. Theirs is a perpetual job of experimentation, study, revision, and then more testing.

Their example has had a striking impact on me, and makes me ask my colleagues, why do we in Congress not follow such a lead? Why do we not authorize more program experimentation rather than program extension? Our desks are covered every day with new proposals—promised remedies for some social ill. But how often do we really ask "What confidence do I have that this is not only one answer to the problem, but the best answer at this time?"

Mr. President, let me conclude by stressing that I am not a skeptic, nor a pessimist. There are elements of all three plans which appeal to me and would, I am sure, help to improve our deteriorating welfare problem. But we are seeking a consensus that does not yet exist, partly, I am sure, because of Senators' individual reservations about one or more aspects of the programs. So I contend, let us take a major step ahead by having the courage to test our hunches in the field. Periodic reports from the administration and the Congress' investigator—the GAO—should help us in our observations. Then in 2 years, or more, if it is necessary, we can stand here with facts, rather than forecasts, to fashion the much-needed improvements we all seek.

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

Mr. ROTH. I yield.

Mr. LONG. I shall vote for the Senator's amendment. There are a few things about it that I personally somewhat disagree with. If the amendment carries, I would think it might be desirable to offer the Senate a chance to work its will on one or two aspects of the amendment which could perhaps be added at the end of the bill.

The Senator is aware of the fact that there are one or two things he does with his amendment that some of his cosponsors or supporters do not like but even with that, I believe, would be willing cheerfully to present the problem to the Senate and let the Senate work its will.

If the amendment is agreed to, it will not change a provision at the end of my amendment to provide some temporary relief to State governments between now and January 1974. It is my understanding that if the Senator's amendment is agreed to, that portion of my amendment would remain and that problem would be solved. But some Senators would like to vote on the controversial issue about welfare payments to strikers. Would not the Senator's amendment—I ask him if I am not correct—strike out that provision that says we will not pay welfare payments to those actively engaged in conducting a strike?

Mr. ROTH. That is correct.

Mr. LONG. So that those who feel we should not pay welfare payments to persons actively engaged in a strike—on the theory that they are not receiving wages because they voluntarily refuse to work and they do not want anyone else to work in that particular plant, say, and the Government should be neutral in a fight between management and labor—would have the opportunity, if they saw fit, to renew the issue in some other fashion, such as an amendment at the end of the bill.

Mr. ROTH. That would be correct.

Mr. LONG. While the Senator's amendment strikes this, he does not seek to prejudice the right of someone to raise that issue separately and permit the Senate to express itself on that; is that not correct?

Mr. ROTH. I agree with what the chairman has said. That is not the intention of this Senator.

Mr. LONG. I believe that the amendment the Senator has offered presents us with a prospect of passing this bill and doing all the many good things that are in title I, II, and III, with most of the benefits and the advantages that are in titles IV and V which, I fear, are not likely to happen unless we do agree to something along the line of testing these two controversial suggestions, or even testing a third controversial suggestion, reserving to Congress the right to judge by the results.

The Senator is well aware of the fact that Secretary of Health, Education, and Welfare Richardson is determined that any test must be accompanied by a provision that would say it goes into effect whether the test is a success or even if the test is a complete failure. That is something the Senator has not been willing to incorporate in his amendment and something he would resist, I take it?

Mr. ROTH. I agree very strongly with the chairman that I would not agree to having any one of the three proposals go into effect without Congress first taking action. The whole benefit and purpose of the testing is for Congress to have adequate information available to it so that it can fashion the best kind of program to solve the many welfare problems we have. For us to delegate today the authority to the executive branch, in my judgment, would be unconscionable and undesirable. That is the purpose of the testing. Then let us pass on what needs to be done.

Mr. LONG. There was a time when I was willing to go along with Secretary Richardson and Mr. Veneman and their group in an arrangement where they could put their testing into effect based on their own judgments, reserving to Congress the right to decide. But my experience on this very thing, the family assistance plan, has proved that those people are so adamant, so dogged in their determination to put into effect the guaranteed annual income for not working, and to keep the pages in the bill that would appear to be totally impracticable even when it is shown them that they are impracticable so that we could no longer defend that proposal.

I told them that I could no longer advocate some arrangement where we would let them try something and let them put it into effect, even though it proved to be a failure, and I could not defend it logically with my colleagues. I became convinced that we should not let them do something that was not good for the country, that was wrong. And, thereafter, I was not going to support anything like that.

I am pleased to see here that the Senator from Delaware does not make that mistake. He would test these three controversial programs—the Ribicoff approach, the administration approach, as well as the workfare approach, reserving to Congress the right to work its will after it sees the results of the tests. That will lead the Senate out of the wilderness, I believe, more than anything else.

I shall vote for the Senator's amendment.

Mr. ROTH. I thank the distinguished chairman of the Finance Committee for his support.

Mr. BUCKLEY. Mr. President, will the distinguished Senator from Delaware yield?

Mr. ROTH. I am happy to yield to the distinguished Senator from New York.

Mr. BUCKLEY. First of all, I am very much pleased to be a cosponsor of this amendment. It is a most constructive approach which will provide for a pragmatic test of the basic alternatives which have been proposed for welfare reform.

However, I am concerned about one or two features in the testing programs which are described, necessarily vaguely, in the amendment.

One has to do with money and the other has to do with the extent of the testing.

It seems to me that we must make sure the tests are, in fact, definitive and not open to second guessing or to criticism.

I think that this, in turn, suggests that the area of sampling must be large enough so that we do not have people popping in and across various political or testing lines in order to tailor their particular needs or desires to the particular program being offered within the area.

Let us face it, the workfare proposal would be distasteful to a lot of people. That does not mean that work should not be required as a quid pro quo for those receiving public assistance. However, I could see that if we had a test area composing only a portion of a city,

as suggested in the language of the amendment, people could move from one apartment house to another and find themselves outside its reach. So I would urge that Congress make it clear in its report, assuming that this measure is adopted by Congress, that the administration is to select a test area which will be large enough in geographical scope so as to make sure that at least a portion of the population within it remains truly representative during the course of the test period.

This in turn leads to my concern as to the funds to be authorized; namely, the $200 million. The $200 million is to support three programs. That means it would be $66⅔ million per program per year for a 2-year period or more.

I seriously question whether that is adequate for the kind of test that I think the Senator from Delaware has in mind. I wonder if the Senator would consider doubling that figure to $400 million on the basis that we are dealing with legislation which will ultimately cost in the billions. It is better at this stage to authorize too much money rather than too little, because otherwise we might frustrate the whole purpose of the legislation.

Mr. ROTH. Mr. President, in answer to the two points the junior Senator from New York raises, I would say that I am sympathetic to his proposal that we double the amount of money.

As I said in my opening statement, I think it is most important that this be a full scale test. And I do not want it later called inadequate because of the amount of money made available or because of the geographic size of the study.

For that reason, Mr. President, I am willing to agree to the $400 million.

Mr. President, I modify my amendment in section 401(g), to strike the $200 million and in lieu thereof insert $400 million. That would mean that $400 million would be authorized each year of the test.

The PRESIDING OFFICER. The amendment is so modified.

Mr. ROTH. Mr. President, on the Senator's second point, I agree that the locations chosen for the studies should be large enough to guarantee bona fide results. Our language is purposely vague there, because we think it is difficult to write into legislation exactly how such tests should be conducted.

We have to provided a safeguard to require that the administration consult with the Finance Committee and the House Ways and Means Committee before putting the plans into operation. As a guideline, though, we have provided that the three tests involve areas of similar size and demography so that we can have an honest comparison.

It will take a great deal of work to establish these studies, but I am sure that HEW has the resources to do such a job.

I hope that the amendment, as written, will provide adequate safeguards.

Mr. BUCKLEY. I believe that is a very prudent proposal. I also state that I have the position approved by the distinguished chairman of the committee; namely, that no program should be enacted automatically after a test period without prior consent and authorization by the Congress.

Mr. BENNETT. Mr. President, will the Senator yield to me without losing his right to the floor?

Mr. ROTH. I yield to the distinguished Senator from Utah.

Mr. BENNETT. Mr. President, I have been buried in this problem now for 9 or 10 months. I know that I would have preferred to see the committee's so-called workfare program remain in the bill and become law. However, I realize that under the circumstances this is not possible. And under those circumstances I am delighted that the Senator from Delaware has offered his proposal which should be fair to all of us who advocate different programs to solve the problem.

I feel perfectly sure in my own mind that under the test, which in a sense becomes competitive, our workfare proposal will stand up as the most desirable of the three.

Mr. President, I am happy to join with the distinguished chairman of the committee in supporting the amendment of the Senator from Delaware. I hope that all of our colleagues will also support it so that we can lay at rest once and for all the differences that exist with respect to the proper way to approach this problem. I certainly hope that the Senator's amendment is agreed to by the Senate.

Mr. ROTH. Mr. President, I appreciate the support of the distinguished Senator from Utah. I know that no one on the Finance Committee has been more dedicated or has worked harder to come up with a reasonable solution to the problem. I think that the Finance Committee has presented us with a revolutionary approach, and that it deserves the same kind of adequate testing as the other proposals.

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

Mr. ROTH. Mr. President, I yield to the distinguished Senator from North Dakota.

Mr. YOUNG. Mr. President, I commend the Senator for offering his amendment. I think it has great merit in that it would help to find out which of these welfare programs, if any, would improve on our present situation.

I was wondering if the Senator's amendment could include as a pilot area an Indian reservation. They are probably the poorest people. We have our greatest welfare problem on the Indian reservations.

I hope that one of the areas selected for a pilot test might include an Indian reservation.

Mr. ROTH. Mr. President, we have not written such a requirement into the language of the bill. However, as I pointed out earlier in proposing the test, the executive branch will be required to consult with the Finance Committee as well as to the House Ways and Means Committee. I am sure that the distinguished ranking minority Member's colleagues would be happy to discuss this possibility with him, when the administration begins its work on the test design.

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

Mr. ROTH. I yield to the distinguished Senator from Wyoming.

Mr. HANSEN. Mr. President, I rise in support of the Roth-Byrd amendment.

Our present welfare system is inadequate, extremely inefficient, and thereby grossly ineffective. Welfare reform is essential and has been the so-called first order of Congress for several years now.

The House has passed a welfare reform bill—twice. It is now the Senate's turn to at least respond this time. We are, however, bottlenecked by three different proposals. I am not saying that this is bad. In fact, I think it is good, and it helps prove the point which I am about to make.

We in the Senate Finance Committee have heard testimony about the failings of the present welfare system. What has happened, though, is that each Senator has combined his personal public experiences with his State's welfare system, his personal insights into the present welfare system, and the testimony of critics and analysts of the present program, and has tried to conceptualize a new system which will "cure" all of the ills of the present system.

What has been the result? Based upon the impact of our own ideas, we are beginning to gravitate toward one of the three proposals for welfare reform now before us. Or, as another alternative, we will bury our heads in the sand, ignore what is happening in the welfare offices across the country, and block the passage of any welfare proposal this session. Then, when the 93d Congress begins, we will have the dubious pleasure of starting all over again. But next time we might not have this divergence of opinion. Maybe, in desperation, next time we will agree to one proposal or another in hopes of at least getting something passed to alleviate the present welfare mess.

As I have said before, this difference of opinion about a welfare solution is good. It points out to us that three factions of the Senate believe very strongly that each of their proposals is the key to a functional system weighted on the one hand by responsibility for those less fortunate and balanced on the other hand by a reasonable and equitable means of supporting the system.

The problem is—which proposal, given the ills of the present system, will best meet the needs of the individuals involved without having them sacrifice their human dignity and without causing a divisive resentment among the other tax-paying citizens who are footing the bill.

I therefore wish to commend those Senators who espouse these diversified views. It shows the American people that we are searching for a reasonable and workable system for aiding the less fortunate and that, even in the waning days of this session of Congress, we are not willing to forego our very real dedication to our ideals in order to insure the passage of some type of welfare reform. If this were the case, chances are in a few years, we would be right back in the same boat, trying to devise a system which would be more functional.

For these reasons I cannot help but concur with the Roth-Byrd pilot test proposal—yet a fourth channel to welfare reform.

Why should the Congress, as a legislative body, be an absolutist in decreeing the best method for reforming our pres-

ent welfare program without first testing the various methods espoused by my colleagues in the Senate? We have at least concentrated our efforts and thoughts on three different proposals. After the pilot testing of these three proposals as well as a constant and thorough analysis of them, we might be quite surprised to find that one proposal is superior or that a hybrid of one or more proposals is the real answer we are seeking.

If this is not the case, the pilot testing of these welfare proposals will advance us much more rapidly toward an efficient and effective welfare system. Why lose the ground we have already gained with the hearings and committee work behind us, only to start over again in a few month's time? Why not use this work as a stepping stone toward the establishment of a comprehensive welfare program?

I personally believe in the theory of workfare as opposed to welfare. The Finance Committee approach is closest to my own theory of "helping those who help themselves." However, I can see some discrepancies in the administration of this revolutionary new program, and I would rather see the "bugs" worked out in a small cross-section of the country under a pilot test approach than to spend millions of dollars correcting the wrongs in welfare offices in every city across the country once we have adopted one of the proposals as law. Would it not be much better to have perfected the systems on a small scale before putting it into operation on a large scale?

As I have indicated, the Senate at this time is split four ways. There are those who favor the original welfare proposal embodied in H.R. 1; there are those who feel Senator RIBICOFF has the right answer to welfare reform; there are those who think the Finance Committee is headed in the right direction; and there are those who feel we must test each of these proposals before dedicating our resources to another welfare system. After much deliberation, I have decided that I fall into the latter category.

We must not toss aside the insight we have gained into the present welfare program. At the same time we must not blindly adopt a welfare program which, while patently promising to cure the ills of the present welfare system, could create even greater needs and thereby force us into a socialistic society, by falsely encouraging more and more people to believe that it is not necessary for able bodied citizens to work.

I, therefore, urge my colleagues to think about their position on welfare reform. I hope in so doing that they will concur that the best direction is that of the Roth-Byrd amendment for the pilot testing of each of the three welfare proposals during the next 2 years. At the end of that time we will be able rationally to decide upon the best proposal.

Although my policy is not to circumvent the Finance Committee on which I serve, after weighing the adamant feelings of all proponents, I believe the only fair way to proceed is to put the various proposals to a test in order to determine the best direction to take in the future. I would, therefore, urge my colleagues to vote in favor of this amendment.

Mr. RIBICOFF. Mr. President, I send to the desk a motion to recommit and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

I move to recommit H.R. 1 to the Finance Committee with instructions to report forthwith with the following amendment:

Beginning on page 689, line 11, strike out everything down through page 863, line 26.

Beginning on page 921, line 2, strike out everything down through page 932, line 24.

Beginning on page 933, line 9, strike out everything down through line 2 on page 936.

Beginning on page 947, line 4, strike out everything down through line 5 on page 954.

Beginning on page 963, line 19, strike out everything down through line 17, page 989.

Mr. RIBICOFF. Mr. President, the Senate has now rejected my welfare reform proposal—a proposal which would have ended the present welfare mess. The moment of truth for meaningful reforms appears to have ended in what the New York Times called "another long night of despair for the millions on welfare."

We are all victims of this failure.

Those people in America who are unable to work—mothers with preschool children, the incapacitated, the infirm and those caring for them—must endure the intolerable inadequacies of the present system.

The working poor, that 40 percent of America's poverty population who live in families headed by a full-time worker, will continue to be ignored and the taxpayer who must pay the bills for an inadequate, inefficient, and inhuman jungle of 1,152 different welfare systems will continue to watch welfare costs skyrocket. These costs for AFDC alone amounted to $6.2 billion in calendar year 1971, an increase of almost 15 percent over the preceding year.

The Finance Committee's proposals only compound the welfare mess, leaving intact the present system and building upon it a gigantic workfare bureaucracy which would administer a jungle of wage supplements and make-work subpoverty jobs. The Finance Committee proposal is expensive and unwieldy.

Therefore, I now offer my motion to recommit with instructions to delete the Finance Committee welfare reform proposals.

As the legislation now stands it is completely unacceptable. Thus the only proper course to take at this time is to recommit the entire bill.

I know what the distinguished Senator from Delaware is trying to do. In general, I agree with that objective. It would have been appropriate in the fall of 1970 to have tried to have a true pilot, or a set of pilot programs for our Nation. This was submitted to the Secretary of HEW by the entire Committee on Finance, only to have it rejected.

I felt then and continue to feel that this was a grave mistake in judgment. If pilot programs had been accepted, we would have completed all the varied tests across the country. The results would have been reported back to Congress, and we would have had an opportunity, both in the Committee on Finance and in the Ways and Means Committee, to study those tests and come to our own conclusions on the merits of the various proposals for welfare reform.

As I said before in this debate, I have enough self-doubt in my own mind to feel I do not know all the answers; no one does because sufficient information is not available. Pilot programs 2 years ago would have given us a great opportunity to study this problem and we were all convinced this should have been done.

The distinguished predecessor of the Senator from Delaware, Senator Williams, was bitterly opposed to the entire concept of the administration's original welfare proposal—and I do not question the deep sincerity of the Senator from Delaware at that time. He felt the President's bill was a great mistake, and he would not have any part of it. Yet, in trying to accommodate various positions and be fair about it Senator Williams, who did conduct a filibuster in the closing days of that Congress in order to prevent the adoption of any welfare reform proposal, said to me in private conversations time and time again:

Abe, I do not like this bill. I want no part of it. But if we tested it out I would go for it, and I cannot understand why my administration is unwilling to have tests made.

He also said:

Abe, I am willing to vote to authorize and appropriate sufficient funds for this test; let HEW come to me and tell me how much they want, and I will vote to authorize the money, even if it is up to $500 million.

But the administration was adamant in their opposition and a great opportunity was lost.

I decried the situation and the Senator from Louisiana (Mr. LONG) decried the situation. As far as I know, every member of the Committee on Finance who wanted this tested out decried the lost opportunity to have these pilot programs.

The argument that was given was, "You are delaying the time when it will go into effect." So here we are in the closing days of this sesison in 1972 and we are still talking about tests.

What bothers me about the Roth proposal is that it leaves much of the Finance Committee bill intact. It would delete the work administration and make work jobs programs; but unfortunately, it would leave intact the Bureau of Child Care with its low or nonexistent standards. It would leave intact the wage subsidy and work bonus, as well as the overly stringent and strident child support and deserting fathers provisions.

If my motion is accepted, the bill will be reported without the underlying Finance Committee proposals and we can seriously debate the merits of the Roth proposal and other amendments at that time.

Mr. President, I yield the floor.

Mr. PERCY and Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, I send to

the desk an amendment to the pending motion and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. The Senator from Illinois (Mr. PERCY) proposes an amendment to the motion offered by the Senator from Connecticut.

The Percy amendment to the motion is as follows:

Strike out all of the instructions of the motion of the Senator from Connecticut (Mr. RIBICOFF) and insert in lieu the following:

"FISCAL RELIEF FOR STATES

"SEC. 1131. (a) The Secretary shall, subject to subsection (c), pay to any State which has a State plan approved under title I, X, XIV, or XVI, or part A of title IV, of this Act, for each quarter beginning after June 30, 1971, in addition to the amounts (if any) otherwise payable to such State under such titles, such part, section 1118, and section 9 of the Act of April 19, 1950, on account of expenditures as cash assistance, an amount equal to the excess (if any) of—

"(1) an amount equal to the lesser of—

"(A) the non-Federal share of the expenditures, under the State plans approved under such title or such part A (as the case may be), as cash assistance for such quarter (not counting any part of such expenditures which is in excess of the amount of the expenditures which would have been made as cash assistance under such plans if such plans had remained as they were in effect for January 1971, or

of the amount referred to in clause (2),

"(2) an amount equal to 100 per centum of the non-Federal share of the total average quarterly expenditures, under such plans, as cash assistance during the 4-quarter period ending December 31, 1970.

"(b) For purposes of subsection (a) the non-Federal share of expenditures for any quarter under State plans approved under title I, X, XIV, or XVI, or part A of title IV, of this Act as cash assistance, referred to in subsection (a)(1), means the excess of—

"(1) the total expenditure for such quarter under such plans as (A) old-age assistance, (B) aid to the blind, (C) aid to the disabled, (D) aid to the aged, blind, or disabled, and (E) aid to families with dependent children, over

"(2) the amounts determined for such quarter for such State with respect to such expenditures under sections 3, 1003, 1403, 1603, 403, and 1118 of this Act and (in the case of a plan approved under title I or X or part A of title IV) under section 9 of the Act of April 19, 1950.

"(c) No payment under this section shall be made for any quarter to any State on account of expenditures, as cash assistance, under a State plan of such State if the standards, under any plan of such State approved under title I, X, XIV, or XVI, or part A of title IV, for determining eligibility for, or the amount of, cash assistance to individuals under such plan have been so changed as to be less favorable, to all (or any substantial class or category) of the applicants for or recipients of such assistance under the plan, than the standards provided for such purpose under such plan as in effect for January 1, 1971, or, if more favorable to any such applicants or recipients, for any month after January 1971."

MAINTENANCE OF STATE PAYMENT LEVELS

SEC. 403. Section 402(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (22); and

(2) by striking out the period at the end of paragraph (23) and inserting in lieu thereof "; and" the following: "(24) provide that aid furnished under the plan to a family for any month shall not be less than (A) the amount of aid which would have been furnished for October 1972 under such plan to a family of the same size with no other income, reduced by (B) any income such family may have which is not required to be disregarded by clause (8)."

On page 989, after line 17, add the following new title:

TITLE VI—EFFECTIVE DATE OF CERTAIN PROVISIONS

SEC. 601. Notwithstanding any other provision of this Act, title IV (other than sections 401, 402, and 403) and title V (other than sections 510, 521, 531, and 534 shall be effective at such time as the Congress may determine in subsequent legislation.

The PRESIDING OFFICER. The motion is not amendable. The Senator can move to amend the instructions.

Mr. LONG. Mr. President, I really think the Senate wants to vote for the Roth amendment. If I did not think so I would not have agreed to vote for the Roth amendment myself.

The Senator offered his amendment and he could not bring it to a vote because we had a substitute for it offered by the Senator from Connecticut.

We were informed there were to be other substitutes offered, which I did not think the Senate wanted to agree to. So to accommodate the Senator and to try to bring his proposal to a vote, I myself offered an amendment so he could offer his amendment in the second degree with the prospect of bringing it to a vote. But it looks as if some do not want the Senator's amendment voted on.

If the proposal of the Senator from Delaware is agreed to, Senators can still propose to recommit and report back. They can agree to offer amendments at the end of the bill and offer substitutes for the entire bill. Senators are not precluded from offering a substitute.

But some of us think the Senator from Delaware is entitled to have a vote on his amendment.

That being the case, I move that the motion to recommit and report back be laid on the table.

The PRESIDING OFFICER. The question is on the——

Several Senators addressed the Chair.

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

Mr. STEVENSON. Mr. President——

The PRESIDING OFFICER. There is not a sufficient second.

Mr. STEVENSON. Mr. President——

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

Several Senators addressed the Chair.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to table the motion of the Senator from Connecticut.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. INOUYE (after having voted in the negative). Mr. President, 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 at liberty to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that 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 Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), and the Senator from Mississippi (Mr. STENNIS) 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 Rhode Island (Mr. PELL) would vote "nay."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BROCK), the Senator from South Carolina (Mr. THURMOND), 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 Michigan (Mr. GRIFFIN) is detained on official business.

If present and voting, the Senator from South Carolina (Mr. THURMOND) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 44, nays 41, as follows:

[No. 514 Leg.]

YEAS—44

Allen	Cotton	Jackson
Anderson	Curtis	Jordan, N.C.
Baker	Dole	Jordan, Idaho
Beall	Dominick	Long
Bellmon	Edwards	McClellan
Bennett	Ervin	Miller
Bentsen	Fannin	Montoya
Bible	Fong	Pearson
Boggs	Fulbright	Randolph
Buckley	Gambrell	Roth
Byrd, Harry F., Jr.	Goldwater	Sparkman
Byrd, Robert C.	Gravel	Spong
Cannon	Hansen	Stevens
Chiles	Hollings	Talmadge
	Hruska	Young

NAYS—41

Aiken	Hatfield	Proxmire
Bayh	Hughes	Ribicoff
Brooke	Humphrey	Saxbe
Burdick	Javits	Schweiker
Case	Kennedy	Scott
Church	Magnuson	Smith
Cook	Mansfield	Stafford
Cooper	Mathias	Stevenson
Cranston	Mondale	Symington
Eagleton	Moss	Taft
Gurney	Nelson	Tunney
Harris	Packwood	Weicker
Hart	Pastore	Williams
Hartke	Percy	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Inouye, against

NOT VOTING—14

Allott	McGovern	Pell
Brock	McIntyre	Stennis
Eastland	Metcalf	Thurmond
Griffin	Mundt	Tower
McGee	Muskie	

So the motion to lay on the table was agreed to.

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

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

The yeas and nays were ordered.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GOLDWATER. What is the vote on?

The PRESIDING OFFICER. The question is on agreeing to the Roth amendment to the Long amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Florida (Mr. CHILES), 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 Maine (Mr. MUSKIE), and the Senator from Rhode Island (Mr. PELL), 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 Florida (Mr. CHILES) and the Senator from Rhode Island (Mr. PELL), would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BROCK), the Senator from South Carolina (Mr. THURMOND) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Colorado (Mr. ALLOTT), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 46, nays 41, as follows:

[No. 515 Leg.]

YEAS—46

Aiken	Dominick	Long
Allen	Edwards	McClellan
Anderson	Ervin	Moss
Baker	Fannin	Packwood
Bellmon	Fong	Proxmire
Bennett	Fulbright	Randolph
Bentsen	Gambrell	Roth
Bible	Goldwater	Sparkman
Boggs	Griffin	Spong
Buckley	Hansen	Stennis
Byrd, Harry F., Jr.	Hartke	Symington
	Hatfield	Talmadge
Byrd, Robert C.	Hollings	Tunney
Cotton	Hruska	Weicker
Curtis	Jordan, N.C.	Young
Dole	Jordan, Idaho	

NAYS—41

Bayh	Hart	Pastore
Beall	Hughes	Pearson
Brooke	Humphrey	Percy
Burdick	Inouye	Ribicoff
Cannon	Jackson	Saxbe
Case	Javits	Schweiker
Church	Kennedy	Scott
Cook	Magnuson	Smith
Cooper	Mansfield	Stafford
Cranston	Mathias	Stevens
Eagleton	Miller	Stevenson
Gravel	Mondale	Taft
Gurney	Montoya	Williams
Harris	Nelson	

NOT VOTING—14

Allott	McGovern	Pell
Brock	McIntyre	Thurmond
Chiles	Metcalf	Tower
Eastland	Mundt	
McGee	Muskie	

So Mr. ROTH's amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

TIME LIMITATION ON AUTHORIZATION OF FEDERAL PAYMENT FOR CONSTRUCTION OF A TRANSIT LINE IN THE MEDIAN OF THE DULLES AIRPORT ROAD—S. 2952

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as S. 2952, a bill to authorize a Federal payment for the construction of a transit line in the median of the Dulles Airport road, be called up and made the pending business, there be a time limitation on the bill of 30 minutes, to be equally divided between the Senator from Virginia (Mr. SPONG) and the Republican leader or his designee, the time on any amendment to be limited to 20 minutes, and the time on any debatable motion or appeal to be limited to 10 minutes.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 10552. An act for the relief of the Rescue Mission Alliance of Syracuse;

H.R. 10556. An act to authorize the Secretary of the Interior to sell reserved mineral interests of the United States in certain land in Georgia to Thomas A. Buiso, the record owner of the surface thereof; and

H.R. 14128. An act for the relief of Jorge Ortuzar-Varas and Marie Pabla de Ortuzar.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred, as indicated:

H.R. 10552. An act for the relief of the Rescue Mission Alliance of Syracuse; and

H.R. 14128. An act for the relief of Jorge Ortuzar-Varas and Marie Pabla de Ortuzar; to the Committee on the Judiciary.

H.R. 10556. An act to authorize the Secretary of the Interior to sell reserved mineral interests of the United States in certain land in Georgia to Thomas A. Buiso, the record owner of the surface thereof; to the Committee on Interior and Insular Affairs.

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.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana, as amended.

Mr. LONG. Mr. President, the principal difference between the amendment as amended and the amendment offered by the Senator from Delaware (Mr. ROTH) is that the amendment contains a 20-percent increase in the amount of funds available to State welfare departments for fiscal years 1973 and 1974. The reason that is necessary is because there have been cost-of-living increases and there have also been some increases in the caseload to the point that the welfare administrators of this country say that if the Roth amendment were to prevail, and if there were not other help available to them, they would be in a fiscal squeeze and would not be able amply to take care of their increased costs.

This provides a temporary addition of 20 percent of the Federal share up to January 1974 for the aged, blind, and disabled, and to July 1974 for AFDC. This has been asked for by the welfare administrators of the Nation generally. They say that it is necessary to see that they have adequate funds.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. STEVENSON. Mr. President, I send to the desk a motion to recommit H.R. 1 with instructions.

The PRESIDING OFFICER. Is it a motion to recommit and report forthwith with instructions?

Mr. STEVENSON. The Chair is correct.

The PRESIDING OFFICER. The clerk will report the motion.

The assistant legislative clerk read as follows:

Mr. STEVENSON moves to recommit H.R. 1 to the Finance Committee with instructions to report back forthwith, striking the language from page 689, line 11 through page 769, line 11 and inserting in lieu thereof the Ribicoff amendment as modified.

Mr. STEVENSON. Mr. President, the effect of the amendment would be to recommit the bill to the Finance Committee with instructions to accept, with two modifications, the Ribicoff-administration compromise which was introduced as amendment No. 1669 and was tabled yesterday.

These instructions would make only two changes in the Ribicoff-administration compromise.

First, under the instructions, the benefit level of $2,600 for a family of four with no other income would be reduced to $2,400, the same level contained in the House-passed bill, H.R. 1.

Second, under these instructions the authorization for child care contained in the earlier Ribicoff amendment, which provided $1.5 billion, would be reduced to $800 million, the same level contained in the House-passed bill, H.R. 1.

As a result of these two changes the budgetary impact of this amendment would be virtually the same as in President Nixon's version, and the cost would

be substantially less—nearly $4 billion less—than the cost of the Finance Committee proposal as amended by the Roth proposal.

These two changes are the only two changes that would be made under the instructions. The amendment would preserve the structural provisions present in the Ribicoff-administration compromise and necessary to bring about true welfare reform and the two changes I have mentioned would bring the cost down to that suggested by the administration.

If the amendment is agreed to, welfare recipients in States which now pay less than $2,400 would immediately receive $2,400, and welfare recipients in States which now pay more than $2,400 would continue to receive payments at their present level, or at the level provided on January 1, 1971, if that were higher.

Every State would be guaranteed that its costs for welfare would be no greater than its cost in calendar year 1971.

The amendment contains all the protection and reforms that were agreed to by the Senator from Connecticut (Mr. RIBICOFF) and Secretary Richardson. These include:

(1) *Maintenance of benefits:* In those states where payment levels exceed $2400, states would be required to make supplemental payments to assume that no recipient receives a smaller payment than he or she receives under present law.

(2) *State fiscal relief:* The federal government would pay 100% of the first $2400 of a recipient's welfare payment. A state would pay the remainder except that the federal government would pay any amount in excess of a state's total cost during calendar year 1971.

(3) *Work requirements:* A recipient would not be required to accept employment if she is the mother of a child under the age of 6.

(4) *Annual increase in benefits:* Benefits would increase annually by a percent equal to the annual increase in the consumer price index.

(5) *Pilot program for working poor:* The Ribicoff-Administration compromise and our amendment provide for a pilot program for that portion of the legislation which provides benefits to the working poor, and specifies that upon completion of the pilot program and evaluation of its results, the full program of aid to the working poor will be implemented unless either House of Congress objects within 60 days.

As I say, the only difference would be to reduce the welfare level from $2,600 to $2,400 and to reduce the authorization for child care for welfare recipients.

That, in effect, would give us a bill, the cost of which would be virtually the same as the cost of the original H.R. 1 proposal of the administration.

Mr. President, if there is one thing that every Member of the Senate agrees upon it is that the present welfare system is intolerable. This may be our last chance to change this system. All of the other proposals pending before the Senate would either sink us deeper into the present welfare system or cause delay or add on to that system new, unworkable, and even more costly provisions.

This motion, if adopted by the Senate, would give the administration virtually what it asked for. It would give us—the administration and the Senate—our last chance in this session of the Congress to support welfare reform and perhaps the last chance for a long time to come.

Representative MILLS. the chairman of the House Ways and Means Committee, has indicated that welfare reform will not be a high priority in the next session of the Congress.

Mr. President, I offer this motion not only on behalf of myself, but also on behalf of the distinguished Senator from Kentucky (Mr. COOPER), my distinguished colleague, the senior Senator from Illinois (Mr. PERCY), and the distinguished Senator from California (Mr. TUNNEY).

Mr. HUMPHREY. Mr. President, would the Senator yield for a further explanation?

Mr. STEVENSON. I gladly yield to the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, do I correctly understand the Senator's motion to mean that it would, if voted upon favorably, send the entire bill back to the committee with instructions?

Mr. STEVENSON. The Senator is correct.

Mr. HUMPHREY. Would that in any way impair titles I, II, and III?

Mr. STEVENSON. Titles I, II, and III would not be impaired. The instructions are to report back forthwith. It would not impair those titles.

Mr. HUMPHREY. When the Senator says "to report back forthwith," would that proposal permit the committee to revise titles I, II, and III and subsequent sections?

Mr. STEVENSON. The instructions are confined to other titles. It is my understanding, and certainly my intention, that the committee would have no opportunity to make any other changes in H.R. 1.

Mr. HUMPHREY. It is title IV essentially that the Senator directs his amendment to?

Mr. STEVENSON. The Senator is correct.

Mr. HUMPHREY. And how would this affect the recent action of the Senate on the vote just taken on the Roth amendment?

Mr. STEVENSON. The Roth amendment would be replaced by the provisions which I have described, which are incorporated in the instructions.

Mr. HUMPHREY. This gives us another opportunity to take a look at the so-called family assistance part of the program and to incorporate, if the Stevenson amendment passes, the basic provisions of the administration proposal plus the child care protections.

Mr. STEVENSON. The Senator is correct.

Mr. HUMPHREY. Plus the provisions that were thwarted in the Ribicoff proposal, by the reduced levels.

Mr. STEVENSON. The Senator is correct. I do not believe the contents of the Roth amendment has been made clear for the RECORD. The administration has opposed the Roth amendment. HEW has sent me and other Senators a copy of a letter from the Secretary of Health, Education, and Welfare to the Senator from Delaware (Mr. ROTH). The letter of the Secretary of Health, Education, and Welfare dated April 27, 1972, states:

I would like to explain why the administration must strongly oppose your amendment No. 1077 to H.R. 1.

A test of the kind your Amendment would require would delay reform for about five years, since it would necessitate:

One year to plan and implement the test;

Two years to run the test, with preliminary data becoming available in the middle of the second year;

An additional year to compile, evaluate, and use the data to formulate a legislative proposal;

At least one or two years to obtain Congressional approval of a new bill.

He goes on to say:

Further delay in enacting reform would have the following tragic results:

Exploding costs and caseloads would continue to drain Federal money into a system with little control over who receives benefits;

The inadequate work provisions in current law would be perpetuated;

Widely varying standards and administrative practices among States and counties would continue to provide inequitable treatment and counterproductive incentives for migration and family break-up; and

The inevitable waning of public confidence would encourage a trend, already evident in the past year, to make the truly needy the scapegoats of a failing system.

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

The PRESIDING OFFICER. The Senator is correct. Senators will cease their conversations. The Senate will be in order. The Senate is not in order.

The Senator from Illinois may proceed.

Mr. STEVENSON. Mr. President, I ask unanimous consent to have printed in the RECORD at this point the letter from Secretary Richardson to the Senator from Delaware dated April 27, 1972.

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., April 27, 1972.

Hon. WILLIAM V. ROTH, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ROTH: I would like to explain why the Administration must strongly oppose your Amendment Number 1077 to H.R. 1.

As your November 12, 1971, letter to the President suggested, there is a danger that the rhetoric about welfare reform may tend to overstate both the advantages and the disadvantages of the H.R. 1 reform. Yet there is no doubt in my mind, in view of the tests which have already been conducted of key elements of H.R. 1 and in view of the deterioration of the current welfare system, that the evidence at hand firmly supports enactment of H.R. 1 without further delay.

A test of the kind your Amendment would require would delay reform for about five years, since it would necessitate:

One year to plan and implement the test;

Two years to run the test, with preliminary data becoming available in the middle of the second year;

An additional year to compile, evaluate, and use the data to formulate a legislative proposal;

At least one or two years to obtain Congressional approval of a new bill.

These time estimates are by no means exaggerated. The recently completed test of wage supplementation in New Jersey lasted

over three years, and the final data are not yet fully compiled and analyzed. My staff and I would be happy to discuss with you the evidence so far obtained from tests in Iowa, North Carolina, Gary, Seattle, Denver, and Vermont, as well as New Jersey. These tests have yielded substantial proof that families do not reduce their earnings when they receive wage supplementation.

Further delay in enacting reform would have the following tragic results:

Exploding costs and caseloads would continue to drain Federal money into a system with little control over who receives benefits;

The inadequate work provisions in current law would be perpetuated;

Widely varying standards and administrative practices among States and counties would continue to provide inequitable treatment and counterproductive incentives for migration and family break-up; and

The inevitable waning of public confidence would encourage a trend, already evident in the past year, to make the truly needy the scapegoats of a failing system.

I sincerely believe that a vote for your Amendment, in lieu of the H.R. 1 provisions, is a vote to perpetuate the current welfare mess for years. I do not accept the proposition that providing incentives to work, creating penalties for refusal to work, removing obstacles to work by emphasizing child care and supportive services, increasing the training effort, or finding jobs and creating public service jobs, are ideas in need of further testing.

We have announced, in conjunction with Senator Ribicoff, our support for a limited test provision which would not delay the H.R. 1 reforms. Such a test would occur between enactment of H.R. 1 and the effective date of the family program and should provide useful administrative data on the new H.R. 1 caseload. The Congress would be given the opportunity, under a disapproval provision, to reject coverage of new eligibles as a result of evidence from the testing.

As the President said in his March 27 message to the Congress on the subject of welfare reform. "We need reform this year so that, instead of pouring billions more into a system universally recognized as a failure, we can make a new start . . . It (H.R. 1) is the most important single piece of social legislation to come before the Congress in several decades . . . No legislation should have a higher priority."

I urge you to consider a test amendment within the context of H.R. 1 as the Administration has agreed with Senator Ribicoff. I would be happy to meet with you to delve into this subject, which is of great importance to this Administration and to the Nation.

With kindest regards,

Sincerely,

ELLIOT L. RICHARDSON, *Secretary.*

Mr. STEVENSON. Mr. President, I might say to the Senator from Minnesota that this is the last chance for welfare reform. The alternative at this point is 5 years more of delay, 5 years more of crises in welfare, 5 years more of dehumanization for people, and 5 years more of ever-expanding case loads and welfare rolls.

Mr. HUMPHREY. Mr. President, I believe the amendment of the Senator from Illinois is so important that I ask him again to go into what the amendment would do. I believe so often in these debates we lose many of the pertinent points and the facts that we need to understand. Will the Senator do that for at least the benefit of the Senator from Minnesota?

Mr. STEVENSON. The amendment incorporates all the provisions of Senator RIBICOFF's earlier amendment, thereby incorporating many changes agreed to by the administration, agreed to by Secretary Richardson.

The amendment then makes two changes in Senator RIBICOFF's earlier amendment. First, it goes back to the welfare levels provided in H.R. 1 of $2,400 for a family of four instead of $2,600 in Senator RIBICOFF's amendment; second, it cuts back the authorization for child care for a welfare recipient from $1.5 billion in Senator RIBICOFF's amendment to $800 million as in H.R. 1. That means the total cost to the Federal Government would be virtually the same as the original proposal of the President.

The changes from the President's favored version of H.R. 1, all agreed to by Secretary Richardson, would, first, provide that in States where payment levels exceed $2,400, State would be required to make supplemental payments to assure that no recipient is issued a smaller payment. Welfare levels could not be reduced. That was contemplated by the administration.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a unanimous-consent request with the understanding that he does not lose his right to the floor?

Mr. STEVENSON. I yield.

Mr. ROBERT C. BYRD. I would not interrupt the Senator but I wanted to propound a request with as many Senators as possible in the Chamber.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

ORDER FOR DEBATE ON CLOTURE MOTION TO BEGIN AT 9:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the 1 hour for the debate on the motion to invoke cloture tomorrow begin running at 9:15 a.m. I am authorized to make this request by the distinguished majority leader.

The PRESIDING OFFICER. Is there objection?

Mr. JORDAN of North Carolina. Mr. President, will the Senator state the request again?

Mr. ROBERT C. BYRD. That the 1 hour for debate under rule XXII on the motion to invoke cloture begin running at 9:15 a.m. tomorrow.

Mr. JORDAN of North Carolina. I thank the Senator.

Mr. GURNEY. Mr. President, reserving the right to object——

Mr. STEVENSON. I do not believe I gave up the floor.

The PRESIDING OFFICER. Does the Senator from Illinois yield to the Senator from Florida with respect to the unanimous-consent request?

Mr. STEVENSON. Mr. President, without losing my right to the floor; yes.

The PRESIDING OFFICER. The Senator yields.

Mr. GURNEY. I thank the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GURNEY. This means the debate would end at 10:15 a.m. tomorrow and that the quorum call would begin at 10:15, to be followed by the vote?

Mr. ROBERT C. BYRD. The Senator is correct.

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

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. STEVENSON. If I could continue briefly to answer the question of the Senator from Minnesota——

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. STEVENSON. Mr. President, the second difference pertains to State fiscal relief. The Federal Government would pay 100 percent of the first $2,400 of the recipient's welfare payment. The State would pay the remainder, except the Federal Government would pay any amount in excess of the State's total cost in calendar year 1971. In other words, there are more generous provisions for relief to the States. Third, in connection with work requirements, the recipient will not be required to accept employment if the recipient is the mother of a child under the age of 6. Originally the administration had made the cutoff at age 3 for all working mothers with children. We would make the age 6. That was agreed to by Secretary Richardson.

Four, benefits would increase annually by a percent equal to the annual increase in the consumer price index.

Finally, under this proposal the provision for relief of the working poor, instead of being conducted on a national basis would be conducted on an experimental or pilot basis. It could be stopped in 2 years if it did not work by a vote of either House of Congress.

These are the basic differences; and they were agreed to by Secretary Richardson. This really gives the administration what it asks for. There would be certain differences between this if passed by the Senate and the House passed bill, which would provide another opportunity for further negotiation in conference.

Mr. HUMPHREY. Mr. President, I compliment the Senator from Illinois. This is a very constructive proposal. Obviously there will be differences of view as to whether or not $2,400 is an adequate figure, but with the cost of living escalated clause which the Senator included, plus the experimental workfare program which the Senator included, plus the fact that the Federal Government will take up the total of the $2,400, thereby relieving the States of a tremendous amount of welfare, I think the Senator has a very reasonable and con-

structive proposal; and also it will provide property tax relief back at the State level and at the same time give better benefits to the welfare recipients who really need it.

I wish we did not call them "welfare recipients," because what we are discussing is a way to have income maintenance so people can make the best of their lives. We have put this name "welfare," this tag "welfare," on everybody until the word has become one of derision and really of defamation. I think it is most unfortunate.

What the Senator from Illinois is trying to do, and I believe what all of us are trying to do here, is get away from tagging people as welfare clients. Those that can work should have work; those that are in need should have assistance. That is what the central point of this debate and of our action must be.

I want to say once again it does little good to tell people to go to work unless we provide them with work.

May I ask the Senator from Illinois whether public service jobs are involved here?

Mr. STEVENSON. The Senator is absolutely right. The whole thrust of this proposal is to provide work for those who can work. It provides work incentives, and in order to create jobs which otherwise do not exist for persons who but for the jobs would go on welfare, it sets up a program of public service employment. It creates 300,000 jobs, for which $800 million is provided in the bill for the creation of those public service jobs so people who otherwise would go on welfare would get employment.

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

Mr. STEVENSON. I yield.

Mr. RIBICOFF. I commend the distinguished junior Senator from Illinois, the distinguished Senator from Kentucky, and the distinguished senior Senator from Illinois for offering this proposal. I commend them, and I will support and vote for the proposal.

True, the minimum support level for a family of four is only $2,400. I originally started with $3,000. Then my second proposal, which I thought I had worked out with the administration, was $2,600. Now the proposal is $2,400.

At this stage I am not interested in pride of authorship. I am not interested in having credit for passing welfare reform. I am only interested in eliminating the present welfare mess.

What has been shocking to me is the failure of the administration and the Republican Party and Republican Senators to back the President of the United States in the series of votes that has taken place. The Secretary of Health, Education, and Welfare has labeled the Roth proposal a monstrosity that would not work. The Roth amendment contains many of the regressive provisions of the committee proposal.

Now we have the Senator from Illinois (Mr. STEVENSON) introducing the basic proposal of the President, improved by my various negotiations and agreement with the Secretary of Health, Education, and Welfare and the Secretary of Labor. I cannot understand why the administration now will not support it.

Is it not true that the overall cost of the Senator's proposal is exactly the same as the cost of H.R. 1, which the administration says it is for?

Mr. STEVENSON. The cost is virtually the same as the original proposal submitted to the Congress and passed in the House as H.R. 1. The Senator is absolutely correct.

Mr. RIBICOFF. When the President explained last summer during his press conference why he could not reach agreement with me, he stated as one of his reasons that my proposal would substantially increase the cost of welfare. At that time the level we were talking about was $2,600, but the Senator's proposal of $2,400 cuts down that cost by some one-half billion dollars. Then when he cuts child care support from $1.2 billion to $800 million, he saves another $400 million, which cuts the cost some $900 million. This brings his proposal in line with H.R. 1. Is that not correct?

Mr. STEVENSON. The Senator is absolutely right.

As the Senator from Minnesota mentioned a moment ago, the effect of this proposal, if adopted into law, would be to afford very substantial fiscal relief to States and to local units of government all across the country. The costs that have been referred to here are gross costs. There would be savings all along the line to many States and local governments, but to States in particular, which would be of great benefit to them and enable them to offer other appropriate services.

Mr. RIBICOFF. Is it not true that the Senator's proposal requires everyone on welfare, unless children under the age of 6 are involved or someone is incapacitated, to register for work?

Mr. STEVENSON. The work registration provision applies to everyone except the persons mentioned by the Senator. They would have to register for work and would have to accept work if it is available and, beyond that, if it is unavailable, we also provide for public service employment.

Mr. RIBICOFF. The rate required to be paid to a person taking a job would be at the Federal minimum wage?

Mr. STEVENSON. That is correct.

Mr. RIBICOFF. Is it not true that the Senator's motion to recommit is a parliamentary device? It does not really go back to committee. If the motion to recommit is adopted, the President of the Senate refers the bill back to the chairman who immediately reports the bill back as ordered by the Senate. The bill automatically becomes the pending order of business with no loss of time. So if the motion to commit and the Senator's proposed amendment were adopted, then it would be open to amendment, so Senators could work their will on various sections of his proposal. Is that not correct?

Mr. STEVENSON. The Senator is correct. Again, the form of my motion was dictated purely and simply by the parliamentary situation at the time. This really is an up or down proposal, and the proposal is whether or not we shall support H.R. 1, with those modifications which were very carefully and conscientiously added to it.

Mr. RIBICOFF. Therefore, when our distinguished colleague from Minnesota asks, "Do you still preserve titles I, II, and III?" the answer is definitely "yes"?

Mr. STEVENSON. The answer is "yes."

Mr. RIBICOFF. I think the time has come to ask the President of the United States and the Secretary of Health, Education, and Welfare, Mr. Richardson, to come out of hiding.

I suppose representatives of HEW are in the galleries. Do you not think the time has come to call up your Secretary of Health, Education, and Welfare and find out whether he really supports welfare reform? Here is a proposal introduced by two Republicans and one Democrat which calls for $2,400, which is the figure originally proposed by the President and passed by the House. I ask you, President Nixon, wherever you may be, in Camp David, at the White House, or wherever, will you tell the American people, do you support welfare reform? Did you mean it in the first place? What is your proposal now for $2,400? Come to the Congress of the United States, call the Republican Members of the U.S. Senate and tell them you still support a payment level of $2,400. This is the chance for the President of the United States and the Secretary of Health, Education, and Welfare to tell the American people whether they are for welfare reform. This is the moment of truth for the President of the United States.

Mr. STEVENSON. I thank the Senator from Connecticut. No one has labored more heroically to bring about this major social reform than the Senator from Connecticut. As he points out, this is not a partisan effort. On the contrary, it is a bipartisan effort on the Senate floor today, recognizing that it is the last chance to give the President what he called for from the Congress—in fact, made his No. 1 legislative priority—welfare reform.

Mr. President, I ask unanimous consent that the Senator from Ohio (Mr. TAFT) be added as a cosponsor.

The PRESIDING OFFICER (Mr. PROXMIRE). Is there objection? Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, I yield to the Senator from Kentucky (Mr. COOPER).

Mr. COOPER. Mr. President, I call to the attention of the Senate that while this motion is made by the Senator from Illinois as the leading sponsor, the proposal is also supported by the Senator from Illinois (Mr. PERCY), the Senator from Ohio (Mr. TAFT), and myself, as cosponsors.

I can understand the plea that has just been made by the distinguished Senator from Connecticut (Mr. RIBICOFF), but I hope in the few minutes we have that we will appeal as best we can to the sense and judgment of our fellow Senators, rather than upon a political basis—as, I believe, the Senator from Illinois said, it may be the last chance to vote on a welfare reform bill. I would like to say also that the distinguished Senator from Connecticut, Senator RIBICOFF, has contributed so much to the issue, and in an informed and humane spirit.

I am not a member of the Senate Fi-

nance Committee which has jurisdiction over the subject, but I know what Senator STEVENSON and his three cosponsors are attempting to do. We are asking that the bill before us, as reported by the Finance Committee, be recommitted, that there be stricken from the bill, as it stands now, the workfare provisions and also the provision which was just adopted by the Senate, offered by the Senator from Delaware (Mr. ROTH), and that there be reported from the committee the proposal which the Senator from Illinois has described. It is conceptually and structurally the Ribicoff proposal, but with a reduction in the benefit level from $2,600 to $2,400, and a reduction in the authorization for day care from $1.5 billion to $800 million. The initial total cost of our proposal would be essentially the same as the cost of H.R. 1 as passed by the House of Representatives.

There are some differences between H.R. 1 as passed by the House of Representatives and the Stevenson proposal. One is the provision for a cost-of-living increase in benefit levels which was not included in the House bill. A second major difference between the two bills is the mandated State supplementation provision, which is in the Stevenson-Cooper bill, just as it was in the Ribicoff proposal. Basically it follows the structure of the Ribicoff amendment, but the cost, at least, is about the same as that of the House bill.

I appreciate the position of the Senator from Delaware, but we know that his amendment would do more than provide a pretest of the Ribicoff proposal, workfare, and H.R. 1. Actually there have been incorporated in it several provisions of the workfare program in the Long bill such as the Child Care Bureau and wage supplement. And so I think it should be stricken.

Mr. President, I appreciate, too, the work that the Committee on Finance and its chairman, the distinguished Senator from Louisiana (Mr. LONG) have done, but I believe this is an opportunity, and perhaps the last opportunity for several years, unless action is taken on the Stevenson, Cooper, Percy, Taft amendment to provide a measure of reform in the welfare system.

I think all of us who have observed the present welfare system in our States know that while it has provided more food and clothing and some housing and medical care, the present system is an unsatisfactory program. I do not want to go back too far, but I first became interested in this subject when I was a county judge, 40 years ago, during the depression, and saw first hand, the awful poverty of some of the people of my county.

Since that time my interest in the subject has continued. Kentucky is always in the eye of the public—representatives of the news media can always be found in eastern Kentucky looking for poverty; and there is poverty, but in my view it is not as bad as it is in the inner cities of New York City and other major cities.

The thing I dislike most about the present welfare program is that it provides no incentive for people on welfare to work. There is every incentive to keep them out of work. We know what they are: If recipients go to work they lose their benefits, they also stand to lose a part of their food stamps, and medicaid benefits in some instances. If they take a job and are not properly trained for it, they are likely to lose it very soon, and then they will have to go again through the whole business of getting on welfare.

The worst objection to our current welfare system is that there is no incentive for recipients to go to work. The objection I have to the bill presented by the distinguished Senator from Louisiana is that for those who are not able to work and otherwise eligible for assistance, it maintains essentially the same welfare system that now prevails.

I am sorry the Stevenson proposal in which I join may not be studied as carefully as it ought to be, but I hope very much that the explanation that has been sent to every Senator will be read, and that the amendment will be adopted and we will not wait 3 or 4 years more to achieve welfare reform, and continue the unfair system that we have today, which offers so little hope to people. I must say that all I have seen in my own State is a lessening of hope and the beginning of an absolute class system—something we thought we would never have in this country—and an institutionalization of the poor.

If this continues, we are not only going to deprive our people of the realization of their best possibilities today, but we are going to deprive them of realizing their best possibilities in the future. I hope and pray that Senators will read this simple proposal and vote for it and give some hope, for today and for the future, to the poor of our country, and our country itself.

Mr. SCOTT. Mr. President, will the Senator yield briefly to me?

Mr. COOPER. I yield.

Mr. SCOTT. I just want to say I agree entirely, speaking personally, with what the Senator from Kentucky has said.

The PRESIDING OFFICER. The Senator from Illinois has the floor. Does the Senator from Illinois yield to the Senator from Pennsylvania?

Mr. SCOTT. Will the Senator from Illinois yield to me briefly, say 2 minutes?

Mr. STEVENSON. I yield 2 minutes to the Senator from Pennsylvania.

Mr. SCOTT. I agree entirely with the points that have been made by the Senator from Kentucky and the Senator from Illinois. Congress appears to be heading for a postponement of efforts to remedy an absolute mess in the welfare system, which is regrettable. We will not postpone it for 2 years or 4 years; we will be back next year confronted with a mounting and increased series of problems, beyond doubt.

I have an amendment which substantially and actually is title IV of H.R. 1 as passed by the House of Representatives. I had thought of offering it. But it seems to me that this amendment is quite close to the House-passed bill. I am able to support it, myself, and would like to see it passed.

I am obliged, in all conscience, to make this declaration. I think we need this kind of legislation. I believe that it is a reasonable and judgmental approach to a terribly difficult problem. I have to say that my personal position will be not to offer my own amendment, which is the House-passed bill, but on the other hand, to support this proposal.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. SCOTT. If the Senator from Illinois has no objection.

The PRESIDING OFFICER. Does the Senator from Illinois yield to the Senator from Louisiana?

Mr. STEVENSON. I yield.

Mr. LONG. Can the Senator tell us the position of the President of the United States with regard to this proposal?

Mr. SCOTT. I am not able to say that the President of the United States supports the proposal. The President has not said to me that he wishes me to make any statement against the proposal. If he wished to support the proposal, I assume he would send information to one or another Senator on that. I am speaking personally, because it is on my conscience. I believe it to be a good thing. I have wrestled with this, and I am satisfied that I must support it.

Mr. LONG. I asked the question because I was called from the floor yesterday evening and told that this amendment would be offered and that the President is not for the amendment; he does not favor it and is not for it. If the President is not for it, I do not think people ought to be representing this as being something that the administration is for; because, in the last analysis, it is not some functionary in HEW but it is the President who is entitled to speak for this administration. I am sure the Senator would agree that the President speaks for the administration, not some Under Secretary of the Department of Health, Education, and Welfare, or some person in that agency who might even have been held over from the Roosevelt administration.

Mr. SCOTT. The Senator from Louisiana knows that I have said nothing which would mislead anyone. I have clearly said several times that this is a matter of conscience with me. It is a matter of my personal judgment. I believe it. I would advocate its adoption to anyone who asked me. But I have represented it only as a view of my own. I have expressed my judgment and my belief that it ought to be adopted. I am not trying to mislead anyone.

Mr. LONG. I want to make it clear that I was called from the floor by two of the President's most well-regarded liaison people who work with us on the Hill in matters of this sort, and they both told me, without any peradventure of doubt, that the President is not for this proposal. I think we ought to understand that this is not something that the President is for.

Mr. SCOTT. The President's personal statements, as I recall, have indicated consistently and throughout that he favors H.R. 1 as it passed the House, which is the amendment I offered here.

I make the point personally, as the senior Senator from Pennsylvania, that it seems to me that this amendment is sufficiently close to the amendment I

offered so that it justifies me in not pressing my amendment but in supporting this one. This is a position which I feel I must take and I would take if anybody short of the 12 Apostles were to try to persuade me otherwise. I just want to make that clear.

I am not misleading anyone. The Senator is entitled to make any statements he wishes regarding his opinion as to how various people feel about it.

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

Mr. STEVENSON. I thank the distinguished Senators from Kentucky and Pennsylvania for their comments and wisdom. I yield to the Senator from California.

Mr. TUNNEY. I thank the distinguished Senator for yielding.

Mr. President, I think everyone in this Chamber has deplored the present welfare system; but I must confess that I see faults with each of the three major proposals we have had before the Senate.

I think the major fault of the Ribicoff proposal was that it did not have enough public service jobs to guarantee that every able-bodied person who was on welfare, who did not have a child 6 years of age or under, would have a job at which to work if they were going to receive a Government check.

I was very pleased with the colloquy I had with the distinguished Senator from Connecticut—who I think knows the problems of our welfare laws and their inadequacies as well as any other person in this country—when yesterday he said that if his amendment were accepted, he would support an amendment I was prepared to offer to assure that there were enough public service jobs available for every able-bodied person who could not find a job in the private sector.

My objective would be to create a 3-year phased program in which public jobs would be created for at least one-third of those who are required to register for work in the first year. Additional jobs would be created in the second year for an additional one-third of all registrants. And finally in the third year the phasein would be completed so that every able-bodied welfare recipient would be able to find a job. This program would go into effect after the initial program of 300,000 jobs contained in the Ribicoff amendment.

In other words, it would be a total of 4 years at the end of which there would be a public job for all those people who are able-bodied, on welfare, who are not working at any other job. I think this is most important.

I find a problem with the proposal of the distinguished chairman of the Finance Committee, because, quite frankly, I think the payments are much too low. Although I think people should work, they ought to be able to work in California, in Connecticut, and in New York for the kind of money that is going to enable them to support their families. I do not feel that the Finance Committee proposal, would allow people in those big States to be able to work for enough money to be able to provide for their families.

The administration proposal, as I analyzed it, was deficient; it did not provide jobs. As has been said often by the distinguished Senator from Connecticut, the administration has talked in terms of having a proposal which would require people to work, and this was the great welfare reform. It was in the Republican platform in Miami. But, in fact, if you take a look at that program, it did not require work for the able-bodied. It made a travesty of the President's statement that people ought to work if they are able-bodied.

So we come to the present proposal by my distinguished colleague and seatmate, the Senator from Illinois. I am supportive of the basic proposal, but I say to my distinguished friend that if his proposal is accepted, I would have to offer an amendment which would provide that over a period of 4 years, with jobs being phased in over a 3-year period after the limited public job program he is proposing with one-third in the first year, a second third in the next year, and the balance in the third year so that all those people who are on welfare and are unemployed would be put on public service jobs.

I believe that this is the only way we can develop a welfare system that is not going to continue to eat up taxpayers' dollars the way the present system does. The present system is essentially faulty because it pays people who are able bodied not to work. I think that every person who is able bodied and of sound mind should have to work for the money he receives from the Government, and then it is no longer welfare. Then he is working for the Government. I do not consider myself to be on welfare because I receive a Government check, and I do not consider anybody else who is working for the Government to be on welfare. These people would not be on welfare either, because they would be working for the money they receive, irrespective of where that money came from. If it comes from HEW, so what? There are many employees in HEW.

This is the kind of proposal I will make if the Senator's amendment is adopted, and I plan to vote for the Senator's amendment.

Mr. STEVENSON. I thank the Senator.

Let me say, in response to the Senator from California, that I agree wholeheartedly. As he recognizes, the thrust of this proposal is to provide work incentives to get people in jobs and off the welfare rolls. But he very rightly recognizes that work incentives are not enough if no jobs are available, if no work is available. He proposes to solve that problem through public service employment.

The bill does provide $800 million for 300,000 public service jobs. If we could go further than that in this legislation, I would wholeheartedly support the Senator from California. However, this is a welfare bill. We will have other opportunities with respect to public service employment. The only concern I have is that if we go much further than we already have gone in this bill, we may encounter opposition from the administration and end up with no public service employment or welfare reform.

Mr. TUNNEY. I find the Senator's arguments persuasive so far as the adoption of his amendment is concerned. Perhaps some people who support the administration's position would want to vote for the proposal of the Senator from Illinois without the guaranteed jobs. So it is quite clear that we ought to vote on his amendment first, and the parliamentary situation is that we have to do that.

If the amendment of the Senator from Illinois is adopted and I offer my amendment, those people who go home and make speeches about how they feel that we should not be talking about people on welfare, but about putting people to work, are going to have an opportunity to tell their people back home whether in fact they favor putting people to work or just keeping people on a handout.

I believe that the proposal made by the Senator is very good. There are many very important components in the amendment, which is, of course, an adaptation of the amendment of the Senator from Connecticut. But I think the failure of this proposal is that it does not have a requirement that there be enough public service jobs to provide jobs over a phased-in period of 4 years for every able-bodied person on welfare.

Mr. STEVENSON. I hope that we can go beyond the amendment and provide for public service employment.

Mr. PERCY. Mr. President, will my colleague yield to me?

Mr. STEVENSON. I am happy to yield to my colleague from Illinois.

Mr. PERCY. I want to ask my colleague some questions. I also have some commentary and a statement to make on this motion. I am very much pleased to support the motion and I am delighted to have the personal support of the distinguished majority leader for it, as well as that of Senators COOPER and TAFT. I think that this represents a broad spectrum of support that has been gained on both sides.

I would like to review briefly my understanding of this motion for purposes of clarification of the record. The benefit level of $2,400 is identical, then, with the benefit level in administration-supported amendments and the administration-supported H.R. 1; is that not correct?

Mr. STEVENSON. That is correct.

Mr. PERCY. The work requirements are identical, as I read it, with the administration position on H.R. 1; is that not correct?

Mr. STEVENSON. There is a slight difference. The administration's position originally would have required that mothers with children over 3 years of age would work. In this amendment, with the approval of the Senator from Connecticut (Mr. RIBICOFF) and the approval of the Secretary of Health, Education, and Welfare, only women with children 6 or older would be required to work. The reasons are obvious. We do not want to take mothers away from their children who are that young.

Mr. PERCY. The administration has

agreed to the provision regarding 6-year-olds.

I notice a slight difference in the penalties for refusal to register for work or for training, but the difference seems to be insignificant. In principle, the Stevenson motion once again corresponds with the administration's stated position.

I do notice a great difference with regard to State supplementation of benefit levels. The Stevenson motion contains a requirement for State supplementation, however, there is no such provision in the administration's supported H.R. 1. As I understand it, the administration's cost estimates assumed State supplementation of benefit levels; therefore, there is no real difference in costs between the two provisions.

Mr. STEVENSON. No difference in cost. The Senator is right. It requires maintenance of effort. Secretary Richardson in his discussion with Senator Ribicoff had no objection to this requirement. In fact, the administration in its earlier cost projections had assumed, and rightfully I think, that all States would accept the option to supplement benefit payments to their present level if that level is now above $2,400. So this would involve no change in cost over the administration's estimate.

Mr. PERCY. From the standpoint of fiscal relief to the States, the difference is that the Stevenson motion incorporates the so-called Percy amendment for interim fiscal relief, which the administration unequivocally supports. The Senator from Louisiana (Mr. LONG) has also indicated his support in principle. Given such support, most of the States have incorporated their potential fiscal relief allotments in their State budgets. The Stevenson motion simply reiterates and incorporates a provision that the administration is clearly on record as supporting.

Mr. STEVENSON. The Senator is right again. In this case, he can speak from his own experience because no one did more than he to win administration support for the emergency relief and the fiscal relief position which he has introduced earlier and is now incorporated in this amendment.

Mr. PERCY. I notice one additional area of difference. The administration supported H.R. 1 provides that welfare recipients required to work are paid three-quarters of the minimum wage. The provision that has been offered by my colleague, (Mr. STEVENSON) on the other hand requires a Federal minimum wage to be paid to those recipients. Again, from the standpoint of fiscal responsibility, this involves no additional cost to the Federal Government. In fact, if the minimum wage is paid to low-income earners, this would then mean that the supplement for the working poor would not be as great.

Although there is this difference, I would hope that support of the administration could be gained for what I consider to be a very humane, sensible, practical, and down-to-earth amendment offered by my colleague from Illinois.

Mr. STEVENSON. I am very grateful to my colleague (Mr. PERCY). Every point he makes is correct. Once more I cite the bipartisan nature of this effort, which is long overdue, for social reform in the country. I am very grateful to him for his support and for all the help he has given on this.

Mr. PERCY. Mr. President, I should like briefly to conclude by congratulating my colleague, who deserves to be congratulated. He has made it possible for us to vote on something that can bring us to the moment of truth for meaningful welfare reform. If we do not adopt such a motion, I believe that we will have brought about what the New York Times has called another long night of despair for millions of people on welfare. We are all victims of this failure. Those in America unable to work, mothers with preschool children, the infirm, and those who care for them, will continue to suffer from the intolerable inadequacies of the present system if we do not adopt this motion.

Certainly my distinguished colleague is aware of the fact that I sent out 400,000 questionnaires throughout the length and breadth of the State of Illinois, to inquire what the people's attitude was toward the welfare program—both the taxpayers as well as the recipients of welfare.

I know that my colleague is familiar with the fact that 220,000 put their own postage on that survey to write back and forcefully say, "Junk the present system." Ninety-eight percent of the responses were for doing away with the present system. This is what the Finance Committee has addressed itself to. But we disagree with the Finance Committee version because we do not feel that the bill as it now stands will adequately provide for the welfare needs we see in our State.

Let us salvage something from 3 years of work on welfare reform and save the taxpayer who must pay the bills for an inadequate, inefficient, and inhumane system, a jumble of 1,522 different welfare systems

The motion the Senator from Illinois (Mr. STEVENSON) is offering today will, I think, do that.

Mr. STEVENSON. Mr. President, I thank the Senator. The Senator recognizes that the welfare system is an abomination in our own State. In fiscal 1971 alone, the number of AFDC recipients went up 48.2 percent. The costs increased 52 percent. That is in just 1 year in the State of Illinois. The people of our State and the people of the Nation recognize, as the Senator has already indicated, that the system is an abomination. We cannot tolerate it any longer.

The President recognized this in his March 27 message to Congress when he said:

> We need reform this year so that, instead of pouring billions more into a system universally recognized as a failure, we can make a new start. This——

"This" means H.R. 1. I continue to quote:

> is the most important single piece of social legislation to come before the Congress in several decades. No legislation should have a higher priority.

Mr. President, as the Senator from Illinois, the Senator from Kentucky, and the Senator from Pennsylvania, the distinguished minority leader have recognized, this proposal is substantially the same as H.R. 1. The few differences that exist are reforms. And they are reforms that are agreed to by the administration through the Secretary of Health, Education, and Welfare.

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

The yeas and nays were not ordered.

Mr. COOPER. 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.

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

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion offered by the Senator from Illinois to recommit the bill with instructions to report forthwith the amendment made a part of the motion.

Mr. BENNETT. 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. HARRY F. BYRD, JR. 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. HARRY F. BYRD, JR. Mr. President, I rise to discuss the motion offered by the distinguished Senator from Illinois (Mr. STEVENSON).

What the Senator from Illinois proposes to do is to substitute for the committee proposal the basic concepts of H.R. 1 insofar as it deals with welfare. In other words, the Stevenson proposal is basically the proposal which twice passed the House. It is the same proposal basically that was disapproved and voted down by the Committee on Finance.

Mr. President, I want to state my reasons for opposing H.R. 1.

First, the testimony before the committee in regard to H.R. 1 shows clearly that it is lacking in work incentives.

Second, the cost of the proposal will be at least $5.5 billion more than the cost of the present welfare program.

Third, it will require 80,000 new Federal employees to administer it. It is true, as was pointed out yesterday by the distinguished Senator from Connecticut, that some of these 80,000 will be persons presumably who are now on State or city rolls. But my opposition is to increasing the number of new Federal employees by 80,000.

The Department of Health, Education, and Welfare now has approximately

110,000 employees. It is already too big; it is not being efficiently or effectively administered, and when you add 80,000 more I submit that is going to be that much worse.

The fourth reason I oppose H.R. 1 is that it writes into law the principle of a guaranteed annual income. I think that is a mistake. I think that is a wrong direction for this country to go.

What we want to do is to get people off of welfare and into jobs. H.R. 1 does not do that.

The testimony before the committee and the figures submitted before the committee show that H.R. 1 would virtually double the number of persons drawing public assistance. Mr. President, this is not welfare reform; this is welfare expansion. I invite attention to the table on page 421 of the committee hearings.

Now, many persons want welfare expansion and certainly they are entitled to their views. The senior Senator from Virginia wants welfare reform; he opposes welfare expansion.

This matter of Congress passing legislation which will virtually double the number of individuals drawing public assistance certainly does not appear to me to be very logical. The proposal offered by the Senator from Illinois (Mr. STEVENSON) provides for a minimum figure of $2,400. That is just one of the proposals floating around, and if that proposal were adopted it would just be the ante in a never-ending poker game.

Mr. President, if you are going to adopt the principle of a guaranteed annual income——

(There was a demonstration in the Gallery.)

Mr. HARRY F. BYRD, JR. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. The Sergeant at Arms will clear the galleries to preserve order in the galleries.

Those in the galleries must realize that they are guests of the Senate and they must conduct themselves as such or the galleries will be cleared.

Mr. COOPER. Mr. President, I suggest that those people standing up in the galleries be cleared from the galleries.

The PRESIDING OFFICER. The Senator will kindly proceed.

Mr. HARRY F. BYRD, JR. If we write into the law the principle of a guaranteed annual income, how can anyone justify making that figure less than the poverty level? If the Congress of the United States is to say that the American Government is obligated to provide a minimum annual income to all citizens, then how can one justify, as a matter of principle, as a matter of conscience, making this figure less than the poverty level?

I put that question to Governor Rockefeller of New York when he testified before the Senate Committee on Finance and his reply, in essence, was—

> It is difficult to justify making the figure less than that of the poverty level, but we must start somewhere, and we can start at $2,400, although I prefer $3,000, and then quickly get it up to the higher figures.

Of course, that is exactly what will happen.

There were charts in the Senate Chamber yesterday showing how many individuals would be placed on welfare and would be drawing public assistance if and when a guaranteed annual income is written into law and the figures are upgraded, as they certainly will be.

The proposal of the Senator from Illinois would mean that, instead of the present 12 to 13 million persons on welfare, that figure would go up to somewhere around 22 to 24 million.

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

Mr. HARRY F. BYRD, JR. I yield.

Mr. COOPER. I know there have been differences in the figures which have been provided by HEW and the figures that the Finance Committee has developed on costs and the numbers of eligible persons. Is that not correct?

Mr. HARRY F. BYRD, JR. That is correct.

Mr. COOPER. I would like to say that according to the figures furnished my office by HEW today, the cost of the current welfare program, with no changes is about $12 billion. The cost of H.R. 1, as passed by the House, would be $15.4 billion. The amendment offered by the distinguished Senator from Illinois costs virtually the same as the House bill—$15.4 billion.

I think when the Senator said that 24 million persons would come under this program he was thinking about the Ribicoff proposal of yesterday, which provided benefit levels of $2,600. The estimate given me on H.R.1, as it would be modified by the Stevenson motion, is that there would be 19 million persons as against 12 million now receiving welfare.

I want to put these estimated figures into the RECORD, because these are the figures given to us by the Department of Health, Education, and Welfare.

I wanted to ask the Senator——

Mr. HARRY F. BYRD, JR. Before the Senator leaves that point, the figures to which I have referred are in the voluminous committee hearings, and I do not want to take the time of the Senate at this time to find them, but I will put them in the RECORD. They were given to the committee by the Department of Health, Education, and Welfare, and they differ substantially from the figures given by the Senator from Kentucky.

Mr. COOPER. I understand that there are differences in the estimates arrived at between the Finance Committee and HEW itself.

If the Senator will permit me, I would like to question him on an argument he has just made. I have followed the Senator's position for several years. I know his position on H.R. 1. Also, I read today in the RECORD the speech he made yesterday. I did not hear him make it, but I read it this morning. I understand perfectly his position—it is a consistent position—he fears that a guaranteed income will work to continue people on welfare and, as the Senator says, the guaranteed income will in all probability be raised to whatever the poverty level is.

But, we are talking about two groups of people. The first group consists of people who are physically able to work, and the second group consists of those people who, for what ever reason, are incapable of working.

Is is not true that the committee bill guarantees an income to all those individuals capable of working?

Mr. HARRY F. BYRD, JR. I am not going to argue for the committee bill, because I am not sold on it, but the committee proposal guarantees jobs, which is different from guaranteeing income.

Mr. COOPER. The committee proposal would establish a work administration. Is that not correct?

Mr. HARRY F. BYRD, JR. That is correct.

Mr. COOPER. I do not know how many employees that would require. Can the Senator state how many employees that would require?

Mr. HARRY F. BYRD, JR. No, and that is one of the reasons I gave yesterday for voting for the Roth-Byrd proposal, to test out the committee proposal, to test out the House proposal, to test out the Ribicoff proposal, because I am no satisfied with any of those proposals.

Before we get into vast new programs, we should test them out. That is exactly why I voted as I did, because I think what we ought to do, and I think what the Senate ought to do, is test all these out, and then come back, after the result of those tests is obtained, and have the Senate make a judgment.

Mr. COOPER. First I speak of those who have the ability to work, who are physically able to work. The Finance Committee bill, in effect, says that we will put everyone to work doing something. Is that not correct?

Mr. HARRY F. BYRD, JR. Give them an opportunity for a job.

Mr. COOPER. But they must work at something to be eligible and they must be paid for it, so it does guarantee them some kind of income.

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

Mr. HARRY F. BYRD, JR. I prefer not to get off the point. I am not one to argue for the committee bill, because personally I am not completely sold on it. I am speaking in opposition to H.R. 1, which is the Stevenson proposal.

Mr. COOPER. Is it correct that those who are not able to work would just remain on welfare in the same condition in which they are on welfare now?

Mr. HARRY F. BYRD, JR. I think that the American Government, we in the Congress, and the American people have a deep obligation to help those citizens who are physically and mentally unable to work, and I am willing to do whatever is necessary to help those people and see that they are taken care of; and they are taken care of in the bill before the Senate.

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

Mr. HARRY F. BYRD, JR. I yield.

Mr. COOPER. May I respond that the purpose of the amendment offered by the Senator——

Mr. LONG. What have we found in our efforts to put these people to work? Welfare is so much more attractive than work that once you put them on welfare, and they find out that when they work they lose their welfare money, and it is so much more comfortable to have the

money flow in without working, there are very few of them you can manage to move off into jobs.

Therefore, the majority of us in the committee felt that, rather than build up the number of people on welfare and then try to get them off, which tends to be a very, very difficult task—and have all the problems that you have where, when the people do go to work and make something, they do not want to report it, but keep it a secret, so that the few that will do some work will do it only on the condition that they are paid in cash with no records kept—we would not put them on welfare to begin with.

The problem of the committee was to try to see that we help the people on welfare by putting them on jobs, so that they will not be on welfare. The committee approach was not to put people on welfare and then try to get them to go to work, as the family assistance plan would do, because even the people on the family assistance plan only estimate that there will be about 2 percent of those people who go to work. Rather than put them on welfare and try to get them to go to work when they find welfare so much more comfortable and more satisfactory, the approach of the committee was to say, "Don't put them on welfare, offer them a job"; so they are not offered a welfare check, they are offered a job.

When people compare the cost of the two proposals, and say it will cost more, they ignore the fact that when you offer them a job you are doing something that will benefit society.

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

Mr. LONG. I yield.

Mr. HANSEN. I think it is important that the distinguished Senator from Kentucky understand this one big difference. As I recall, his question to the distinguished Senator from Virginia was, Does the committee proposal amount to a guaranteed income?

I say it does not, because as I understand the proposal—and I share the same doubts and misgivings that are held by the Senator from Virginia—the difference is that we want to try out these plans. The committee's plan does not guarantee that everyone now on welfare will receive a certain level of income. All of those abled-bodied persons who have school age children will be given no more than the chance to work. The Government, under this proposal, will guarantee that they will be offered a job, but it does not guarantee that they are going to have a certain amount of income. If a person is able-bodied—and I would like the Senator from Virginia to tell me if I correctly understand the committee's proposal—if an able-bodied person is offered a job, and then choose, on his own volition, not to take that job, he is not going to receive any income. If he wants to sit there and starve to death, that is up to him. But if he is able-bodied and can work, the committee proposal simply says, "We will guarantee you that you will have a job. Either you will find it in the open, free job market, or the Government will offer you a job." Am I right about that?

Mr. HARRY F. BYRD, JR. The Senator from Wyoming is correct; and basically, just as the Senator from Wyoming says, the committee proposal in essence guarantees a job, while H.R. 1 guarantees an annual income. They are, of course, two different approaches.

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

Mr. HARRY F. BYRD, JR. I yield.

Mr. COOPER. I think I understand the work plan, but may I say this: There are just so many people who can work, and there are just so many jobs available, for the purposes of the committee bill and the Stevenson proposal.

What the committee bill does, in effect, is to set up a work administration comparable to the old WPA, where they will all have to do some work.

Mr. HARRY F. BYRD, JR. That is right.

Mr. COOPER. They must work and you pay them for it, and to that extent it is a guaranteed income. But I would like to make another statement.

What concerns me about the Finance Committee bill is that there will still be hundreds of thousands of people on welfare who cannot work. We know that. And for them, it would continue the same old welfare system, with all the disparities in the amounts that they receive from different States, with the differing eligibility criteria, living under awful conditions.

Moreover, there is no difference between the proposals in that if able-bodied applicants are offered work or training they have got to take it, or they will lose their welfare. The Stevenson bill does provide job safeguards and only under these situations may an applicant not be required to work as a condition of receiving aid.

Mr. HARRY F. BYRD, JR. What they must do under H.R. 1 is register to work. They do not have to take the job.

Mr. COOPER. They have to do the same thing, register for work or training, under this proposal.

Mr. HARRY F. BYRD, JR. I am speaking of H.R. 1, the proposal by the Senator from Illinois and the proposal which passed the House.

Mr. COOPER. They have to register for work. As I see it, the chief distinction between the two bills is that in the committee bill we just maintain the old welfare system. It would keep millions of people in the same position they are in today, if they cannot work.

As to those who can work, it would set up a vast WPA, and they would be required to work at substandard wages. There are just not enough jobs for those who are able to work.

Our proposal can be called reform. We are not keeping the same system which has continuously brought more and more people into its web and left them without any incentive for work, for education, left them without any incentive to try to move up, and which mortgages the future of America.

I know in my own State—and I am sure the Senator from Virginia knows this, as he knows my great respect for him. Virginia and my State border, and we have the same kind of hill country just across the line from each other—that some of the families there have been on welfare now since the days of the WPA.

Because of the way that America has been pointing to eastern Kentucky so many times as a poverty area, I have traveled it year after year. I know it well, and I know the people there, and I have seen what has happened to them.

Forty years ago they were practically all the same, whatever their station in life was, whether they were rich or poor. There were not many rich people, but they all had a feeling of independence and equality. None felt inferior to the others.

But this system has grown, and they have become a class apart. We have a two-class system in America today, and, they mingle only with each other, and have lost a great deal of their opportunity.

Some can only talk in a vocabulary of a few words. I am sure it is true also in the inner city.

This is what is happening to this country. It is happening, in my opinion, not because it is not a humanitarian thing to help people who need food, who need clothing, who need medical care, but because we have kept a system which is institutionalized, which has no incentives at all. I do not know of an incentive in the welfare program to cause a person to want to go to work, unless it is in his heart to go to work, and he will never learn to work unless he has the experience of working. It is my opinion, with whatever wisdom I have—and I know the work the committee has done on this matter—that all this has left us with is the old welfare system for millions of people and a sort of WPA for the rest.

Mr. HARRY F. BYRD, JR. I agree with the appraisal of the Senator from Kentucky as to the present welfare program. I think it must be revised. It is outmoded. It must be changed.

The point at which we appear to differ is that H.R. 1 is a welfare reform. I do not see it as a welfare reform. I see it as welfare expansion. There is no work incentive in H.R. 1.

The Senator from Kentucky mentioned the lack of incentive under the present program, and I agree; but there is no incentive in H.R. 1, either, and that is one reason why I am opposed to it. It is lacking in work incentives.

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

Mr. HARRY F. BYRD, JR. I yield.

Mr. HANSEN. I agree with the distinguished Senator from Virginia.

Is it not true that what H.R. 1 seeks to do is to reunite the classes? The distinguished Senator from Kentucky spoke about welfare being institutionalized, that it made separate and apart two classes of Americans—those who work and are self-supporting and those who are on welfare. Yet, all I can see that H.R. 1 intends to do is to try to blur and obliterate this very clear line of demarcation, simply by saying that those who do not work, whether they are unable to or not, should enjoy a certain level of

income, anyway. I do not think we ought to argue about that. I think we all agree that the old, the blind, and the disabled ought to be taken care of even better than they are now. H.R. 1 proposes to meld these divergent groups into one, simply by saying that those who do not earn anything for themselves should enjoy a certain level of income anyway. On the other hand, I think that realistically the Finance Committee—and I would invite the Senator from Virginia's comment on this point—takes the position that the way to reinstill self-respect is to give all able-bodied citizens an opportunity to earn what they receive.

It makes little difference, in our judgment, whether they may begin their life of work in America as employees for a private corporation or a company or an individual, or whether they begin it in a public work job. There certainly are plenty of things to do in America. It is not true that there are not enough things to do to employ everybody. It is true that with the present welfare system there is little incentive for a great many Americans who are able to do work, who are physically qualified in every respect, who do not have obligations at home which would preclude them from entering the work force, but who simply choose not to work because it is easier to get by on welfare.

Would the Senator comment on that point?

Mr. HARRY F. BYRD, JR. I think the Senator from Wyoming has summed it up aptly and accurately.

What the committee sought to do—I say frankly that I am not 100 percent sold on the committee proposal, particularly because of the cost—what the committee sought to do, and I approve the concept, is to create job opportunities, to encourage people to work, to try to get people off the welfare rolls, to get them into jobs, where they can be self-respecting, where they do not need to rely on the Government. That is the basic approach of the committee proposal. It is exactly the opposite approach from H.R. 1 and the many other proposals that have been advocated. What the other proposals would do would be to put more people on public assistance.

I am taking these figures from memory, and if I am in error, I hope I will be corrected. As I recall, if we go to a $3,000 guaranteed annual income, we will have 40 million people——

Mr. LONG. Thirty-five million people.

Mr. HARRY F. BYRD, JR. Thirty-five million people on welfare. Then, if we go to $4,000——

Mr. HANSEN. Sixty-seven million.

Mr. HARRY F. BYRD, JR. If we go to a $4,000 guaranteed annual income, it will go to 67 million people. If we then go to $6,500, which has been advocated by one Member of this body and by the National Welfare Rights Organization, we will be approaching the figure of 100 million people on public assistance.

I do not see how the Government of this country can support such vast numbers of people drawing public assistance from the Government, whether it be 35 million, 40 million, on up to nearly 100 million people.

There is not enough money in the Treasury to do it. In my judgment, there is not enough money in the pockets of the wage earners to do it.

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

Mr. HARRY F. BYRD, JR. I yield.

Mr. LONG. If this amendment is adopted, in the little State of Louisiana, with about 2 percent of the population, the number of people on welfare would be increased from an estimated 473,000 to 823,000 people. That includes the aged, when you include the family assistance plan, and these are persons eligible under H.R. 1. That is just in Louisiana, one little State.

I say to the Senator from Virginia that I do not know one person in Louisiana who thinks we ought to add another 400,000 people to the welfare rolls. We do not want it—if for no better reason than you cannot get anybody to go to work down there, the way it is now.

I was talking to a State senator who was an old grassroots populist until the welfare got out of hand. He told me that he went out to try to get some hay in, and he got his old father, who was an old share-the-wealth man himself, to help him bring in the hay. The father said, "Son, we can't do this by ourselves. Go downtown and get some young fellows to help us."

The son went to the heart of the town, the main crossroads. He begged and pleaded and could not get a soul to come out to help them bring in the hay. He offered any amount of wage that seemed reasonable.

The father said to the son, "Son, if you go back and vote for any more of this welfare stuff, I'm going to whip you personally, as your daddy, just like I did when you were a little boy, for ruining people. You are having your old, broken-down father help you get the hay in, and you can't get any of those young fellows to help you do anything, because you've made welfare so attractive that nobody will do anything but hang around the beer parlor or sit on the porch relaxing, passing the time of day, while there's work to be done."

Perhaps the Senator has not had that experience in Virginia, but I can repeat it 50 times over in Louisiana, what people say about the frustration of trying to get someone to help with work on the farm or to do ordinary, every day work, when they are willing to pay the minimum wage or the going rate. You cannot get people to work. If that is not bad enough, now they want to add 400,000 to the rolls. Then who is going to do some work?

One would think that Mississippi would be supporting this proposal. In the State of Mississippi, there are an estimated 269,000 people on the rolls. They would increase that to 626,000. One would think they would be tickled pink, getting all that money out of Illinois and Connecticut to put those people on the rolls. But they do not want to do it. They do not want to have anything to do with it. Why would they not want to tax people from all over the country? Goodness knows, Mississippi is a low-income State, so why would they not want to tax all the people and put one-third of the population of Mississippi on welfare? Because Mississippi is trying to move the State ahead, and they could not get anyone to work in the shipyards there, or to work in the factories which they are trying to bring into Mississippi, or to have people move their communities along, or to find people to do the ordinary everyday work that needs to be done to keep the State safe, to keep the State clean, and to improve its economy, as well as to build the public buildings which are needed, the roads and the highways.

We cannot get anything like that done if we are going to load down the welfare rolls with everyone.

Under this proposal, as the Senator knows, when someone does not go to work we put him on welfare, make him comfortable, with a comfortable level of income to do nothing, and then if he goes to work, as the Senator knows, they would then propose to reduce his income by 60 cents for every dollar he makes.

A 60-percent tax rate is a frustrating thing, even for the highly motivated individual who never did anything but work from the day he was big enough to lift a heavy object. As a matter of fact, we recognize that we have fixed it so that on earned income, not even a millionaire pays above 50-percent tax.

Mr. HARRY F. BYRD JR. Under this, it would go up to 67 percent.

Mr. LONG. They would start out by putting him on the welfare rolls, and then he would have a 60-percent tax rate or a 60-percent reduction in income when he goes to work by his own efforts, which would amount to a welfare tax that would exceed the income tax on earned income for a millionaire.

It is so frustrating that no one in his right mind wants to have anything to do with it. It could only mean that people would not report the earnings they were making on the side. They would work only on condition that they would get paid in cash with no record made of the transaction.

How would we ever find a jury that would find against one of these people, when one-third of the entire population of the State would be on the welfare rolls along with him? They would complain about harassment if we asked questions about their outside earnings. They would complain about the investigators coming around to find out where the income was coming from, all of which would be necessary, because we put them on welfare to begin with.

It would make a lot better sense to provide someone with a job opportunity. I am in favor of offering someone a job. Call it slavefare if we wish to call it that, but it does not make any sense to me to say that we would pay a person for doing work if he can get by without it.

Mr. HARRY F. BYRD, JR. This is a free country.

Mr. LONG. Is that not how this Republic began and how it built up its strength, by working to build a strong nation?

Mr. HARRY F. BYRD, JR. That is right.

Mr. LONG. Can the Senator tell me any country on earth that has prospered

under a scheme where we load down the welfare rolls with people and then drastically reduce their income by a depressing 60-percent rate?

Mr. HARRY F. BYRD, JR. The Secretary of HEW in his formal statement to the committee stated, he put the whole bill, the whole principle, the whole philosophy in capsule form, when he said that this is revolutionary and expensive. They are not the words of the senior Senator from Virginia. They are not the words of those opposed to the bill. Those are the words of the Secretary of HEW who has been advocating this bill for 3 years now.

No other country has been so foolish as to do what is contemplated in this proposal.

Mr. President, Daniel Moynihan is a brilliant man. He is one of the chief architects of H.R. 1. I do not agree with him, but he is brilliant. He is so brilliant that he is able to put into one sentence the whole scope of the bill, H.R. 1, which the Senator from Illinois seeks to have substituted for the proposal just adopted by the Senate as offered by the Senator from Delaware (Mr. ROTH) and myself.

Here is what Mr. Moynihan said about this proposal:

> This bill provides a minimum income to every family, united or not, working or not, deserving or not.

What the Senate is being asked to do today is to pass legislation which its chief architect says will guarantee a minimum income to the people, deserving or not. I repeat, deserving or not.

I just wonder whether that is the way the tax funds of the American people should be treated?

I have not heard the proponents of this $2,400 guaranteed annual income address themselves to the principle of whether, if we are going to guarantee an income, we can justify making it less than the poverty level. If we put it at the poverty level, we will put 81 million people on welfare.

Mr. JORDAN of North Carolina. Mr. President, will the Senator from Virginia yield?

Mr. HARRY F. BYRD, JR. I am happy to yield to the Senator from North Carolina.

Mr. JORDAN of North Carolina. Would the distinguished Senator from Louisiana (Mr. LONG) tell me how many people are on the welfare rolls in North Carolina? He has the table before him now.

Mr. LONG. The estimate is that—if I may be permitted to tell the Senator—248,000 are on the welfare rolls now in North Carolina. Under the pending proposal, there would be 821,000 people.

Does the Senator think he needs that many people on the rolls in North Carolina?

Mr. JORDAN of North Carolina. The reason I asked that question—and the Senator's figure is about right—here is an item from a newspaper in Burlington, N.C., last week, from one of the textile plants. I want to read it.

It says:

> WE HAVE JOBS
>
> We offer: Vacation bonus, retirement program, free hospital and life insurance, and good working conditions.
>
> Openings on second and third shifts in: Dye House, Finishing Dept., Inspecting Dept., Maintenance.
>
> Apply at: Personnel Office, Glen Raven Mills, Finishing Division.

Mr. President, these plants are begging for help. That is an advertisement from just one. Many others have plenty of room for other workers. It is true all over my State. It is certainly true in Washington, D.C. I know that. Just go out and try to hire anyone to do some work around your house.

Mr. LONG. Mr. President, furthermore, if we are going to buy the principle of a guaranteed annual income to these people, we cannot, over a period of time, guarantee them an income less than the poverty level. I do not have the poverty level figures for North Carolina. I believe the poverty level is four, but if the level would be three in North Carolina, it would put them up to 1,318,000 people on welfare. Does the Senator from North Carolina believe that his State is in need of another 1 million people on the welfare rolls?

Mr. JORDAN of North Carolina. We do not need as many as we have right now. What we need is about half of these people who are able bodied to go to work.

There are many businesses in North Carolina that are willing to train people at their own expense and they do not have to have any experience, if they will only take a job and stay there and work.

Mr. HARRY F. BYRD, JR. What the Senator from North Carolina is saying is that what we need to do, instead of doubling the welfare rolls or to expand the welfare rolls, is to reduce those rolls and get people into jobs.

Mr. JORDAN of North Carolina. Mr. President, there are jobs available. And if we increase the incentives to go on welfare, or whatever we choose to call it, we will have less people taking jobs than we have now.

Mr. HARRY F. BYRD JR. I think the Senator from North Carolina is quite right. If the people of the United States can understand this proposal and can understand what it would lead to, they would be against it. Suppose that we do start at $2,400, as the Senator from Illinois proposes and as the administration proposes. It is not going to remain there. I think we are all realistic enough to know that it will be a political football in every campaign in every election year. One candidate or another will say, "I am going to raise that level."

As I say, we have already had legislation proposed in this body in far greater amounts than $2,400. Yesterday we had a $2,600 proposal. The Senator from Oklahoma had a $4,000 proposal. The Senator from South Dakota had introduced a $6,500 proposal.

Once we start that principle—that is the point I am trying to suggest; it is not so much the money—once we adopt the principle of a minimum Government-guaranteed income there is no turning back.

As was so aptly said by the distinguished Senator from Idaho at one of the meetings of the Finance Committee—

> That is merely an ante in a never-ending poker game.

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

Mr. HARRY F. BYRD, JR. Mr. President, I yield to the Senator from Nebraska.

Mr. CURTIS. Mr. President, is it not true that the proposals now pending would double the number of people that are eligible for welfare over the amount that we now have?

Mr. HARRY F. BYRD, JR. Mr. President, let me state it a little more precisely than that. When the officials of HEW testified before the committee a year or so ago, they said that as a practical matter it would double the number of people on welfare. I refer to page 421 of the committee hearings.

Mr. CURTIS. Mr. President, in addition to all the billions of dollars it would cost, I think it would be very bad for public policy, because it means that millions of people who at the present time are self-sustaining and are getting along somehow would become welfare clients.

Mr. HARRY F. BYRD, JR. The Senator is correct.

Mr. CURTIS. Regardless of the cost involved, I do not believe that is a good thing for them. I do not think it is a wholesome situation. I believe that the individual and the family that gets along on their own have much more to gain and their children have much more to gain over the family that must be on welfare. And their people are not asking for this. It is a proposal to expand welfare to millions of people that are not asking for it.

Mr. HARRY F. BYRD, JR. The Senator is so right. It is a welfare expansion program. There is no reform in this.

Mr. CURTIS. There is no reform, and there is no possibility of reform, because I think if the proposal is examined, we will find that it has built in it provisions that will prevent the removal of anyone from welfare.

Mr. HARRY F. BYRD, JR. Mr. President, as the Senator from Louisiana brought out, it is lacking in work incentives because, when a person goes on welfare and then gets a job, he is penalized up to 60 percent or more of what he makes. So, there is no incentive for him to get off welfare.

Mr. HANSEN. Mr. President, would the Senator yield?

Mr. HARRY F. BYRD, JR. Mr. President, I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I call to the attention of the distinguished Senator from Virginia the hearings that were held before the Finance Committee on the days of February 4, 7, 8, and 9, 1972. The Senator will recall that among those testifying was William H. Shaker, of the Delta Associates International. I think that some of the points he made need to be called to the attention of Members of the Senate.

Mr. Shaker addressed himself to another situation. This man has done a rather considerable amount of research to find out and to extrapolate from the experience of other countries what might happen in America if we were to adopt some of these proposals—I was about to say idiotic proposals—that are made by various people.

I do not say that with reference to anyone in the Chamber. However, some ideas have been advanced that are beyond the realm of reason.

Mr. Shaker points out that if we were to adopt the Javits amendment, which would increase the guaranteed income for a family of four to $4,800, we would find that it proves the very points made by the Senator from Virginia, that once we start on this escalating treadmill, in every successive Congress we will find Members wanting to raise the ante a little higher.

Mr. Shaker points out what would happen under that situation. He said that in the State of New York if we were to guarantee each family of four an income of $4,800 a year, we ought to keep in mind that over three-fourths of a million jobs in New York today pay less than that amount. Eighty-five percent of the manufacturing sectors of North Carolina pays less than this amount of money.

The point Mr. Shaker develops is precisely this. A lot of people in this country who are working today are not making as much money as they would like to earn. However, they are self-respecting citizens, and they are taking care of their families. They are raising their families in the work ethic concept that I think is the very essence of America. And as we know from observation, they move up the ladder.

There is no place in the world today where there is as much social mobility as there is in America. And by that I mean the ability that a person has to begin at a low-wage level or low income and climb that ladder. However, the first thing we have to do to climb the ladder is to put a foot on the first rung of the ladder. One cannot start out with someone guaranteeing an income. That would mean that he would not have one leg on a rung of the ladder. He would have them both on the ground. That would apply to this proposal where we have the Government guaranteeing an income without lifting a finger or doing anything, except to register for work. And we have seen what a futile gesture that is.

All we have to do is to look at the record and we will see that for the past 20 years that idea has proven to be false. This idea has no reference to the fact that there will be a different peer attitude toward those people because they are on welfare, although they are able to work and have a chance to go to work but because of their own choice they have refused to go to work.

Mr. Shaker carries the comparison a little further. He points out that it is worth looking at the experience in South America between the years 1963 and 1968 to learn what happens when we guarantee people money for doing nothing.

I am not speaking about those who are unable to care for themselves—the old, the blind, and the disabled. We all agree that we want to take care of them and do a better job than we are doing now. And I suggest that we can do a better job.

Mr. HARRY F. BYRD, JR. We are unanimous in that view.

Mr. HANSEN. I suggest that we can do a better job if we can cut out some of the unnecessary expenditures that occur because of the mess our welfare system is in.

But anyway, with respect to those who can work and who have an opportunity so many times to work but who refuse to work, let us look at what happened in South and Central America. Between the years 1963 and 1968 Latin America had inflation, as did many other countries throughout the world. In Latin America the inflation that occurred in that 5-year period of time between 1963 and 1968 was 100 percent. We would all agree that is awfully high. But look further south at the country of Uruguay, one of the most advanced little republics in South America. Uruguay is a country with a very high percentage of literate people, way up in the nineties. People there had talents and skills that not everyone in America has. These were people who could read instructions, who could read and write, and who could do things. Yet, the country down there had a high level of income. About 15 years ago it chose to see what could be done about obliterating poverty, about the same as we would do in the proposal now before us for consideration. They passed many, many bills that are similar to the one before us now. What happened? Inflation in Uruguay between 1963 and 1968 increased not only 100 percent, as happened in Latin America, but rather it increased 1,600 percent. The gross national product plummeted; people were out of work because no longer was there any need to work; they were paid a very high level to be certain everyone was taken out of the poverty level.

Mr. Shaker concludes from this that when Government attempts to wipe out poverty through this sort of approach by paying people for doing nothing—recognizing that you do not raise the total productivity of the country by adding to either production or services, but simply by trying to put more money in the taxpayers' hands—you hurt a lot of people you do not intend to hurt. People on fixed incomes and social security are surely going to be hurt by the inflation which inevitably will result.

I think we should heed what Dr. Shaker said as we contemplate the very dubious merits of adopting the proposal before us.

Mr. HARRY F. BYRD, JR. I thank the distinguished Senator from Wyoming. I think those are very significant figures which he developed and placed in the RECORD. I think inflation is one of the great hazards that faces the American people today. And who is hurt most by inflation? It is the elderly people on fixed incomes, for the most part; it is people in the lower and middle economic brackets. They are the ones who are hurt the most.

This very expensive proposal, H.R. 1, which the Senator from Illinois seeks to have the Senate adopt today, would call for at least $5.5 billion more, according to testimony before the committee, than the cost of the present welfare program.

But as bad as that is, as bad as that cost is, that does not cause me as much concern as does virtually doubling the number of people on welfare; and it does not cause me as much concern as writing into law the principle that every family will be given by the Government a minimum income, a minimum income to every family, united or not, working or not, deserving or not.

That is what this proposal would do. They are not my words; they are not the words of the senior Senator from Virginia. They are the words of one of the chief architects of this legislation, Dr. Daniel Moynihan, who served in the White House for so long.

The proposal offered by the Senator from Illinois (Mr. STEVENSON) is a well-intentioned proposal. He wants to help people just as the Senator from Wyoming and the Senator from Virginia want to help people. We want to help people, but it is a difference in philosophy and viewpoint.

Mr. President, do you help people by guaranteeing an income to all these people whether they work or do not work? Do you help people by making them more dependent on government?

I say you do not in the long run. I say what you need to do is create job opportunities. We want to put people to work. I think we have too many people on welfare now.

This welfare system, as the conscientious and dedicated senior Senator from Kentucky brought out awhile ago, is in a mess. We need to change it, and I want to be sure that in changing it we go to something better and not something worse.

I submit that this program the Senate is being urged to support today, H.R. 1, the proposal by the Senator from Illinois (Mr. STEVENSON), will be far worse in the long run for the American people than the system we have now.

It virtually doubles the number of people on welfare. It is lacking in work incentives. It would require 80,000 new Federal employees, though many of those will be taken off of local and State rolls and put on Federal rolls. It would require 80,000 new Federal employees; it would write into law the principle of a guaranteed annual income.

I submit that all of those points go in the wrong direction. We need to head in the direction of creating job opportunities, and as much as I am opposed to spending public funds, I am willing to spend to guarantee job opportunities to our fellow citizens who do not have jobs. The Committee on Finance proposal seeks to do that.

I am concerned about aspects of that program, just as I am concerned about aspects of these other two programs. For that reason I feel the Senate acted very wisely earlier today in adopting the Roth-Byrd proposal to have a pilot test of the committee proposal, of H.R. 1 and of the Ribicoff proposal.

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

Mr. HARRY F. BYRD, JR. I yield to the Senator from Wyoming.

Mr. HANSEN. I thank my distinguished colleague.

Mr. President, let me say that I guess the experience I have had in the Com-

mittee on Finance reminds me of the story that was attributed to young Mark Twain, who at the age of 14 felt his father knew practically nothing, and he was amazed how much the old man learned in 7 years.

I must say that the more testimony I have heard and the more witnesses we listened to, the less certain I am in being right about anything.

I think I share the same misgivings held by the distinguished Senator from Virginia in not being certain we know precisely what we want to do, which underscores the good wisdom, in my judgment, in testing out these programs.

I am certain every plan we have had before us has been submitted by conscientious people who desire nothing but the best for this country. They want to encourage people to become self-supporting and to obliterate any stigma which may fall on the shoulders of young children through no fault of their own. These are thoughts shared by all of us but, frankly, I am strongly persuaded by two facts. One is the experience that other countries have had in adopting proposals similar to those that are now before us. Second, I am wary of embarking on uncharted seas we do not know about and writing into the law that, as of a certain date, absent the negative expression of either House of Congress, the law will become effective.

For those reasons, it seems only good sense now to know what we are doing. As a matter of fact, I recall that perhaps 2 or 3 years ago the distinguished Senator from Connecticut, formerly the Secretary of HEW, made the statement—I recall it very, very well—that, as Secretary of HEW, had he known at that time what the true costs of medicare and medicaid would, indeed, develop to be, he would never have recommended that sort of program without first having it tried out.

I am sure the Senator from Virginia will recall that statement by our distinguished colleague.

Mr. HARRY F. BYRD, JR. I recall it very well, and it made a tremendous impression on me. As a matter of fact, it was that comment, which the Senator from Wyoming just quoted, of the distinguished and able Senator from Connecticut (Mr. RIBICOFF) that was the genesis of the Roth-Byrd amendment, which the Senate approved today.

I think when we are going into new programs, when we are going into gigantic new programs, before we put them into effect nationally, just as the Senator from Connecticut stated in that committee meeting to which the Senator refers, we had better be sure what we are doing and we had better know a little more about the costs and we had better know a little more how they are going to work. Senator RIBICOFF suggested in that committee session that we pilot these out and get some understanding as to how they will work, rather than, to use the words of the Secretary of HEW, Mr. Richardson, put into effect a legislation that he says is "revolutionary and expensive."

Mr. HANSEN. If the Senator will yield for just one additional comment, let there be no doubt at all that the family assistance plan that has been talked about or proposed would constitute, indeed, a very major change in our country. I quote from the words of the Senator from Connecticut (Mr. RIBICOFF) before the committee, as they appear on page 2301:

> I think the country must realize that we are basically changing the social philosophy of the United States once we put this into effect. None of us can anticipate the consequences, but we are definitely starting this Nation into a new social program. You put 25 million people into a new social program and you are changing society. We do not know the impact that it will have on the people benefited, on the people outside the program, their concepts, their reactions, and what it will lead to.

I thank the Senator for yielding to me.

Mr. HARRY F. BYRD, JR. I thank the Senator from Wyoming.

Before I yield to the Senator from Mississippi, I just want to read into the RECORD several figures. I refer the Senate to pages 442, 443, and 444 of the committee hearings. They list by States the federally aided welfare recipients under the current law for fiscal 1973 and the persons eligible for welfare benefits under H.R. 1 for the fiscal year 1973.

Let me quote just a few figures. I quote figures for my own State of Virginia first.

Mr. COOPER. Mr. President, if the Senator will yield, will he tell us what he is reading from?

Mr. HARRY F. BYRD, JR. Pages 442, 443, and 444 of the committee hearings.

In my State of Virginia there are now on welfare 185,000 persons. If the proposal of the Senator from Illinois is enacted there will be 566,000 people eligible for public assistance.

If we go to the State of Texas, it will exactly double the number, from 771,000 to 1,571,000.

Then, if we go to Puerto Rico, Puerto Rico now has 339,000 on welfare, and under this proposal there would be 995,000, almost 1 million people—three times the present number.

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

Mr. HARRY F. BYRD, JR. I yield.

Mr. COOPER. The Senator says that under the proposal of the Senator from Illinois—and I happen to be one of the sponsors—these figures will increase by whatever number the Senator has given for Virginia and other States. Is the Senator talking about H.R. 1 as originally proposed by the President of the United States, where, in addition to dealing with welfare people, there would be assistance for the working poor?

Mr. HARRY F. BYRD, JR. I am talking about H.R. 1, which the Senator from Illinois emphasized in his comments today is basically the same as H.R. 1, the President's proposal.

Mr. COOPER. H.R. 1 as proposed by the President is not exactly the same as what is proposed by the Senator from Illinois. Senator STEVENSON was comparing the cost of H.R. 1 as passed by the House and the cost of his amendment.

Mr. HARRY F. BYRD, JR. I am merely quoting his own words. He said it basically incorporates H.R. 1. The Republican leader, Senator SCOTT, made the same statement to the Senate a few minutes ago.

Mr. COOPER. I am asking about the figures from the committee report. I ask the Senator if he is talking about the original proposal by the President, which dealt not only with welfare recipients but also the working poor.

Mr. HARRY F. BYRD, JR. Yes, I am talking about——

Mr. COOPER. That is different, so it cannot be said that if the proposal of the Senator from Illinois were to be adopted, those totals would go up as quoted from the committee report. I wanted to get that straight.

Mr. HARRY F. BYRD, JR. Well, if I may reply to the distinguished and able Senator from Kentucky, I am taking the exact words of the Senator from Illinois when he presented his proposal to the Senate.

He said this is basically the same proposal as H.R. 1. Perhaps it is not. I do not know. But he said it is and so did Senator SCOTT who supports the Stevenson proposal.

Mr. COOPER. I am a cosponsor, and I know it is not exactly the same.

Mr. HARRY F. BYRD, JR. The two Senators, Mr. COOPER and Mr. STEVENSON, will have to get together.

Mr. COOPER. Those who are able to work and those who are not able to work are in different categories.

Mr. HARRY F. BYRD, JR. The Senator from Kentucky and the Senator from Illinois will have to fight that out. I only know that Senator STEVENSON stated and what Senator SCOTT stated. They both agree it basically incorporates H.R. 1.

Mr. COOPER. I know he was saying the cost of his proposal is virtually the same as those of H.R. 1 as passed by the House.

Mr. HARRY F. BYRD, JR. Mr. President, I yield to the Senator from Mississippi.

Mr. STENNIS. I thank the Senator for yielding to me, and I shall be quite brief.

I want to compliment the Senator from Viriginia for his work on the bill. All members of the committee have worked hard on it. I especially commend him for sponsoring the amendment that he and the Senator from Delaware were successful in getting adopted this morning. I certainly gave it my solid support.

I know that the welfare problem is a grave one. I will support any reasonable make-work program, but I think, too, that the kind I have in mind will have to be worked out and developed over a period of time by experiments. I want a remedy, like anyone else, of the problem we have, but I do not want us to start down the road now with a guaranteed minimum income, because I believe that is the one road that will lead certainly to a deterioration of our society and cause an increase rather than a solution to the problem. In reality it will eventually seriously imperil the system of government that we have—I mean a representative government, with laws made by those who are elected by the people.

I believe that to embark on such a program—and it makes no difference who recommends it or the policy of what party it may be—would be to change the course of the history of our Nation. We would never be the same people again, if we go into this program.

I think, with great deference to the Chief Executive—and I have supported many of his proposals here on this floor—that it was a mistake, and an unfortunate mistake, when the Chief Executive, in good faith you will understand, made such a recommendation, because when the No. 1 officeholder, the Chief Executive of the Nation, comes out with a solid declaration like that, people pay a lot of attention to it and are inclined to accept it as sound, without full analysis.

As I say, human nature as I have found it in my years in public life—which has been a good long while—and my understanding of the motivations of people, including myself, lead me to believe that when we adopt the principle of a guaranteed minimum income with no work involved, no responsibility, no motivation, when all we have to do to qualify is just be a human being, then we undermine the basic foundation of self-government. I have no doubt about that, and I am deeply concerned about it. And, I have been since I have seen this program grow for years.

These problems are great. We cannot solve them overnight. But we have already moved in that direction. Let me state an actual illustration from my State.

I am not ashamed of the fact that we happen to have 1 percent more of our population on the welfare rolls now than the second highest State. We have had problems in proportion, but as the Senator from Louisiana has said, we are doing something about them. We do not want to be deluged now by a doubling of the welfare rolls and costs, making it impossible to move forward as we are moving forward now.

Let me give this illustration: I came in contact, about 8 months ago, with a very highly respected citizen of my home area. He had lived in the same community all of his life. He was then 77 years of age—honest, upright, respectable, a man of integrity. He was living in the same house where he was born. He had never traveled widely. He was not what we call educated.

I said, "Well, Joe, how are things in the community now?"

"Well," he said, "it is still a good place to live."

I said, "What do you mean, still a good place to live?"

"Well," he says, "we have not had any great violence, but things are not like they used to be."

He was in the car with me. I pulled off to the side of the road and talked with him in great earnest.

I said again, "Joe, tell me what the real trouble is."

Joe said, "Mr. Stennis, the people have stopped working."

There it was. He had never been versed in philosophy or economics, or psychology, although he was a great psychologist. He put his hand right on the soft spot.

I said, "Does that mean just some of the people?"

He said, "Far more than half of them."

Mr. President, I will give another illustration. I know of a little pulpwood cutting enterprise in that same community, where four men—big, stout, and robust, fine workers—with their power saws, were cutting pulpwood; they had a truck to haul it to the railroad station, and got $25 a unit for it. The landowner got only $6 of that amount. They got the rest and that was fine pay.

The county went on food stamps, 3 days later, two of those men stopped working. The other two men could not keep the truck busy, so that threw the other two men out of work, at least temporarily.

Mr. President, I have personal knowledge of those occurrences. Such is the human reaction. But I hope we will keep on trying until we find a way, but we shall never find it through a guaranteed minimum income.

Mr. HARRY F. BYRD, JR. I completely agree with the able Senator from Mississippi.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point pages 442, 443, and 444 of the committee hearings, a table showing the number of federally aided welfare recipients under current law for fiscal 1973 and, in another column, the number of persons eligible for welfare benefits under H.R. 1 for fiscal year 1973.

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

PROPORTION OF POPULATION RECEIVING WELFARE UNDER CURRENT LAW AND PROPORTION OF POPULATION ELIGIBLE FOR BENEFITS UNDER H.R. 1 BY STATE, FISCAL YEAR 1973

[Persons in thousands]

	Civilian resident population, 1973	Federally aided welfare recipients, current law, fiscal year 1973		Persons eligible for welfare benefits under H.R. 1, fiscal year 1973	
		Number	Percent	Number	Percent
Alabama	3,449.5	408.2	11.8	761.9	22.1
Alaska	353.7	16.4	4.6	25.3	7.1
Arizona	2,151.3	97.7	4.5	163.2	7.6
Arkansas	1,958.6	149.0	7.6	404.5	20.7
California	23,052.0	2,335.6	10.1	2,444.4	10.6
Colorado	2,529.9	146.2	5.8	190.6	7.5
Connecticut	3,353.4	141.5	4.2	200.2	6.0
Delaware	621.9	36.1	5.8	58.5	9.4
District of Columbia	734.3	101.7	13.8	144.9	19.7
Florida	8,195.3	449.9	5.0	917.6	11.2
Georgia	4,914.6	485.1	9.9	961.0	19.6
Hawaii	840.7	43.8	5.2	63.0	7.5
Idaho	720.8	30.6	4.2	52.4	7.3
Illinois	11,643.9	639.5	5.5	959.4	8.2
Indiana	5,503.8	168.1	3.1	355.4	6.5
Iowa	2,813.0	116.2	4.1	241.7	8.6
Kansas	2,252.8	104.0	4.6	234.1	10.4
Kentucky	3,247.4	259.8	8.0	621.0	19.1
Louisiana	3,792.5	473.3	12.5	823.7	21.7
Maine	982.7	91.9	9.4	131.0	13.3
Maryland	4,520.4	217.5	4.8	388.5	8.6
Massachusetts	5,990.7	417.5	7.0	536.3	9.0
Michigan	9,504.7	517.5	5.4	841.7	8.9
Minnesota	4,034.5	159.5	4.0	346.1	8.6
Mississippi	2,145.4	269.4	12.6	626.3	29.2
Missouri	4,851.4	332.3	6.8	555.5	11.5
Montana	687.3	26.0	3.8	51.8	7.5
Nebraska	1,508.4	57.5	3.8	124.3	8.2
Nevada	692.1	23.1	3.3	37.8	5.5
New Hampshire	815.5	30.9	3.8	49.1	6.0
New Jersey	7,900.4	517.6	6.6	603.3	7.6
New Mexico	1,032.5	100.1	9.7	144.1	14.0
New York	18,929.5	1,550.0	8.0	2,067.2	10.9
North Carolina	5,273.2	248.2	4.7	821.6	15.6
North Dakota	597.6	20.4	3.4	58.4	9.8
Ohio	11,160.3	523.7	4.7	928.7	8.3
Oklahoma	2,623.0	218.6	8.3	400.7	15.3
Oregon	2,282.2	138.1	6.1	203.5	9.0
Pennsylvania	11,918.3	880.2	7.4	1,267.5	10.6
Rhode Island	968.5	68.2	7.0	103.4	10.7
South Carolina	2,624.8	142.3	5.4	466.8	17.8
South Dakota	641.1	32.4	5.1	76.8	12.0
Tennessee	4,038.0	358.1	8.9	830.4	20.6
Texas	12,098.1	771.6	6.4	1,571.3	13.0
Utah	1,179.9	57.6	4.9	95.3	8.1
Vermont	474.3	25.1	5.3	44.8	9.4
Virginia	4,988.7	185.4	3.7	566.5	11.4
Washington	3,748.0	217.2	5.8	276.8	7.4
West Virginia	1,600.6	128.1	8.0	326.8	20.4
Wisconsin	4,678.6	138.2	3.0	311.7	6.7
Wyoming	327.5	13.7	4.2	23.3	7.1
Guam	104.0	2.8	2.7	3.5	3.4
Puerto Rico	2,953.7	339.1	11.5	995.8	33.7
Virgin Islands	100.9	2.6	2.6	3.9	3.9
Total	220,106.1	15,025.1	6.8	25,503.3	11.6

Mr. HOLLINGS. Mr. President, yesterday the Senate decisively said "no" to the Ribicoff welfare plan. It was an incredibly excessive amendment which, in my State of South Carolina, would have increased the welfare rolls by five-and-one-half times the present level. Now the Senate faces the Stevenson amendment, which is simply the House-passed version of welfare reform. Again, we read the language of "income maintenance"—a very fancy, very cloudy term for guaranteed annual income. This Stevenson plan, or H.R. 1, has two points in common with the defeated Ribicoff plan. First, it increases the Federal financial contribution to welfare by a staggering amount. Second, it would deal the death blow to the concept of eliminating poverty through a coordinated attack on the roots of poverty. It would kill our hopes of serving the poor through institutions instead of by cash handout. Mr. President, we cannot solve a problem

simply by throwing money at it. That may seem to be the easiest approach, and it may salve a nagging conscience by telling you that you are meeting the needs of the poor which are presently unmet in this land of plenty. But, in the end, you have not solved the problem and you have done a terrible disservice to the very people who most need help—the hungry, the blind, the old, the dependent children and their mothers—all those for whom welfare reform is desperately serious business. By injecting the issue of the marginal worker into this debate, we similarly lessen the chances of real help for those most in need. Right now we need to get to the core of the problem—and the core is the people I have just listed.

Everyone talks about the welfare mess, but no one does anything about it. The reason: The Congress is kept too busy trying to block the guaranteed annual income plans of the President, Senator McGovern, and the National Welfare Rights Organization. All these proposals for family assistance and welfare reform will, in fact, create a bigger mess.

What is the welfare mess? Most people think: First, too many people are on welfare; second, administrative costs are prohibitive—there is too much time and money spent investigating; third, too many welfare cheaters; fourth, welfare promotes freeloading; and, fifth, welfare imprisons the poor with such a pittance that they can never escape.

Now for the proposals. President Nixon and now Senator Stevenson propose to give every family of four in poverty $200 per month or $2,400 per year. Senator McGovern proposes $4,000 a year and the welfare rights group demands $6,500 a year. President Nixon and the welfare righters would double the welfare rolls from 14 to 28 million recipients. The Nixon proposal costs $11.7 billion. The welfare righters costs $50 billion. The Nixon and welfare rights proposal would require 80,000 more Federal employees and it would be 18 months before the first check could be issued. McGovern says he does not know how many more employees his program would require. It is obvious that these proposals make the welfare mess messier. And once again we have overpromised and underperformed. We tell the taxpayer the welfare mess has been eliminated and we tell the welfare recipient, "Your problems are over." But the problems for both have just begun. None of these plans provides for education, local participation, or for needed institutions. Supposedly, welfare families will get their $2,400 or $4,000 or $6,500, which in theory will not only solve their food problems—but also health, housing, education, and jobs. Not one of these plans provides one more doctor or hospital bed or classroom or a single additional dwelling. Even with money, where will the poor find these?

Without local participation and local administration—with just mailing out that check—where will the money end up? Higher grocery bills because of increased food prices, higher rents because the landlord knows he can get more money, excessive finance costs because the loan shark sees an opportunity for more profit and rising health care costs like we have seen with medicare. Just throwing money at a problem will not solve it. Look at New York City—they have tried it. They give $1 billion each year to their 1 million citizens on the dole—$1,000 a person. And New York has the biggest mess of all.

Today we are heading in exactly the wrong direction. Instead of building up institutions and service programs, the administration is tearing them down. Give them cash, the President says, as he eliminates day care centers and emergency feeding programs, plays numbers games with school lunch statistics while millions go hungry, and phases out food stamp and other feeding programs. A year after the guaranteed annual wage goes into effect, the overburdened taxpayer will be shouting, "Now you have the money—shape up, you bums." And the poor will still be distraught and hungry.

HUNGER

The Supreme Court has just ruled that States may pay families with dependent children smaller welfare benefits than those paid to the aged and disabled. The rationale is that the young are more adaptable than the sick and elderly, especially because the latter have less hope of improving their situation in the years remaining to them. Thus, we have enshrined into American jurisprudence the fallacy that the critical time in life is old age—that dependent children can improve their situation. False. Absolutely false. Forbid that we deny either the aged or the child. But of one thing we are sure: The greatest injury to the human brain is caused by malnutrition at infancy; and once suffered there is no hope of improving their situation in the years remaining to them.

The human brain consists of 13 billion brain cells. Ten of these 13 billion develop the first 5 months in the mother's womb, but as many as 2 billion or 20 percent of the cells never develop in some infants because of malnutrition of the mother. Once lost, these cells never repair. Later, the child can drink milk, take vitamins; body and bones will grow strong but the child will still end up a drone. From birth until 5 years of age the brain continues its rapid development. During this critical period, children born with normal brains can still lose growth from malnutrition and for the rest of life, the brain will not concentrate, it will not assimilate, it will not respond. All the rehabilitation and training you can give it will be just like water off a duck's back. And this injured human will be labeled a lazy bum. Everyone always asks who is going to pay for all this welfare. Already we have been paying through the nose. Those with underdeveloped brains fall behind in school, get out of sorts with their own age groups, resort to mischief and end up in jail. And the retarded suffer illnesses to a greater degree. Accordingly we build bigger jails, we readily pay $70 a day for hospital rooms, we appropriate millions for rehabilitation and mental institutions—continuing to treat the result rather than the cause. Hunger is the beginning of poverty. The poverty cycle goes from hunger to poor housing to inferior environment to ill health to faulty training to jail or joblessness to welfare. There are families who have been on welfare for five generations. To me, this is the welfare mess that must be corrected.

SOLUTION

First, the child in the mother's womb must be adequately nourished. Society scorns the expectant mother who cannot identify the father. But rather than penalizing the expectant mother, we should be worrying about breaking the vicious cycle by improving her offspring. Regardless of what we think about the mother's morality or deservedness, the child is not immoral. The child is coming, and it is society's child. This means nourishment for the child during those all-important months in the mother's womb. If the child is denied that, we can forget about he or she ever becoming a fully productive member of society.

Step two—Give the child a hot breakfast.

Step three—Provide a day care center. Then the mother can work, or at least the child can receive training in the proper environment. We voted for this in Congress, but President Nixon vetoed it calling it communal living. It is a cruel joke to look upon the welfare child's situation as a normal home. Rather than communal living, day care centers provide their only chance.

Step four—Complete the food stamp program and school lunchroom program. These have had shaky starts but are now proving their worth. The biggest objection we have to food stamps is that the poor swap the stamps for luxury foods or liquor. We should improve the policing of this but certainly the solution is not to give cash.

Step five—Get at our health needs with comprehensive health centers that have worked extremely well along with our feeding programs but have for all intents and purposes been eliminated in this administration.

Of course, feeding programs for the elderly as well as children would be provided. Thereupon you would have the hunger and health problems being properly treated and you could move on up the line to housing, education, and job training. Poverty must be treated on a case basis. The programs of Government are all there. The elements of local participation and local administration so necessary to the success of any program are all there. We have the categories of hunger care, health care, dependent children, welfare mothers, the aged, blind, sick, and disabled. What adulterates all the proposals before Congress is the attempt to bring poverty families above the poverty line—$4,110 for a family of four. This involves putting millions of marginal wage earners on welfare. It involves massive forced-work schemes costing billions to create jobs and administer, which in turn creates more mess than before. Income maintenance for the marginal wage earner can be supplied by extending the food stamp program to the 15 million that are eligible and have yet to receive them, and putting food services in the 23,000 schools in America that still lack feeding facili-

ties. We can complete the housing program and institute health insurance. But let us hold up on cash until we get some facilities built and these basic problems solved.

I do not believe we ought to tax one man to pay another man who will not work, and I do not think Government should make welfare more attractive than work. But this is no reason why we can't go to the heart of America's welfare mess—hunger. After giving 81,000 complete physicals in 20 States, the National Nutrition S rvey found there were 15 million hard-core hungry in America. We were on course and about to solve this problem until Mr. Nixon came along with his grandiose guaranteed annual wage. Since that time we have been squabbling over workfare and welfare. The hungry have gone hungrier, and the taxpayer pays more and receives less.

COST OF SOLUTION

First. The number of people on welfare would remain practically the same—8 million children under the age of 21; 4 million disabled and elderly; 2 million mothers of dependent children; with 126,000 able-bodied men—less than 1 percent on welfare able to work.

Second. The cost for expanded family feeding programs—$3 billion; for an adequate school lunch program—another $1 billion; for a school breakfast system—$500 million; for day care centers—$2 billion; for comprehensive health centers—$5 billion. That is $11.5 billion.

Where do we get the money? Last December, I voted against the $15-billion tax cut. Granting business investment credits and depreciation allowances—these are the tax loopholes that everyone now wants to close.

The cost of 535,000 troops and dependents in Europe is $19 billion a year. Cut this back like President Eisenhower suggested in 1963 to 100,000, saving $12 billion. Spend $2 billion on the Sixth Fleet strengthening defense, and take $10 billion to solve the welfare mess. Eliminate the President's proposed Volunteer Army, saving $3 billion. This is $28 billion for starters—and all we need is 11.5. There is no need to increase taxes.

Mr. HARRY F. BYRD, JR. Mr. President, I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, I move that the motion to recommit the bill be laid on the table.

The PRESIDING OFFICER. Does the Senator from Virginia yield for a motion?

Mr. HARRY F. BYRD, JR. I yield to the Senator from Louisiana for the purpose of making a motion.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana.

Mr. LONG. I ask for the yeas and nays.

The yeas and nays were not ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. 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. LONG. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. STAFFORD). The question is on agreeing to the motion of the Senator from Louisiana (Mr. LONG) to lay on the table the motion of the Senator from Illinois (Mr. STEVENSON) to recommit the bill, with instructions. 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. INOUYE (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. ROBERT C. BYRD. I announce that 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 Rhode Island (Mr. PELL), the Senator from Maine (Mr. MUSKIE), and the Senator from Massachusetts (Mr. KENNEDY), 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 Rhode Island (Mr. PELL), would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BROCK), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from South Carolina (Mr. THURMOND) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 51, nays 35, as follows:

[No. 516 Leg.]

YEAS—51

Allen	Dole	Magnuson
Anderson	Dominick	Mansfield
Baker	Edwards	McClellan
Bellmon	Ervin	Miller
Bennett	Fannin	Packwood
Bentsen	Fong	Pearson
Bible	Fulbright	Proxmire
Boggs	Gambrell	Randolph
Buckley	Goldwater	Roth
Burdick	Gurney	Sparkman
Byrd, Harry F., Jr.	Hansen	Spong
	Harris	Stennis
Byrd, Robert C.	Hatfield	Stevens
Cannon	Hollings	Talmadge
Chiles	Hruska	Weicker
Church	Jordan, N.C.	Young
Cotton	Jordan, Idaho	
Curtis	Long	

NAYS—35

Aiken	Hartke	Ribicoff
Bayh	Hughes	Saxbe
Beall	Humphrey	Schweiker
Brooke	Jackson	Scott
Case	Javits	Smith
Cook	Mathias	Stafford
Cooper	Mondale	Stevenson
Cranston	Montoya	Symington
Eagleton	Moss	Taft
Gravel	Nelson	Tunney
Griffin	Pastore	Williams
Hart	Percy	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Inouye, against.

NOT VOTING—13

Allott	McGovern	Pell
Brock	McIntyre	Thurmond
Eastland	Metcalf	Tower
Kennedy	Mundt	
McGee	Muskie	

So Mr. LONG's motion was agreed to.

The PRESIDING OFFICER (Mr. STAFFORD). The question now recurs on agreeing to the amendment of the Senator from Louisiana (Mr. LONG), as amended by the amendment of the Senator from Delaware (Mr. ROTH).

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent for 2 minutes for the purpose of taking up a conference report.

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

INDUSTRIAL PROPERTY PROTECTION—CONFERENCE REPORT

Mr. FULBRIGHT. Mr. President, I submit a report of the committee of conference on House Joint Resolution 984, and ask for its immediate consideration, and that the printing as a Senate document be waived.

The PRESIDING OFFICER (Mr. STAFFORD). The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 984) to amend the joint resolution providing for U.S. participation in the International Bureau for the Protection of Industrial Property having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report, which reads as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 984) to amend the joint resolution providing for United States participation in the International Bureau for the Protection of Industrial Property, having met after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 1 and 2 and agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

On page 1, line 7, of the Senate engrossed amendments, strike out "4" and insert: "4.5"; and the Senate agree to the same.

J. W. FULBRIGHT,
JOHN SPARKMAN,
GEORGE D. AIKEN,
Managers on the Part of the Senate.

D. FRASER,
DANTE B. FASCELL,
Managers on the Part of the House.

Mr. FULBRIGHT. Mr. President, the differences between the two bills of the House and the Senate are very small. On the part of the Senate, they involve going up one-half a percentage point on the ceiling of 4 percent originally set by the Senate on U.S. contributions to the International Bureau for the Protection of Industrial Property.

Mr. President, I move adoption of the conference report.

The motion was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (S. 1497) to authorize certain additions to the Sitka National Monument in the State of Alaska, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the bill (S. 3943) to amend the Public Buildings Act of 1959, as amended, to provide for the construction of a civic center in the District of Columbia, and for other purposes, with an amendment, in which it requested the concurrence of the Senate.

SOCIAL SECURITY AMENDMENTS OF 1972

The Senate continued with the consideration of the bill (H.R. 1) to amend the Social Security Act, to make improvements in the medicare and medicaid programs, to replace the existing Federal-State public assistance programs, and for other purposes.

Mr. 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 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—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 feel 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 put off the day when we may have real welfare reform—a guaranteed income of 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 believe the best we can do 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 voted yesterday for the motion to table the Ribicoff amendment, and, during the further consideration of the pending bill, I will continue to vote in accordance with the views I have here expressed.

EAST-WEST TRADE RELATIONS ACT—AMENDMENT

AMENDMENT NO. 1691

Mr. JACKSON. Mr. President, I am pleased to submit and send to the desk an amendment in the cause of human rights and individual liberty; and I am proud to be joined in this effort by a bipartisan majority of 72 Members of the U.S. Senate. There are times when the depth of our commitment to our own deepest values is put to the test, and this is one of those times.

Last week when I spoke in this Chamber I quoted a great and wise man who, I am certain, would approve of what we are doing here today. The words are those of Alexander Solzhenitzyn, the Russian Nobel laureate, who was prevented by his government from traveling to the West to deliver them:

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

Despite the effort to silence Solzhenitzyn he has been heard; and because what he says is true, I am confident he will hear us today.

What we are here doing is a pale reflection of the magnificent courage that has been shown by those brave men and women in the Soviet Union who have risked far more than we to assert their claim to freedom. In joining them we deepen our sense of ourselves; and for their example of bravery it is we who should be grateful.

Mr. President, the tyranny the Soviet Government continues to inflict on its minorities of all faiths and persuasions, on its dissidents, its scholars, its scientists, and men of letters is a crime in which all who choose to acquiesce are implicated. To the oppression, which has become commonplace, we have now seen the Soviet authorities add a barbarous ransom on those Russian Jews who seek to emigrate to Israel. It is toward this most recent outrage that we have directed a specific section of our amendment.

Mr. President, the amendment is a simple one. It would deny the Soviet Union the access to the American economy that they have actively sought unless they alter their emigration policies. Specifically, unless they permit the opportunity to emigrate, we would deny them most-favored-nation treatment and we would deny them an opportunity to participate in Government credit programs or in programs of credit or investment guarantees. It is a severe measure—and, I believe, an appropriate one.

Once before, Mr. President, within our memory, the world stood by while an innocent people was all but exterminated. The remnant of that nightmare has established and now defends a brave and proud democracy. In a terrible time, the one bright light in the hopes of the Soviet Jews is the existence of the State of Israel. That Israel should exist is a modern miracle; that the Russian Jews should be denied the right to go there is a cruel and inhuman irony. It must be ended.

Mr. President, I am confident that our amendment will be understood in Moscow, and I am hopeful that the Soviet authorities will appreciate the wisdom of ending their senseless oppression of men who desire only the right to emigrate, to remove themselves from a totalitarian state in which they are deprived of essential human rights. I know, too, that the administration will reflect the judgment of the Senate and that the views that underlie this amendment will be impressed by them on the Soviet Government.

Mr. President, in moving as we are today we are giving birth to a bipartisan coalition for freedom. It is the least we can do.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of the amendment along with the names of the 72 Senators who have joined as cosponsors; my remarks of September 27, 1972, to Members of the Senate; and the text of a letter dated September 27, 1972, to Members of the Senate.

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

AMENDMENT NO. 1691

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

EAST-WEST TRADE AND FUNDAMENTAL HUMAN RIGHTS

SEC. 10. (a) To assure the continued dedication of the United States to fundamental human rights, and notwithstanding any other provision of this Act or any other law, after October 15, 1972, no nonmarket economy country shall be eligible to receive most-favored-nation treatment or to participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, directly or indirectly, during the period beginning with the date on which the President of the United States determines that such country—

(1) denies its citizens the right or opportunity to emigrate; or

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

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

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

(b) After October 15, 1972, a nonmarket economy country may participate in a program of the Government of the United States which extends credits or credit guarantees or investment guarantees, and the authority conferred by sections 3 and 6(a) of this Act may be exercised with respect to such country, only after the President of the United States has submitted to the Congress a report indicating that such country is not in violation of paragraph (1), (2), or (3) of subsection (a). Such report with respect to such country, shall include information as to the nature and implementation of emigration laws and policies and restrictions or discrimination applied to or against persons wishing to emigrate. The report required by this subsection shall be submitted initially as provided herein and semi-annually thereafter so long as any agreement entered into pursuant to the exercise of such authority is in effect.

COSPONSORS TO THE JACKSON AMENDMENT TO S. 2620

Senator Henry M. Jackson.
Senator Abraham A. Ribicoff.
Senator Warren G. Magnuson.
Senator Gordon Allott.
Senator James L. Buckley.
Senator Ernest F. Hollings.
Senator Birch Bayh.
Senator Edward J. Gurney.
Senator William V. Roth, Jr.
Senator John V. Tunney.
Senator Harrison A. Williams, Jr.
Senator James B. Allen.
Senator Clinton P. Anderson.
Senator J. Glenn Beall, Jr.
Senator Henry Bellmon.
Senator Alan Bible.
Senator J. Caleb Boggs.
Senator Bill Brock.
Senator Harry F. Byrd, Jr.
Senator Robert Byrd.
Senator Howard W. Cannon.
Senator Clifford P. Case.
Senator Lawton Chiles.
Senator Frank Church.
Senator Marlow Cook.
Senator Alan Cranston.
Senator Robert Dole.
Senator Thomas F. Eagleton.
Senator Paul J. Fannin.
Senator Barry Goldwater.
Senator Robert P. Griffin.
Senator Philip A. Hart.
Senator Clifford Hansen.
Senator Vance Hartke.
Senator Harold E. Hughes.
Senator Hubert H. Humphrey.
Senator Jacob K. Javits.
Senator Edward M. Kennedy.
Senator Gale McGee.
Senator George McGovern.
Senator Thomas J. McIntyre.
Senator John McClellan.
Senator Walter Mondale.
Senator Joseph M. Montoya.
Senator Edmund S. Muskie.
Senator Robert Packwood.
Senator John O. Pastore.
Senator James B. Pearson.
Senator Claiborne Pell.
Senator Charles H. Percy.
Senator William Proxmire.
Senator William B. Saxbe.
Senator Richard S. Schweiker.
Senator John Sparkman.
Senator William B. Spong, Jr.
Senator John Stennis.
Senator Adlai E. Stevenson III.
Senator Stuart Symington.
Senator Robert Taft, Jr.
Senator Herman Talmadge.
Senator Strom Thurmond.
Senator John Tower.
Senator Lowell P. Weicker, Jr.
Senator Howard H. Baker, Jr.
Senator Edward W. Brooke.
Senator Norris Cotton.
Senator Peter H. Dominick.
Senator Ted Stevens.
Senator Charles McC. Mathias.
Senator Daniel K. Inouye.
Senator Jennings W. Randolph.
Senator Lloyd Bentsen.
Senator Hugh Scott.
Senator Wallace L. Bennett.

EAST-WEST TRADE AND FUNDAMENTAL HUMAN RIGHTS

(Statement by Senator HENRY M. JACKSON)

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

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

Mr. President, the Nobel lecture of the great Russian writer, Alexander Solzhenitsyn, was recently published in the West. It is more than an eloquent defense of truth and justice. It is more than a sharp condemnation of tyranny. It contains the profound message that "mankind's sole salvation lies in everyone making everything his business, in the people in the East being vitally concerned with what is thought in the West, the people of the West vitally concerned with what goes on in the East."

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

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

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

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

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

Now, the Soviet leaders have explained that the exorbitant emigration taxes, amounting to thousands of dollars, are in reality a tax on education incurred by the student as a consequence of his state-supported studies. The more audacious Soviet spokesmen have gone so far as to compare these taxes to the obligation incurred by the graduates of our military academies who undertake to spend a specified period of time following graduation in the armed services.

In principle there is nothing wrong with the making of an agreement between student and institution of learning—or, for that matter, between the student and the state—in which the student undertakes certain obligations in return for his tuition. But that is not what is involved in the Soviet case and it is a lie to suggest otherwise. For one thing the emigration taxes have been retroactively imposed on all citizens. They do not arise out of any agreement or understanding or voluntary obligation. For another, the Soviet student is denied recourse to private educational institutions so that even if the obligations were placed on a voluntary basis, which they are not, there would be no way to avoid them. One would be forced either to accept the state's terms or go without any education. Moreover, the taxes imposed on emigration, unlike agreements sometimes made in Western countries to serve after graduation in a prearranged capacity, are prohibitive and intended to be so. Soviet citizens are simply not permitted to earn or amass the sums necessary to purchase their freedom. To attempt to borrow the huge amounts involved opens one to persecution for economic crimes, and no one earns the sort of income that would enable him to pay the visa tax for an advanced education without borrowing. So the funds cannot be generated internally.

The fact is, Mr. President, that a decision to pay the ransom demand would be to submit to blackmail of the most ominous sort. Where would it stop? Would it spread to other countries as aerial hijacking did when first attempted and then emulated? Would the remnant of scattered minorities, Jews and others, become the new medium of international exchange? Would we organize the agencies, arrange for the planes and ships,

transfer the foreign exchange, negotiate the prices—in short, would we institutionalize the sale of a whole people? I say no—and I ask the Senate to join with me in saying, No!

There will be those who will say, even as Mr. Brezhnev must surely have said to the President in Moscow, that the action we are proposing is an intrusion in the internal affairs of the Soviet Union. To this I would quote Solzhenitzyn: ". . . there are no internal affairs left on our crowded Earth."

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

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

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

U.S. SENATE,
Washington, D.C., September 27, 1972.

DEAR COLLEAGUE: We invite you to join with us in cosponsoring an amendment to Senator Magnuson's East-West Trade Relations Act. Our amendment would deny most-favored-nation treatment and participation in various U.S. credit programs to nonmarket economy countries that deny their citizens the right to emigrate or impose prohibitive taxes on such emigration.

The principal and immediate cause of our concern is the imposition by the Soviet Union of a head tax ranging from $5000 to $30,000—amounting to a ransom—on those Soviet Jews who wish to emigrate to Israel. This ransom, were it to be paid, would of necessity be paid out of funds raised primarily in the United States. We believe that broad, bipartisan cosponsorship of our amendment will let the Soviet Union know, while there is time for them to alter their present policy, that the Senate of the United States will not extend the benefits of access to the American economy to those who deny their own people the fundamental right to emigrate.

Some of us have for many years been advocates of increased trade with Communist countries; some of us doubt the wisdom of such a course. But all of us, regardless of our attitude toward the extension of U.S. trade benefits to the Soviet Union, are moved to the action in which we are asking you to join by the unconscionable attempt of the Soviet Union to ransom human beings.

We hope that you will join us in cosponsoring the attached amendment to the East-West Trade Relations Act of 1971. We feel this is the right time for Senators to go on record on this issue of concern to so many Americans. The vote on this legislation is likely to be taken early in the next session of Congress.

If you wish to join us in cosponsoring this amendment please have your office call either Richard Perle (x53381) or Morris Amitay (x52823).

Sincerely,

Henry M. Jackson, Abraham A. Ribicoff, Warren G. Magnuson, Gordon Allott, James L. Buckley, Ernest F. Hollings. Birch Bayh, Edward J. Gurney, William V. Roth, Jr., John V. Tunney, Harrison A. Williams, Jr.

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

Mr. JACKSON. I am happy to yield to my senior colleague.

Mr. MAGNUSON. Mr. President, I am glad to join as cosponsor of this legislation. It is of particular interest to me because, as my colleagues in the Senate have known, I have been long interested in the establishment of trade relations not only with the Soviets, but also with China. I have been interested in this matter for many years.

We have had a bill before the Commerce Committee for a long time. That measure is cosponsored by many Senators who cosponsor this amendment. This is done in the hope that we can work out tools for peace. We have made some progress.

I join with the Senators in cosponsoring this measure. I could not sit idly by. I have supported this for a long time. I am hoping by the time this is enacted, it will prove unnecessary. What the Soviets are doing today amounts to selling bodies.

Mr. JACKSON. Mr. President, I thank my colleague. I yield now to the Senator from Connecticut who has been long active in this matter.

Mr. RIBICOFF. Mr. President, I commend both the Senators from Washington and the leadership of the junior Senator from Washington (Mr. JACKSON) for this most important proposal. I also commend my colleagues, the Senator from New York (Mr. JAVITS), the Senator from Minnesota (Mr. HUMPHREY), and the senior Senator from Washington (Mr. MAGNUSON).

I, too, have been a supporter of East-West trade. However, it has been shocking to find that the Russians are dealing in bodies instead of goods at the present time.

We are for trade. More than two-thirds of the Senate is giving a loud and clear signal to the Soviet Union and our leaders in the executive branch that we are willing to do trade with the Soviet Union. However, unless they stop dealing in people we will not trade with them in goods.

Mr. President, I am gratified that so many of my Senate colleagues have joined today in sponsoring this amendment establishing a new section to S. 2620, entitled "East-West Trade and Fundamental Human Rights." And I wish to commend Senator JACKSON for his leadership in developing this amendment.

We all know that there is no reason for this legislation to be enacted during the current session of the Congress since no trade agreement with the Soviet Union has been completed. But the message this amendment conveys to the Soviet Union is crystal clear. Two-thirds of the U.S. Senate is now on record as opposing the granting of MFN status, credits, credit guarantees, or investment guarantees to any Communist country not now enjoying MFN status as long as such country denies its citizens the right to emigrate or imposes more than a nominal fee for emigration.

This measure applies squarely to the Soviet Union's current repressive tactics against its Jewish citizens and the outrageous head tax it has levied on those seeking to emigrate. It is now up to the Soviet Union to decide if it wants American trade concessions. If they do the Soviets will have to stop their trade in people.

It is particularly noteworthy that among those joining in this amendment today are many of those Senators who have consistently sought to expand and improve American economic ties with the East. Also supporting this effort are most of the 27 cosponsors of S. 2620—the East-West Trade Relations Act of 1971—and including the distinguished chairman of the Commerce Committee, Senator MAGNUSON, who introduced S. 2620.

This amendment does not mean that we are turning our backs on trade ties with the Soviet Union. But it does mean that the Senate is not prepared to close its eyes to the gross incompatibility between the Soviet treatment of its Jewish citizens and the spirit of detente. Unless the Soviet Union is prepared to abandon its present course of brutal repression against those who seek to live elsewhere, there can be no significant expansion of trade between the United States and the Soviet Union.

Frankly, I do not think that as rational men their leaders have much of a choice in this case. Economic realities dictate some accommodation with civilized standards of behavior and human decency.

The Soviet economy is in deep trouble. Not only has the agricultural sector been a disaster this past year, but steel and consumer production has fallen off. It is obvious that the Soviet Union desperately needs our wheat, our technology, and our capital investments to exploit their own mineral resources. As I noted in my report on East-West trade to the Finance Committee a year ago, the Russians have already been forced to come to the West for auto, truck and computer industries. They plainly need the benefits of a trade agreement at this point much more than the United States. If Messrs. Brezhnev and Kosygin are so eager to put price tags on people in order to earn hard currency, let them pay a price for this agreement—a display of respect for fundamental human rights.

The agreement that is now being negotiated has been described to me by economists as being extremely one-sided. Reportedly, all the Russians will eventually be paying back on their $11 billion lend lease debt is $500 million. This is less than 5 cents on the dollar—extremely generous terms. In return, they will permit selected American companies to set up offices in the U.S.S.R. in order for these companies to be able to invest more. There will also be made available to the Russians massive credits, access to advanced U.S. technology in a variety of fields, significant capital inputs, and most-favored-nation status for their exports.

In the light of these economic facts, I fail to see what commensurate benefits they can desire from continued persecution of Soviet Jews even though it is estimated they would gather $500 to $600 million in hard currency. Besides, the Soviet leaders do not have to answer to

aroused public opinion or a critical press when they shift policy direction.

About 2 years ago the Russians began considering levying large sums of money on those seeking to emigrate, supposedly based on repayment of educational costs. This did not become a reality until this past August 15 when a schedule of high fees was imposed. It has yet to be rubberstamped by the Supreme Soviet. The fees run from $5,000 to $30,000, but actually bear little relationship to actual education costs. Additionally, if there was a genuine concern about a brain drain, why are Soviet Jewish scientists who apply for emigration immediately dropped from their positions. Soviet Jewish leaders have indicated that they do not want this ransom to be paid. Once this is done they feel the Soviets will regress to even cruder forms of anti-Semitism.

While Soviet motives and rationalizations here are unclear, the practical results are that Soviet citizens seeking to leave Russia are being intimidated from doing so, and many young Jewish people have dropped out of school to avoid this tax.

Two weeks ago I stood here in the Senate and warned that unless the head tax was dropped indignation and protest over this outrage would mount. Since then both in the Senate and in the other body numerous Members of both bodies on a bipartisan basis have given vent to their feelings on this subject, establishing a linkage with improved trade relations with the Soviet Union.

Now we are going beyond verbal protests by pledging our support to an amendment which has teeth. Other less effective legislative measures were considered, but were wisely rejected. We have chosen a vehicle which can be attached in the future to any appropriate legislation which will be required to implement facets of any United States-Soviet trade deal. And we are determined to do exactly that if that is the only way to get this message across to the leaders of the Soviet Union.

I urge those of my colleagues on both sides of the aisle who have not yet had an opportunity to consider this amendment to do so. After they have, I hope that they will join with us in striking a blow for human rights and for the assertion of moral leadership by the Senate of the United States.

Mr. JACKSON. Mr. President, I thank the Senator from Connecticut.

I yield now briefly to the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I rise to commend the distinguished Senator from Washington (Mr. JACKSON) and others who have proposed this amendment. I am very pleased and honored to be one of its cosponsors along with 71 other U.S. Senators.

The amendment that has been proposed today, we should note, is prospective in the sense that it will be on the Magnuson bill which has been commented on by the distinguished senior Senator from Washington.

It is our hope that between now and that time diplomacy can have an ameliorating effect and that those who represent our country in the negotiations with the Soviet Union on trade and other matters will be able to convince the Soviet Union that we are very serious about this opposition and are very much opposed to the kind of fees and taxes that are applied to people of the Jewish faith who seek to emigrate from the Soviet Union.

I urge the Soviet Union and the distinguished representatives of their Government to take heed of this amendment, because what we are seeking to do here is not to obstruct trade but to uphold the cause of human rights.

This amendment is very important. It states that the Senate is determined not to ignore the gross violations of human rights which presently seem to have official Soviet sanction.

Our action will encourage the Soviet Union to remove their present schedule of exit fees which are based upon the education of an applicant for emigration. This action of the Soviet Union affects Soviet Jews who want to emigrate and desire to go to Israel.

Those of us who have long supported East-West trade want that trade to prosper and grow. But we regard this violation of human rights, the charging of exorbitant fees for visas or emigration fees as a serious barrier between our two countries.

The Jews in the Soviet Union are being persecuted. They are being denied the right to practice their religion and their right to emigrate, a right that the Soviet Union accepted as part of the Declaration of Human Rights.

Mr. President, finally, might I add that the introduction of this amendment does not mean that the United States is saying it is superior in its moral conduct to any other nation. Nor does it say that it has the right to interfere with the Soviet Union or any other nation.

On the contrary, it means an inherent recognition of the defined rights of each member of society. We defer to sovereignty, to be sure. However, we must not defer to human abuse.

This amendment is designed to bring some sense of decency and humaneness into the relationship between countries and the practices of government with their own people, particularly at a time when the Soviet Union and the United States could well enter into profitable trade relations that would be beneficial to both.

SOVIET JEWRY: A PLEA FOR HUMAN RIGHTS

Mr. President, as a cosponsor of the amendment to the Trade Expansion Act, prohibiting most-favored-nation treatment or the extension of credits to countries who obstruct the right to emigrate through such policies as the current exit visa now in practice in the Soviet Union. I call upon the leaders of the Soviet Union to take heed. This amendment is an expression, and a very important one at that, of the Senate's determination not to ignore the gross violation of human rights having official Soviet sanction.

There is much at stake in the Trade Expansion Act: The prospect of mutually beneficial trade arrangements between the United States and the Soviet Union and the prospect of improved relations between our two countries in line with any possible upswing in our commercial relations. These are goals to which I have devoted a good portion of my life, and to which I remain steadfast in purpose. These are goals worth striving for because they are our principal hope for rational diplomacy and accommodation in a confusing, quixotic world. Slowly we have seen the melting of a confounding, even threatening iceberg which characterized cold war relations between the United States and the Soviet Union. In its place there is fresh greenery which, given a chance to grow, could develop a rich harvest, a harvest of understanding between the Soviet and American people and between their governments.

This prospect excites my imagination and reinforces my most optimistic hopes. I have worked hard, and so have so many others in this Chamber, to arrive at this point, and now when the chances are real, we are forced to take one-half step backward.

Violation of human rights now stands between us. Our sense of human worth such as we try to respect in this country is openly denied in the Soviet Union. Jews now living in the Soviet Union are persecuted, denied the right to practice their religion, denied the right to emigrate, a right both the United States and the Soviet Union have accepted as parties to the U.N. Declaration on Human Rights. Other minorities suffer as well, and their fate should not be forgotten either.

After all, what does it mean to say we are all members of the human race? Have we grown so callous as a result of our experience in Vietnam to forget what the real linkage in international relations is? It is the linkage between people, the identification, the likeness of mankind.

We forget this if we surge ahead in a spurt of mercantilist pride. Trade agreements are important to the United States, particularly when we find ourselves in need of precious natural resources in order to continue to live and prosper. But trade agreements are equally important to the Soviet Union because it, too, has reached an economic stage which finds no solution in Marxian ideology. The solution is in trade with the United States. Our willingness to conclude commercial agreements has been made manifestly clear to the Soviets through the President's visit, through Secretary Peterson's trips to Moscow, through Dr. Kissinger's repeated talks with Soviet leaders. What may not have been made totally clear but what must be made clear to the Soviets is our concern that the right to emigrate be restored in the Soviet Union. We have waited long enough for this day and we can afford to wait a little longer, if the price is the restoration of basic human rights in the Soviet Union.

There is nothing naive in making this assertion. The United States is not saying that it is superior in its moral conduct to any other nation. It is not saying that it has the right to interfere in the sovereign rights of other nations. It is saying that it has the right to recog-

nize principles of national conduct, which it, too, may have neglected in times past, in its dealings with other countries. There is no condescension in this assertion. On the contrary, it means an inherent recognition of the equality of man and the defined territories and societies of which he is a part. We defer to sovereignty, but we should strive not to defer to human abuse.

The goal of reasserting human dignity is the goal I have opted for. In cosponsoring this amendment, I am expressing my concern over the fate of Soviet Jewry and my hope for the continued improvement of Soviet-American relations. The two go hand in hand.

Mr. President, what I have just said I tried to express in a very personal way when I spoke directly by telephone with a Jewish physicist in Moscow, Dr. Einbender. Although our exchange was informal and at times difficult, because of language problems, I think it is illustrative of what I have been trying to say today. I am grateful to the Minnesota Action Committee for facilitating my phone call with Dr. Einbender, and I ask unanimous consent, Mr. President, that the transcript of our conversation be printed at this point in the RECORD.

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

TRANSCRIPT: MOSCOW, RUSSIA, FROM SENATOR HUMPHREY'S WASHINGTON OFFICE

D. E. Dr. Einbender.

S. H. Senator Humphrey.

S. H. Dr. Einbender, this is Senator Hubert Humphrey, of the State of Minnesota.

D. E. Oh, yes, I know of you. I'm very glad to have an opportunity to speak with you.

S. H. Well, I'm very honored to have this privilege of speaking to you. We're sitting here in my office in Washington, and I've just come away from the United States Senate, and I am preparing to deliver a speech tomorrow relating to some of the difficulties and problems that you're so familiar with. We're discussing the proper American response to the subject of the Ransom fees, for Jewish emigration from the Soviet Union to Israel, and a number of the members of the Senate are deeply involved in this.

D. E. Yes, I see and I am very glad to hear that this is important to you.

S. H. Well, it is very important and I want you to know that it isn't just a subject that is of importance to the Jewish Community in America. I'm a non-Jew and a Christian, but we're deeply concerned about this whole subject matter. By the way I want to extend to you a very Happy New Year.

D. E. Thank you very much.

S. H. Will you convey my same greeting to the Jewish community of Moscow in the Soviet Union.

D. E. Yes. Every man, every woman will be very glad to hear such a message from you.

S. H. Thank you very much.

D. E. You see that I don't know English very well. I know English bad, but I understand you very well, and I want to say all my gratitude.

S. H. Well, I must say you speak English very well. I understand by the way that you're a chemist.

D. E. I am a Physicist, a Physical Chemist.

S. H. Yes, well, I'm a Pharmacist by original profession.

D. E. Yes, I see. You know that now the situation is very, very serious here. Not only money, the money makes this situation more complex, and it's almost impossible now to leave the country.

S. H. Yes. I'm terribly sorry about that, because that is not to anyone's advantage and of course you know I've always been one that wanted good relationships between the United States and the Soviet Union. I think it's terribly important for world peace and harmony and I've been hopeful that in the Soviet Union there might be a relaxation of all these restrictions that have been placed upon the Jewish Community and members of that community that wish to leave or to move to Israel or anyplace else.

D.E. Yes I am sure that such a country as the United States, such people as United States Senators can do very, very much for this problem.

S.H. Well I would hope so—particularly some of us that, over the years, tried to promote better and more friendly and reasonable relationships between our two countries, between the Soviet Union and the United States. I have never engaged in any angry words, so to speak—what we call demagoguery—because I believe it's absolutely important that our countries work together—and of course, this kind of problem that you're facing causes such an upheaval over here, causes such bad public opinion—our people are very upset over what we hear is happening there—not only on ransom fees but on other matters that have restricted the Jewish Community and particularly the intellectual community.

D.E. Yes, yes—and you know that not only money—not only—I don't know the word—but the other situations are very very serious. You know that we celebrate our Jewish Holidays now, the New Year—the Jewish New Year—you know and it wasn't permitted for us to celebrate this year, this New Year.

S.H. That is most unfortunate—that is most unfortunate.

D.S. On Saturday it wasn't permitted once again to come to Synagogue—we don't know what will be—what will happen on this next Saturday or Yom Kippur.

S.H. Well, as one United States Senator and one who has for the years as I said tried to promote better relations between the United States and the Soviet Union I would hope that the policy of the Soviet Union would permit the Jewish Community to honor and celebrate their Holiday and particularly these religious holidays—it means so much to people of Jewish faith—every one of these days means something to somebody—You know?

D.E. Yes.

S.H. Can I ask you a question or two? What is your——

D.E. I will be very glad to answer you.

S.H. What is the status of those who already paid the 900 Rubles?

D.E. Now the people must pay more than 900 Rubles.

S.H. More than 900 Rubles?

D.E. Yes, and only those people must pay that have permission.

S.H. Isn't 900 Rubles the regular fee for the regular exit visa?

D.E. Yes—it has been so until before the new law.

S.H. Before the new decree?

D.E. Yes—yes.

S.H. What is it now?

D.E. Now people—for example—if I have the permission—a visa—I will have to pay 17,000 rubles.

S.H. 17,000 rubles.

D.E. Yes—only me—only I—without my wife.

S.H. That's just for you alone, without your wife on your children.

D.E. Yes, yes,

S.H. Is that about the general fee now for the people in the professional, scientific and intellectual community?

D.E. Yes—this problem—it depends on the qualifications.

S.H. On the qualifications, yes—I see—well what is your present. . .

D.E. One who has graduated Moscow University and is a Doctor—I don't know the English—something more than the University—now I must pay such a sum if I get an exit visa.

S.H. What's the status of Professor Levitch?

D.E. He is now not in Moscow. He is in his vocation—not very long ago and his situation is so complex as ours and he has many troubles with his son—they wanted to take him to the Army for 2 years—and so not to permit the family to go to Israel. He is now not working in the University—he is not working in the University—he is not working in the many councils (interruption) of the institute.

S.H. One other person that I've heard of—I don't know much about is Vladimir Slepak.

D.E. I know him—What do you want to know?

S.H. Well I just wondered what his situation is?

D.E. You know that he has the greatest time that he has wanted to leave and get Permission.

S.H. He has applied for a visa some time ago didn't he?

D.E. Yes—more than everyone—more long ago than everyone.

S.H. Is he in Moscow now?

D.E. Yes—but his telephone—as the telephones of other Jews is not working.

S.H. His telephone is not working?

D.E. You know that the Soviet authorities have cut this out.

S.H. Well that seems very unusual—that's a violation of the rights of a person—that's most unfortunate—that's terrible. I'm very sorry to hear that—We ought to be able to talk to each other—whether we can do anything about these problems is another matter, but—you were mentioning to me the difficulties over the Holidays and over the High Holy Days—You've not been able to have services—is that right?

D.E. Yes, you are right.

S.H. Are you having difficulties with Hebrew Schools or Languages—is that permitted at all?

D.E. Yes—of course. You know that I am a teacher in Hebrew. I am self-taught. I myself learned without a teacher and now I try to help others to learn Hebrew—but you know that we haven't the right, we are not registered in such lessons.

S.H. In other words you can't have official registration of courses in Hebrew. Is that correct?

D.E. Yes—you know we have no dictionaries and no books.

S.H. Are you getting any books in Hebrew supplied there?

D.E. Yes but you know that it is very difficult for these books to go through the border.

S.H. I see—you mean plain text books—I'm not talking propaganda books now—just Language books.

D.E. Yes—language books are very, very seldom here.

S.H. Well, I think we ought to insist that that be included in our cultural agreement—you know we have a cultural agreement with your country and I was one of the original authors of that agreement—way back in the 1950's. I think that Hebrew literature or Jewish literature should be included—just as it should for other minority groups. You know, the Soviet Union like the United States has many different language groups and many different nationality groups and religious groups.

D.E. Yes, and other nations have their different books and dictionaries and newspapers.

S.H. Well, I think that's something we'll look into here. I'm going to take a look at that, Cultural agreements ought to relate to our respective cultures and the Soviet Union is a Federated Republic with many different

peoples and so are we—we're maybe the two countries in the world with the widest variety of people. We have every kind and so does the Soviet Union. That's something we have in common. I am hopeful that we can convince the Soviet authorities of the importance of the exchange of cultural material—books, music, religious and scientific documents, and so forth that relate to all of our people.

D.E. Yes—I see it would be very useful.

S.H. Do you have a chief Rabbi now? Rabbi Levin passed away. Has anyone taken his place?

D.E. Yes, Yes—now yes.

S.H. That's very good—Can I just ask a couple of more questions? What message do you want me to give my fellow Senators here. I'm still here in Washington—in my office and the United States Senate will be in session tomorrow and I'm going to say some words in the Senate about our relationship—Right now I am interested in trying to get through the Congress the agreement on the Nuclear weapons. I support the agreement, President Nixon, Mr. Brezhnev and Mr. Kosygin worked out, I believe that's to the good of our respective countries. I'm going to have something to say about that and I'm also going to have something to say about the importance of trade relations with the Soviet Union.

D.E. This is very, very important. I think this is the most important thing.

S.H. Yes I agree with that and I think we ought to expand our trade with the Soviet Union but I want those authorities to know that it gets more difficult for us to do these things every time there is this problem with the Jewish Community.

D.E. Yes. That is what I want to say.

S.H. What would you want me to say to some of my friends in the Jewish Community here in America? I have many of them, as you know. What would be your message? What would you like to have me say to the American people?

D.E. It's very difficult to say this without preparation but I would want to say that our problem—*the problem of the Soviet Jews is the problem of humanity.* The realization for other nations and particularly the American nation of our problem is very, very important—important not only for us but especially for such nations and for the American nation.

S.H. I'll bring that message to our friends here. By the way I have some very good friends in Minnesota whom you know or may have heard of—Moshe Sachs and Herbert Kohn—are you familiar with them?

D.E. Yes. I know them.

S.H. They have been in my office today. I invited them to come to Washington to talk these matters over with me and my fellow Senator, Senator Mondale. We have a very good Action Committee in Minnesota—made up of some of the finest people in our State—and I want you to convey to the Jewish Community in Moscow their greetings and mine.

D.E. You can be sure that I'll tell all your messages.

S.H. Now there's an old Jewish word that conveys my heartfelt feelings and that's Shalom.

D.E. Shalom, Shalom.

S.H. Shalom to the Russian people and Shalom to the American people.

D.E. Shalom to the American people.

S.H. I hope that one of these days I'll have the chance to meet you personally in Jerusalem.

D.E. I would be very glad to meet with you and especially in Jerusalem.

S.H. Bless your heart. Goodbye, now.

D.E. Goodbye.

S.H. Thank you so much. Goodbye.

TRANSCRIPT BETWEEN DINA SHMULYAN—D.S., AND HERBERT KOHN—H.K.

H.K. Hello?

D.S. Hello? Mr. Herbert Kohn?

H.K. Yes. This is Herbert Kohn.

D.S. I am Shmulyan, Dina.

H.K. Yes.

D.S. From Riga

H.K. Yes, what——

D.S.——recommended to you. I am medical scientist.

H.K. Just a minute. Can you speak a little louder?

D.S. I received permission to go to Israel.

H.K. You received permission to go to Israel, when?

D.S. I must pay 16,000 rubles in one week.

H.K. You must pay 16,000 rubles in one week. Give me your name and your address.

D.S. Shmulyan, Dina.

H.K. Can you spell it for me? Hello. Do you speak Hebrew?

D.S. No.

H.K. O.K. Your name is Shmulyan, Dina?

D.S. Name of family.

H.K. Your family name is Shmulyan?

D.S. Yes.

H.K. And your first name is Dina.

D.S. Yes.

H.K. What kind of work do you do?

D.S. Scientist.

H.K. Scientist?

D.S. Yes.

H.K. O.K.

D.S. Medical scientist.

H.K. I understand. Did Professor Branover give you my name?

D.S. I do not understand.

H.K. Who gave you my name? Do you know Professor Branover?

D.S. Yes, yes.

H.K. Did he give you my name?

D.S. Professor Branover.

H.K. I see. He gave you my name. Do you understand?

D.S. No.

H.K. O.K. I think I understand. You have permission to go to Israel, and you need 13,000 rubles.

D.S. Yes, and I am in hopeless position.

H.K. You are in a hopeless position. Are there other people in your family? Hello.

D.S. Yes, yes.

H.K. Are there other people in your family?

D.S. I understand not.

H.K. Who else is in your family? Do you have a husband?

D.S. Can you get this money? through you?

H.K. I will try. I will try to do what I can. Who should I contact there?

D.S. I can?

H.K. Can you understand me?

D.S. Can I?

H.K. Yes. Who should I contact there? Hello.

D.S. Yes, yes. I understand not well.

H.K. You do not understand much English. I understand. O.K.? I will call you back with someone who talks Russian. What time is it in Riga now?

D.S. Perhaps telegraphi. Telegraphical.

H.K. Telegraphical. O.K.

D.S. O.K?

H.K. I'll call you tomorrow.

D.S. Tomorrow?

H.K. Yes. You understand?

D.S. Yes. I can understand. I understand you.

H.K. O.K. I will call you tomorrow. Shalom.

D.S. Goodbye.

H.K. Goodbye.

Mr. HUMPHREY. Mr. President, I ask unanimous consent to have printed in the RECORD a statement issued today by 30 Members of the Senate dealing with this subject.

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

EAST-WEST TRADE AND THE SOVIET EMIGRATION ISSUE

We announce our support today for the Jackson Amendment, as now revised, to the East-West Trade Relations Act (S. 2620). This amendment would deny the granting of "most favored nation" treatment and credit facilities to the Soviet Union after October 15, 1972, unless the "head tax ransom," especially affecting Soviet citizens of the Jewish faith desiring to emigrate, is abated.

At a time when the United States and the U.S.S.R. are moving toward a new economic relationship to expand and encourage trade, we have noted with the deepest regret the retrogression in the Soviet attitude toward the concern of the international community respecting the basic human rights of citizens seeking to emigrate, as incorporated in the U.N. Declaration of Human Rights to which both the U.S. and the U.S.S.R. are parties. The Jewish community of the Soviet Union has already suffered more than other elements of the Soviet population from discrimination. It should be completely unacceptable to the U.S. and the world that the survivors of the Nazi holocaust and their children now again should be singled out for discriminatory treatment and be subjected to notorious "ransom" requirements impeding their natural desire to join with relatives and co-religionists in other lands.

Senators Baker, Beall, Boggs, Brock, Brooke, Case, Cook, Cotton, Dole, Dominick.

Senators Hansen, Fannin, Griffin, Goldwater, Hughes, Humphrey, Javits, Kennedy, Mathias, Mondale.

Senators Muskie, Packwood, Pearson, Percy, Saxbe, Schweiker, Stevens, Taft, Tower, Weicker.

Mr. JACKSON. Mr. President, I now yield to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. TUNNEY. Mr. President, I thank the Senator from Washington for yielding to me.

I am pleased to join in introducing this vitally important amendment submitted today by the Senator from Washington. As the Senate knows, I previously made a statement in favor of this legislation.

I would like to add today, as the amendment is submitted, that I feel that the Senator from Washington (Mr. JACKSON) and the other Senators who have cosponsored this amendment have taken a very important step in making clear to the Soviet Union the position of the United States on this most important issue. It is intolerable for the Government of the Soviet Union to treat Soviet Jews who want to emigrate from that country in such a barbaric fashion. The United States will not sit idly by as Soviet leaders treat human beings as commodities for export and attempt to barter them for corn or wheat.

I am particularly disturbed by the tax that has been applied to educated Jews who wish to leave the Soviet Union. As a matter of fact, most of the money that is used to pay this tax comes from wealthy Jews in the United States who are relatives or friends of those Soviet Jews who are trying to emigrate.

It seems to me, despite the fact that I support very strongly opening up trade with the Soviet Union, that it is wrong for the United States to be extending credits to the Soviet Union and at the same time to be allowing that nation to blackmail American citizens who must send money to Russia to pay the tax in order that Soviet citizens may emigrate to other nations.

Hopefully, Mr. President, our amendment will never have to come into effect. It will not become law if the Soviet Union rescinds its present policy with respect to this matter.

I believe that the distinguished Senator from Washington has done the Senate, the country and the world a great service by taking the leadership in this matter. The Soviet Union must be made to realize that certain basic human rights are indeed inalienable.

Mr. JACKSON. Mr. President, I thank the Senator from California for his remarks.

I now yield to the senior Senator from Minnesota.

The PRESIDING OFFICER. The senior Senator from Minnesota is recognized.

Mr. MONDALE. Mr. President, it was with a heavy heart that I felt I had to join in cosponsoring this proposal, because as the Senate well knows I have been one of the consistent champions of expanding trade with Eastern Europe and with the Soviet Union on nonstrategic items.

It has been my privilege for some time to be chairman of the International Finance Subcommittee of the Committee on Banking, Housing and Urban Affairs.

Over the past several years, I think we have had substantial success in liberalizing legislation dealing with export controls. It has also been my privilege to be the chief sponsor of proposals to liberalize substantially the Export Control Act as it affects future trade with Eastern Europe.

I feel that one of the most hopeful tendencies in moving toward world peace and the reduction of international tensions is peaceful trade. It has been my hope for some time that we would see a substantial movement in that direction. However, just as we were making impressive gains, the Soviet Union seemed to be tending toward a new and I think outrageous policy of imposing a hostage tax upon educated Jews wishing to emigrate from the Soviet Union.

Just a few days ago I placed a telephone call and talked personally to an engineer in Latvia, who told me he had been asked to pay the equivalent of $40,000 in order to get an exit visa to leave that part of what is now, or is claimed to be, a part of the Soviet Union. His information is that throughout the Soviet Union this kind of tax is being imposed on people who do not have the funds themselves, and who are, I guess, expected to try to raise the money from sources outside the Soviet Union. There is a suspicion that the Soviet Government may be trying to raise working capital by holding these people hostage. This is an outrage and an irresponsible new policy and one which I hope the Soviet Union will quickly abandon so that it will not impede the tendency toward world peace.

For that reason I join in this amendment. I was pleased this afternoon to note a speculative story that the Soviet Union seems to be backing away from this policy. I hope the story is correct because the new Soviet policy cannot be accepted, and requires the kind of action we have today.

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

Mr. JACKSON. I yield 2 minutes to the Senator from Florida.

Mr. CHILES. Mr. President, I thank the Senator from Washington. I join in his amendment as a cosponsor and I associate myself with his statements and the remarks made by other cosponsors.

I think we all understand and know what the most favored provisions are. Certainly these provisions were designed to be used by a community of nations that were going to have similar goals and policies. One of the main things was they were not going to discriminate against each other. If the Soviet Union wishes to partake of the fruits of most favored nations' trade they have to conduct their affairs so that they abide by the provisions of most favored nations, in that community of nations working for similar interests. Among those would be not to have a discriminatory policy based on charging a tribute which could amount to blackmail to allow someone to emigrate. That would not be in the spirit of the goal of the countries joining the most favored nations.

Mr. JACKSON. I want to thank my good friend from Florida for his very fine statement.

Mr. JAVITS. Mr. President, will the Senator from Illinois yield to me for 3 minutes?

Mr. PERCY. I yield 3 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, I really feel that the resolution which has been fashioned here by the Senator from Washington (Mr. JACKSON), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Minnesota (Mr. HUMPHREY), and myself, is an excellent one in the final analysis. It is a temperate and just approach with regard to timing, which is the critical point. There is no slackening of our moral obligation.

If the Russians look at the issue in terms of money that they have invested in the education of individuals, Jews included, we say, "Very well. If that is trade, it has to work both ways," in connection with trade with the United States, which is a new channel. None of us would dream of raising this issue on arms limitations, and we did not, but on trade it is legitimate and proper in carrying out our strong feelings.

Most of us—and I do not presume to speak for anyone else—are for opening up trade with the Soviet Union. I hope their authorities note that clearly.

Finally, we are both parties to the U.N. Declaration of Human Rights and, therefore, this declaration, if it is to be honored, commands us to open the doors of immigration when a citizen of each country knocks on it.

I would like to note for the record that the Senator from Washington (Mr. JACKSON) notwithstanding his very deep feeling on this matter deferred to 30 Senators in making the amendment prospective. Thus he took into consideration there should be a time factor involved without lessening the determination of justice that might be done. All of us hope and pray that this time will be availed of.

Finally, we have a little indication in the newspapers this morning that quiet diplomacy, because of Mr. Brezhnev's visit to the United States, may be at work and we hope the same spirit that animated the SALT talks will animate the sense of humanity which 72 Senators called to the attention of the Soviet Union. I hope they realize the incalculable desire we have for good will, but we believe good will is based on deed, and that is what the amendment of the Senator from Washington (Mr. JACKSON) seeks to express.

Mr. President, I have had an opportunity to discuss this matter at great length with the distinguished Republican leader, Senator SCOTT. I know of his deep concern, and his sympathy with the intent of the Jackson amendment. We have consulted him at every step of our deliberations. However, I cannot let this opportunity pass without noting Senator SCOTT's personal intervention at the White House on behalf of Soviet Jews; and he has raised this great issue with President Nixon and has urged him to work toward the repeal of the harsh and unjust exit visas. At this point in time, we can only hope that with Senator SCOTT's help and the President's persuasive powers "quiet diplomacy" will prevail.

I would also like to thank Senators PERCY, TAFT, SAXBE, and ROTH for their support and especially for their presence on the floor today to speak on this issue.

Mr. JACKSON. Mr. President, I thank the senior Senator from New York for his understanding in connection with working along with the Senator from Minnesota (Mr. HUMPHREY), the Senator from Connecticut (Mr. RIBICOFF), and others, and for his help in making it possible to bring it together with the total cosponsorship today of 72 Senators.

Mr. HUMPHREY. Mr. President, if the Senator will yield, I wish to call to the attention of the Senate that I placed in the RECORD today a transcript of a telephone conversation I had with a distinguished Soviet scientist, of the Jewish faith, to give a detailed, intimate, human interest story of what happens under this kind of visa fees and exit fees. It is a very revealing story, and I think Senators will find it of great interest.

Mr. NELSON. Mr. President, everyone agrees that the policy of the Soviet Union in interfering with the right of their citizens to emigrate, and the policy of levying a substantial fee upon their scientists and professional people before they permit them to emigrate is a medieval, inhumane, indefensible political policy that should be condemned by free people everywhere, and I join in the criticism, and I think it is important that the issue be raised here on the floor of the Senate and be discussed.

I think it is important that the President of the United States and the State Department exercise all conceivable influence that they can exercise upon the Soviet Union to change that inhumane policy.

Having said that, however, I think it is important to note that it raises across the board a very important issue that needs to be heard by the appropriate committee in depth before the Senate acts upon this resolution. I understand

that is the intent. The resolution will not be considered until next year.

It should be noted, in the first instance, that this resolution is not general in application but rather it is prospective only, in the sense that it applies only to nations which, in the future, will apply or seek most favored nation status so far as trade is concerned.

I do not understand why the policy, if we are going to apply it, should not apply, for example, to Uganda, which is arbitrarily driving out of the country some 60,000 natives who were born and raised there, not only charging a fee, but confiscating all of their property; and why the policy, if we are going to have it, should not apply to all military dictatorships with whom we do business on a most-favored-nation basis, and why it should not apply to all Fascist and dictatorial countries any place in the world where emigration is denied to its citizens or where excessive emigration fees are imposed as in the Soviet Union.

So I hope we will have comprehensive hearings on this matter and not proceed with the resolution before there is ample time to hold hearings in depth, have committee reports, and discussion on the floor of the Senate. I repeat, I condemn, along with everybody else, the inhumane policy of the Soviet Union respecting its emigration restrictions and the unconscionable emigration taxes imposed. I hope public discussion in the Senate and diplomatic pressure will change that policy.

Mr. TAFT. Mr. President, like the distinguished Senator from Minnesota, I was one of those who felt that we should hold the feet to the fire with respect to the extension of the Export Control Act. I would point out that while this amendment is prospective only in effect, and therefore it does not apply to the wheat sale, patently what we are talking about is, I think, public pressure as well as economic pressure.

When we are talking about wheat, I think we are justified in looking at the realities of the situation and recognizing we have a world market not only in that product but with regard to other trade which may build up.

The right of individuals to live where they want to live goes back to the Magna Carta in our tradition and history. It has been recognized now internationally.

I think the more we can, through resolutions and through other efforts, put pressure, through international public opinion as well as economic pressures, on nations which choose some other form of government than ours, the more likely it will be that there will be some alleviation of conditions which are onerous and unjustified and really inhumane to those people being kept in Russia who wish to leave that nation.

Mr. SAXBE. Mr. President, as one who has cosigned this measure and is very interested in it, I want to emphasize that the impact is prospective, and that is as it should be, because there is a lot to be said for the measure.

I think we recognize the impact of East-West trade on the grain farmer and the boon that has come to him due to his backlog of feed grains, because this sale has reduced the surpluses, and the fact is that the impact is going to be felt in every State, including my own State, which exports some $200 million worth of agricultural products.

If we are going to use our grains to intervene in international politics and internal politics, that is fine. I have joined because I want the impact to be felt, but if we do, we should realize that this will work to the ultimate detriment of the American farmers. Most of those who have gone on this resolution are from States which say, "Well, we import grain and therefore we are not affected."

I want to serve notice that it is going to be brought to the attention of the American people and to the attention of the American farmer that he is going to be protected on the floor of the Senate and we are not going to peddle off his right to international trade because we are interested in someone else's internal policy, which we feel is repugnant; but I think because it is prospective, and does not affect the current grain transactions, we should speak for this measure on the floor today.

Mr. YOUNG. Mr. President, I share completely the views of the Senator from Ohio.

Mr. PERCY. Mr. President, I know the leadership is anxious to get back to the business at hand, but I think this interjection is very timely. In fact, I do not know of any more important issue the Senate could address itself to. It is a bipartisan issue. Both sides have spoken about it forcefully. Certainly, our feelings should be gotten across to the administration, which is well aware of the situation, and to the Soviet Union itself.

When we face a situation where one of the two most powerful nations on earth—which has been in an adversary position with us—is asking for credit terms and most-favored-nation treatment, I think we must recognize that it is going to be necessary to have the support of the American people behind these provisions. In order to gain the support of a very important segment of the American people—not just the Jewish people of this country, but millions of Americans—I feel something must be worked out in this area to remove an onerous requirement. The Soviets are imposing. A formula can be worked out, as suggested by the Senator from New York.

I feel that everyone who has spoken in the Senate today is an exponent of East-West trade. It has been a cardinal principle of mine for a quarter of a century to find ways to work together and have a position of negotiation rather than confrontation. Trade can be a very important element in negotiations. Both sides stand to gain through commerce and trade between the two mightiest nations on earth. Certainly we must find the conditions for that. They have to be created in the Soviet Union. They have to be created in the United States.

I feel the steps to be taken, which can be put to a vote in the Senate early next year, are moderate and reasonable, and I think they should be supported and will be supported in the Senate and by the American people. This will, I believe, show the Soviet Union clearly the steps which can be taken by them to now open wide the gates to commerce and trade between our two countries.

Mr. BAYH. Mr. President, as an original cosigner of the letter seeking Senate support for this amendment, I am gratified by the wide bipartisan support it has received. The Senator from Washington (Mr. JACKSON) deserves our thanks for leading this important effort.

That the amendment has been sponsored by 72 Senators is clear evidence of the outrage that we feel at the Soviet Union's harsh policy of imposing exorbitant exit fees on Jews wishing to emigrate to Israel. This policy of placing fees of up to $25,000 on exit visas is an alarming reminder of how tenuous even the limited freedoms in the Soviet Union can be.

As I said when addressing the Senate about this matter several weeks ago, soon after the Soviet policy was announced, this policy is "a remarkably overt form of international blackmail by which the Soviet Union has placed a price tag on the freedom of thousands of its citizens. It is a reprehensible form of bondage, an affront to international standards of human decency, and a sad reminder that the Soviet Union has never wavered from a national policy of denying religious freedom to the citizens.

It is impossible for those of us in the United States with our longstanding commitment to religious freedom and individual liberty, to stand aside and permit the Soviet Union to pursue such a heartless and inhumane policy without making as concrete a gesture of outrage as we can.

If, in the face of the repressive attitude of Soviet officials, we were to continue with "business as usual" we would be failing to fulfill our responsibility as the leading free nation in the world. That is why I have sponsored this amendment. Extending most-favored-nation status to the Soviet Union at this point in time would be tantamount to condoning the religious persecution and suppression of personal freedom embodied in this Soviet policy.

I am disturbed, Mr. President, that the Nixon administration has not been responsive to this problem. The silence from the White House on this question suggests that our Government is giving priority status to trade negotiations and, as a result, its tacit consent to Soviet policies which run contrary to every principle that we hold dear. At a time when a majority of the Senate is prepared to stand up and say, "Stop, we are not about to make trade concessions to the Soviet Union under these circumstances," the President is photographed in smiling conversation with high-ranking Soviet officials.

I commend the President for completing the SALT Agreement with the Soviets. But this is not sufficient reason to accept without protest the exit visa and similar repressive policies. The President obviously did not convey satisfactorily to the Soviet Ambassador and Foreign Minister the depth of American outrage at its policy.

Mr. President, I urge the speedy adop-

tion of this amendment as evidence of our longstanding commitment to the proper standards of international decency and human freedom.

Mr. ROTH. Mr. President, I am pleased to be associated with the junior Senator from Washington and a number of other distinguished colleagues in offering an amendment to S. 2620, the East-West Trade Relations Act. This amendment will make U.S. trade concessions to the Soviet Union contingent upon their withdrawal of the outrageous and exorbitant exit taxes which they are charging to members of their Jewish minority who desire to emigrate.

I have already stated at some length my reasons for supporting this amendment, and a number of our colleagues, including Senator JACKSON, have spoken most eloquently on this subject. I would only reiterate, therefore, that what we are trying to do with this amendment is to make the Soviets alive to the very genuine and real concern that Americans and their Congress have with regard to the plight of Soviet Jewry. It must be accepted as a political reality that the American people are not going to look favorably on increased trade relations with the Soviet Union at a time when the leaders of that country are mistreating their Jewish minority and denying their Jewish citizens a fundamental human right—the right of free emigration. The American people and their leaders are not indifferent to the political repression of minority groups or to the ransoming of individuals. They do not turn a deaf ear or a blind eye to legitimate demands for justice and morality by any group. If we can make this reality crystal clear to the Soviet leaders, I think that we will be well on the way toward achieving two goals—free emigration for Soviet Jews who wish to live outside the Soviet Union and increased, mutually beneficial East-West economic relationships.

Mr. CRANSTON. Mr. President. I have joined in cosponsoring the Jackson amendment to S. 2620 because its very title, "East-West Trade and Fundamental Human Rights," goes to the heart—and indeed, the soul—of an overriding issue confronting us today.

On the one hand I, like most Americans, want to see increased trade between the Soviet Union and the United States. First, because the economies of both our nations would benefit from such trade. But perhaps more importantly, more trade—and more of an interchange of people and ideas—would ease tensions between us and greatly increase the hopes for world peace that all of us share.

On the other hand I, like most Americans, hold immediate threats to human rights and human needs are far more urgent than the long range benefits that international trade ultimately will bring. Soviet Jews are presently being humiliated and degraded; rights which they hold simply as human beings are being denied them. I cannot stand silently by and allow our Government to grant the Soviet Government special trade privileges while the Soviets deny their citizens the basic freedom of emigration. A lasting peace cannot be built upon the denial of human rights.

Mr. HOLLINGS. Mr. President, I take the floor today to urge the broadest possible support for the Jackson amendment to S. 2620, the bill which would grant the top U.S. treatment to the U.S.S.R. and several other countries. The amendment, of which I was one of the 11 original cosponsors, would prevent Russia from receiving the most-favored-nation status until the United States determines that all Russian citizens can emigrate freely and are not burdened with more than a normal tax on emigration or on the visas or other documents required for emigration.

Russia wants a favored-nation status on trade with the United States and at the same time tries to extort money from American Jews to free relatives and friends inside the Soviet Union. We cannot put our stamp of approval on that kind of slave trade.

I understand, and commend, the President's desire to remove both the philosophical and economic barriers between the American and Soviet peoples. But I also join with the American Jewish community in its concern for Soviet Jews who are virtual prisoners in a hostile homeland. I cannot justify extending a most-favored-nation treatment to the U.S.S.R. until that country extends favorable treatment to its own Jewish citizens.

We believe that the Russian emigration tax is applied only against Jews and ranges from $5,000 to $30,000 per individual. The tax is based on the level of education, with the Russian Government claiming it loses important financial investments when well-educated Jews leave the country.

This policy has a number of unacceptable implications and results. It suggests that Jews in the free world should ransom relatives and friends now hostage in Russia, resulting in a huge flow of Western money into the U.S.S.R. Why should the United States extend its top trade status to a nation using that kind of economic blackmail?

The policy also forces Jewish youth in Russia into choosing between relative ignorance and the higher education which results in the excessive emigration tax. And the potential is there for the Soviet Union to levy the tax against any critic within its society. That would be in keeping with a pattern of intellectual repression inside the U.S.S.R.

A no-strings-attached extension of the top trade status to Russia would be another one-way deal on which the United States makes all the concessions. We saw this with the interim SALT Agreement which confers military superiority on the U.S.S.R. Real negotiation requires concessions on both sides, and it is time for the Russians to make some concessions. I join with Senator JACKSON in suggesting that one concession must be humanitarian treatment of Soviet Jews.

APPOINTMENT BY THE VICE PRESIDENT—17TH GENERAL CONFERENCE OF UNESCO

The PRESIDING OFFICER (Mr. STAFFORD). The Chair, on behalf of the Vice President, appoints the following Senators as members of the 17th General Conference of the United Nations Educational, Scientific, and Cultural Organization—UNESCO—Paris, France, October 17–November 18, 1972: The Senator from Louisiana (Mrs. EDWARDS) and the Senator from Connecticut (Mr. Weicker).

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had agreed to the amendment of the Senate to the amendment of the House 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.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H.R. 3817) to amend titles 10, 32, and 37, United States Code, to authorize the establishment of a National Guard for the Virgin Islands.

The message further announced that the House had agreed to the amendments of the Senate to the bill (H.R. 9756) to amend the Merchant Marine Act, 1936, as amended.

The message also announced that the House had agreed to the amendments of the Senate to the joint resolution (H.J. Res. 1263) authorizing the President to proclaim October 30, 1972, "National Sokol U.S.A. Day."

The message further announced that the House had agreed to the concurrent resolution (S. Con. Res. 90) commemorating the 200th anniversary of Dickinson College.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7378) to establish a Commission on Revision of the Judicial Circuits of the United States.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12652) to extend the life of the Commission on Civil Rights, to expand the jurisdiction of the Commission to include discrimination because of sex, to authorize appropriations for the Commission, and for other purposes.

The message also announced that the Houses insisted upon its amendment to the bill (S. 141) to establish the Fossil Butte National Monument in the State of Wyoming, and for other purposes, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. ASPINALL, Mr. TAYLOR, Mr. RONCALIO, Mr. SAYLOR, and Mr. SKUBITZ were appointed managers on the part of the House at the conference.

The message further announced that the House insisted upon its amendments to the bill (S. 1852) to provide for the establishment of the Gateway National Recreation Area in the States of New York and New Jersey, and for other purposes, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two

Houses thereon, and that Mr. ASPINALL, Mr. TAYLOR, Mr. JOHNSON of California, Mr. SAYLOR, and Mr. TERRY were appointed managers on the part of the House at the conference.

NOTICE TO TAKE UP THE PRESIDENT'S VETO OF THE RAILROAD RETIREMENT BILL

Mr. MANSFIELD. Mr. President, I I have discussed the veto of the railroad retirement bill with the distinguished Republican leader and with the chairman of the Committee on Labor and Public Welfare. At the present time, the distinguished Republican leader is endeavoring to get in touch with the ranking Republican member of the committee, Senator JAVITS. It is our intention, unless something comes up which we do not foresee, to have a vote on the President's veto later this evening.

We make this joint announcement at this time so that the Senate will be aware of the situation which has come into being.

Mr. SCOTT. That is correct—subject only to clearing it with the ranking minority member of the committee.

Mr. MANSFIELD subsequently said: Mr. President, I ask unanimous consent that when the President's veto message is presented before the Senate later this evening, there be a time limitation of 20 minutes, to be equally divided pro and con between the majority and minority leaders or any Senators they may designate.

This matter has been cleared all the way around.

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

Mr. CRANSTON. Mr. President, in connection with the action the Senate will be taking later today on the President's veto of the railroad retirement measure, I ask unanimous consent that Jonathan Steinberg of the staff of the Subcommittee on Railroad Retirement may have the privilege of the floor.

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

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.

MISSOURI PASSES ON THE BENEFITS OF THE SOCIAL SECURITY INCREASE

Mr. SYMINGTON. Mr. President, on September 29 the Senate approved an amendment to H.R. 1, the Social Security Amendments, which would provide that when there is a general increase in social security benefits there will be a corresponding increase in the standard of need under State public assistance programs.

I am pleased to call to the attention of the Congress the fact that the State of Missouri is in full agreement with that position. In fact, 4 days earlier, on September 25, Gov. Warren E. Hearnes announced that the Missouri Division of Welfare had already taken steps to liberalize its old age assistance standards so that the great majority of old age assistance recipients in Missouri, who also receive social security, will not have their old age assistance benefits reduced as a result of the 20-percent increase in social security, effective this month.

In every case, therefore, persons in Missouri now receiving both old age assistance and social security will receive more in total income than they were getting before the 20-percent social security increase passed by the Congress. That, of course, was the intent of Congress.

Both Governor Hearnes and Missouri Director of Welfare Proctor Carter are to be commended for this action which immediately assures a more adequate income for some 68,000 Missourians.

Mr. President, I ask unanimous consent to have printed in the RECORD the news release from Governor Hearnes' office, dated September 25, announcing this humanitarian policy in our State.

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

NEWS RELEASE FROM THE OFFICE OF GOV. WARREN E. HEARNES

Governor Warren E. Hearnes today announced that the Division of Welfare will increase Old Age Assistance standards to fully or partially offset the 20 per cent increase in Social Security benefits which becomes effective in October.

"This action will allow the great majority of Social Security recipients who also receive Old Age Assistance to keep the 20 per cent increase without having their Old Age Assistance grants reduced," Hearnes said. He explained that the plan had the approval of the federal Department of Health, Education and Welfare.

The Governor said the action was necessary to avoid widespread reductions in payments to Old Age Assistance recipients, since federal legislation providing the 20 per cent Social Security increase did not require states to pass on the increase to welfare recipients.

Proctor N. Carter, State Welfare Director, gave statistics showing the estimated effect of this change on Old Age Assistance recipients.

Of the 93,444 OAA recipients, about 65,000 (69 per cent) also receive Social Security benefits. About 33,000 of those will receive the full 20 per cent increase with no change in their OAA payments. Another 19,000 will receive the Social Security increase and also an increase in their Old Age Assistance grant.

The remaining concurrent recipients will have small reductions in their OAA grants, of $5 or less per month, which will be more than offset by the Social Security benefits. Carter said the limited OAA reductions would be for persons whose Social Security grants are relatively high and who would receive a substantial hike in benefits through the 20 per cent increase.

Both Governor Hearnes and Carter emphasized that *all* aged persons who receive both Old Age Assistance and Social Security will continue to have more in total income than they are now receiving.

Of the approximately 29,000 Old Age Assistance welfare recipients not receiving Social Security benefits, about 26,000 will have no change in their payments since they are receiving the $85 maximum Old Age Assistance payment.

The remaining 3,000 recipients will receive small increases in their Old Age Assistance payments. According to Carter, these are persons who now receive less than the $85 maximum and who will benefit from the increase in the assistance standard. The increased cost for these recipients will be paid from federal funds and will not affect the state appropriation.

Because the number of concurrent Social Security-welfare recipients in the other categories of Aid to Dependent Children, Aid to the Permanently and Totally Disabled, Aid to the Blind, and General Relief is small, changes in the level of assistance payments will be minor, Carter concluded.

Mr. PERCY. Mr. President, I move to recommit H.R. 1 to the Finance Committee to report forthwith with the following amendment, which I send to the desk.

The amendment reads as follows:

Beginning on page 689, line 11, strike out everything down through page 863, line 26.

Beginning on page 921, line 2, strike out everything down through page 932, line 24.

Beginning on page 933, line 9, strike out everything down through line 2 on page 936.

Beginning on page 947, line 4, strike out everything down through line 5 on page 954.

Beginning on page 963, line 19, strike out everything down through line 17, page 989 and insert in lieu thereof the following:

"FISCAL RELIEF FOR STATES

"SEC. 540. Title XI of the Social Security Act (as amended by this Act) is further amended by adding at the end of section 1130 the following new section:

"FISCAL RELIEF FOR STATES

"SEC. 1131. (a) The Secretary shall, subject to subsection (c), pay to any State which has a State plan approved under title I, X, XIV, or XVI, or part A of title IV, of this Act, for each quarter beginning after June 30, 1971, in addition to the amounts (if any) otherwise payable to such State under such titles, such part, section 1118, and section 9 of the Act of April 19, 1950, on account of expenditures as cash assistance, an amount equal to the excess (if any) of—

"(1) an amount equal to the lesser of—

"(A) the non-Federal share of the expenditures, under the State plans approved under such title or such part A (as the case may be), as cash assistance for such quarter (not counting any part of such expenditures which is in excess of the amount of the expenditures which would have been made as cash assistance under such plans if such plans had remained as they were in effect for January 1971, or

"(B) an amount equal to 120 per centum of the amount referred to in clause (2), over

"(2) an amount equal to 100 per centum of the non-Federal share of the total average quarterly expenditures, under such plans, as cash assistance during the 4-quarter period ending December 31, 1970.

"(b) For purposes of subsection (a), the non-Federal share of expenditures for any quarter under State plans approved under title I, X, XIV, or XVI, or part A of title IV, of this Act as cash assistance, referred to in subsection (a)(1), means the excess of—

"(1) the total expenditure for such quarter under such plans as (A) old-age assistance, (B) aid to the blind, (C) aid to the disabled, (D) aid to the aged, blind, or disabled, and (E) aid to families with dependent children, over

"(2) the amounts determined for such quarter for such State with respect to such expenditures under sections 3, 1003, 1403, 1603, 403, and 1118 of this Act and (in the case of a plan approved under title I or X or part A of title IV) under section 9 of the Act of April 19, 1950.

"(c) No payment under this section shall be made for any quarter to any State on account of expenditures, as cash assistance,

under a State plan of such State if the standards, under any plan of such State approved under title I, X, XIV, or XVI, or part A of title IV, for determining eligibility for, or the amount of, cash assistance to individuals under such plan have been so changed as to be less favorable, to all (or any substantial class or category) of the applicants for or recipients of such assistance under the plan, than the standards provided for such purpose under such plan as in effect for January 1, 1971, or, if more favorable to any such applicants or recipients, for any month after January 1971.

"(d) This section shall be effective for fiscal years 1972 and 1973 only."

MAINTENANCE OF STATE PAYMENT LEVELS

SEC. 403. Section 402(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (22); and

(2) by striking out the period at the end of paragraph (23) and inserting in lieu thereof "; and" and the following: "(24) provide that aid furnished under the plan to a family for any month shall not be less than (A) the amount of aid which would have been furnished for October 1972 under such plan to a family of the same size with no other income, reduced by (B) any income such family may have which is not required to be disregarded by clause (8)."

On page 989, after line 17, add the following new title:

TITLE VI—EFFECTIVE DATE OF CERTAIN PROVISIONS

SEC. 601. Notwithstanding any other provision of this Act, title IV (other than sections 401, 402, and 403) and title V (other than sections 510, 521, 531, and 534) shall be effective at such time as the Congress may determine in subsequent legislation.

Beginning on page 689, line 11, strike out through page 769, line 11, and insert in lieu thereof the following:

"TITLE IV—PROGRAMS FOR FAMILIES WITH CHILDREN

"PART A—TESTING OF ALTERNATIVE PROPOSALS FOR ASSISTANCE TO FAMILIES WITH DEPENDENT CHILDREN

"AUTHORIZATION FOR CONDUCT OF TEST PROGRAM

"SEC. 401. (a) For purposes of this part—

"(1) the term 'family assistance tests' means (A) the programs contained in title IV of H.R. 1, Ninety-second Congress, first session, as passed by the House of Representatives, or (B) the program referred to in clause (A) as amended by amendment numbered 1669, Ninety-second Congress, second session, introduced in the Senate on October 2, 1972,

"(2) the term 'workfare test program' means the program contained in parts A and B, title IV of H.R. 1, Ninety-second Congress, second session, as reported to the Senate by the Committee on Finance on September 26, 1972, and

"(3) the term 'family' means a family with children.

"(b)(1) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the 'Secretary') is authorized, effective January 1, 1973, to plan for and conduct, in accordance with the provisions of this section, not more than three test programs. One of such programs shall be the family assistance test program defined in subsection (a)(1)(A) of this section, one of such programs shall be the family assistance program defined in subsection (a)(1)(B) of this section, and one of such programs shall be the workfare test program.

"(2) Whenever the workfare test program is commenced, there shall commence, on the same date as such program, both family assistance test programs. Except as may otherwise be authorized by the Congress, no test program under this section shall be conducted for a period of less than twenty-four months or more than forty-eight months, and to the maximum extent practical each such test program shall be conducted for the same length of time.

"(3) Any such test program shall be conducted only in and with respect to an area which consists of one or more States, one or more political subdivisions of a State, or part of a political subdivision of a State, and shall be applicable to all the individuals who are residents of the State or the area of the State in and with respect to which such program is conducted except that no one such program shall be applicable to more than 100,000 recipients.

"(4) During any period for which any such test program is in effect in any State or in any area of a State, individuals residing in such State or the area of the State in which such program is in effect shall not be eligible for aid or assistance under any State plan or program for which the State receives Federal financial assistance under part A of title IV of the Social Security Act.

"(5) The Secretary, in determining the areas in which test programs under this section shall be conducted, shall select areas with a view to assuring—

"(A) that the number of participants in any such program will (to the maximum extent practicable) be equal to the number of participants in any other such program; and

"(B) that the area in which any family assistance test program is conducted shall be comparable (in terms of size and composition of population, of average per capita income, rate of unemployment, and other relevant criteria) to an area in which a workfare test program is conducted.

"(c)(1) No test program under this section shall be conducted in any State (or any area thereof) unless such State shall have entered into an agreement with the Secretary under which the State agrees—

"(A) to participate in the costs of such test progam; and

"(B) to cooperate with the Secretary in the conduct of such program.

"(2) Under any such agreement, no State shall be required to expend, with respect to any test program conducted within such State (or any area thereof), amounts greater than the amount which would have been expended with respect to such State or area thereof (as the case may be), during the period that such test program is in effect, under the State plan of such State approved under part A of title IV of the Social Security Act. For purposes of determining the amount any State would have under such a plan during the period that any such test program is in effect within such State (or any area thereof), it shall be assumed that the rate of State expenditure (from non-Federal funds) under such plan would be equal to the average of State expenditure (from non-Federal funds) under such plan for the twelve-month period immediately preceding the commencement of such test program.

"(d)(1) The Secretary shall, upon completion of any plans for and prior to the commencement of any test program under this section, submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a complete and detailed description of such program and shall invite and give consideration to the comments and suggestions of such committees with respect to such program.

"(2) During the period that test programs are in operation under this section, the Secretary shall from time to time (but not less frequently than once during any six-month period) submit to the Congress a report on such programs. Each such report shall contain full and complete information and data with respect to such programs and the operation thereof, together with such recommendations and comments of the Secretary with respect to such programs as he deems desirable.

"(3) At the earliest practicable date after the termination of all test programs authorized to be conducted by this section, the Secretary shall submit to the Congress a full and complete report on such programs and their operation together with (A) the Secretary's evaluation of such programs and such comments or recommendations of the Secretary with respect to such programs as he deems desirable and (B) his recommendations (if any) for legislation to revise or replace the provision of part A of title IV of the Social Security Act.

"(e)(1) The Secretary shall—

"(A) in the planning of any test program under this section; or

"(B) in assembling information, statistics, or other materials, to be contained in any report to Congress under this section;

consult with, and seek the advice and assistance of, the General Accounting Office and the General Accounting Office shall consult with the Secretary and furnish such advice and assistance to him upon request of the Secretary or at such times as the Comptroller General deems desirable.

"(2) The operations of any test program conducted under this section shall be reviewed by the General Accounting Office, and the books, records, and other documents pertaining to any such program or its operation shall be available to the General Accounting Office at all reasonable times for purposes of audit, review, or inspection. The books, records, and documents of each such program shall be audited by the General Accounting Office from time to time (but not less frequently than once each year).

"(3) During the period that test programs are in operation under this section, the Comptroller General shall from time to time (but not less frequently than once during any six-month period) submit to the Congress a report on such programs which shall contain full and complete information and data with respect to such programs and the operation thereof, together with such recommendations and comments of the Comptroller General with respect to such programs as he deems desirable.

"(4) At the earliest practicable date after the termination of all test programs authorized to be conducted by this section, the Comptroller General shall submit to the Congress a full and complete report on such programs and their operation together with his evaluation of, and comments and recommendations (if any), with respect to such programs.

"(f) In the administration of test programs under this section, the Secretary shall provide safeguards which restrict the use or disclosure of information identfying participants in such programs to purposes directly connected with the administration of such programs (except that nothing in this subsection shall be construed to prohibit the furnishing of records or information concerning participants in such programs to the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives).

"(g) For the purpose of enabling the Secretary to formulate operational plans and to conduct test programs under this section, there are hereby authorized to be appropriated for each fiscal year $200,000,000.

"(h) Nothing in this Act shall be construed as a commitment, on the part of the Congress, to enact (at any future time) legislation to establish, on a permanent basis, any program tested pursuant to this section or any similar program.

Mr. PERCY. Mr. President, the instructions contained in my motion would be the following: First, as the amendment of the Senator from Delaware (Mr.

ROTH) that was adopted, it would authorize a series of pilot projects to test out the elements of the Ribicoff welfare reform proposal, the President's proposal, and the Finance Committee proposal. These pilot programs would run from 2 to 4 years. Second, it would authorize an emergency fiscal relief measure for the States. Once a State's welfare costs reached their fiscal 1971 levels, the Federal Government would assume all financing of any additional costs for the State up to 20 percent above the fiscal 1971 levels. Above that level States would receive regular matching. This relief provision would give States retroactive relief for fiscal 1972 and fiscal 1973.

Certainly the administration has evidenced its strong support of this measure. Senator RIBICOFF has indicated time after time his support for it, and the distinguished chairman of the Finance Committee, though modifying the formula, has agreed in principle that fiscal relief must be granted to the States.

Third, it would require that States maintain benefits at the level they were paying in January 1971 or the level they are paying now, whichever is higher.

Fourth, it would require leaving intact the 10-percent work bonus the Finance Committee proposed. The 10-percent work bonus provides an additional 10 percent of wages covered by social security, up to wages of $4,000. Above that level the bonus is phased out at a 25-percent rate.

Finally and in summary, Mr. President, the Roth amendment retains major features of the Senate Finance Committee's version of H.R. 1 which I think could be considered repressive, and which I feel a great many in the Senate simply cannot live with. The problems I have with the Roth amendment include:

First, the wage supplement portion of the Finance Committee's work-fare program which encourages employers not to upgrade hourly wages even to the minimum wage and does nothing to assist workers in the lowest paying jobs.

Second, it provides for a nationwide system of child care without parental involvement or local control, which duplicates the existing system.

Third, the amendment authorizes so-called 2 to 4-year "pilot" programs which provide:

No articulated goals to be tested;

No specific standards or safeguards;

No limitations on the number of States or individuals which may be involved in the test;

No requirement that the pilot programs be more than very generally related to the programs they are to test: H.R. 1 as passed by the House, the Senate Finance Committee's version of H.R. 1, and the Ribicoff-Administration Compromise.

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

Mr. PERCY. I am very happy to yield to the Senator from Minnesota whatever time he requires.

Mr. MONDALE. I am very pleased to join in cosponsoring the amendment offered by the Senator from Illinois. I think it has great merit, and I hope it will be adopted by the Senate.

The amendment offered by the Senator from Delaware was represented as a proposal which would test the essential elements of the family assistance plan in a series of pilot projects. That was partly correct, but in some respects the Roth amendment establishes major permanent programs, establishes major agencies and major fundamental policies which would be in law on a permanent basis.

Principal among them is a brand new and I think very poorly conceived program to deal with child care in this country. If fully funded, this permanent new agency would be the largest day care program in the country.

It is a bare bones proposition which establishes a new permanent Federal bureaucracy called the Bureau of Child Care, under the control of a director who is virtually without any restrictions on how he proceeds, what standards he establishes, where he allocates the money, what kind of fee schedules he establishes, whether parents are involved, and what kind of minimum requirements may be needed. None of these things are answered in this measure. This proposed agency is contrary to the best advice we have been able to obtain from anyone, anywhere about child care. In my opinion the whole thrust of it would, in the long run, damage children far more than if it were not adopted and were set aside.

We have two major programs in the country today dealing with child care. The first is the Headstart program, which has been in being for some years, but which would be only half the size of this program.

Secondly, we have a series of day care centers set up under existing welfare programs, under title IV–A of the Social Security Act, which amount to about $700 million, but with respect to which there are certain built-in protections. They are established under the direction of the Federal Interagency Day Care Standards; they are established in cooperation with State and local welfare departments; they are subject to the protection of local licensing laws affecting fire protection, sanitation, safety protections, and the rest. There are protections in these existing day care programs dealing with the staff ratios, which are very important. We do not have time to go into it today, but the top experts in this country say it is disastrous to put too many infants and young children under the supervision of a single staff member. The psychological damage of under staffing is enormous. That is why Headstart and title IV–A programs have protections concerning adequate staff ratios and maintain close relationships between the programs and the parents whose children are in the programs.

This pending proposal, in my opinion, is perhaps the worst proposal dealing with children that I have ever seen. I think it is very dangerous. I think it would establish a national program over which State and local governments and parents have no control, in which there are no guidelines, and would permit private for-profit corporations to become involved without any control whatsoever.

I would just like to discuss that prospect for a minute, so that we will realize what will happen unless the Percy amendment is adopted.

First of all, this major new program creates a permanent agency called the Bureau of Child Care, a new Federal bureaucracy unrelated to any existing department or existing programs providing Federal assistance to day care. This encourages further fragmentation and duplication.

The establishment of a new bureau totally ignores the existence of the Office of Child Development in HEW, which was created to bring some coordination to our efforts in early childhood. It bears no relationship to child-care programs authorized in HEW, the Office of Education, or OEO. It does not even relate to the child-care programs in title IV–A and the WIN programs that are already authorized and in operation under the very Social Security Act this bill seeks to amend. It simply gives applicants for assistance one more unrelated source of funding with separate forms, and different requirements.

As such, it runs absolutely counter to the need for coordination and simplicity by adding a new and redundant Federal bureaucracy.

Second, contrary to what this administration and the Congress wants, this would be a totally federally controlled and dominated organization. There would be literally a Federal czar dealing with children who come within this program. There is no role for States or localities whatsoever in the delivery system. Child-care programs would be exempted from State and local housing requirements regarding health, sanitation, and the rest. Let me read the language:

> the Bureau . . . shall not be subject to any licensing or similar requirements imposed by any State (or political subdivision thereof), and shall not be subject to any health, fire, safety, sanitary, or other requirements imposed by any State (or political subdivision thereof) with respect to facilities providing child care.

Unlike existing day-care programs, or the proposed prime sponsorship mechanism in the Comprehensive Headstart, Child Development, and Family Services Act, the proposal has no role for general-purpose government at the State or local level. These public bodies are not designated for involvement in the delivery system at all. Their efforts in child care, health, education, and social services are not tapped. Instead, a totally new Federal bureaucracy, through Federal field offices in major cities, would have complete responsibility for these programs.

This should be a matter of particular concern to the President, who expressed in his veto message last year the fear of "arrogating initiatives to the Federal Government from the States" and "retaining an excessive measure of operational control at the Federal level."

Next the standards in this proposal are totally inadequate. It assures purely custodial care, and while there is a lot of disagreement in the day care and child care field, every person we heard from said the worst thing you can do to children is take them away from their parents and put them into cold custodial care, with no emotional support and no minimum standards to be sure that the

quality of support that one expects in the home at least is substituted as fully as possible in these day care centers. Existing standards of HEW set limits on the maximum number of children per adult. This bill sets no maximum—it sets a minimum, just the other way around.

For example, for 3-year-olds in a day care center, existing day care standards require that there be no more than a 5-to-1 child-adult ratio. In the same case, the bureau would require no less than a 10-to-1 ratio, and this is just the minimum. The bureau proposal gives the director the authority to define this ratio so that it could be 15-to-1, 20-to-1, or worse. We could put a thousand kids in the Kennedy Stadium out here, with one custodian, under this proposal. Mr. President, that is no way to treat children.

Adequate adult-child ratios are absolutely essential to quality child care. That point was emphasized time and time again during the hearings the Labor and Public Welfare Committee held on day care and child development over the past 3 years. It was made over and over again during the hearings the Finance Committee held on child care last summer. And the child-adult ratios in this bill were repeatedly criticized at that time in testimony from the Child Welfare League, the League of Women Voters, the American Academy of Pediatrics, the National Council of Jewish Women, the National Federation of Settlements and United Neighborhood Houses, the Washington Research Project, the Maryland Committee for Day Care of Children, Mary Rowe, and others—yet no improvements were made. The bill retains absolutely no protections in this critical and sensitive area. It remains an invitation for the most damaging kind of custodial warehousing.

Finally, the bills provision with respect to parent participation are totally inadequate. I think every one agrees when you start providing care for preschool children, you had better make certain it is in a way which complements and supports the family. I personally prefer, wherever possible, that the services provided in the home, with the parents, supporting the parents and keeping the family together. But where it is necessary, because the family has broken up, where the mother must work, or where the family is incapable of providing the kind of services that are needed of one kind or another, at least every effort ought to be made to keep the parents as closely involved and, in my opinion, as much in control as possible of the programs serving their children.

What does this bill do? It says that parent participation is limited to a requirement that parents be given the opportunity from time to time to meet the staff and observe the children receiving care in the facility. This is substantially weaker than the current day care standards, which require parental participation in policymaking, staff selection, and the rest. The inadequacy of this provision was pointed out repeatedly in the hearings on this proposal—in testimony from the AFL–CIO, the Child Welfare League, the American Academy of Pediatrics, the Day Care and Child Development Council of America, the National Capitol Area Child Day Care Association, the National Council of Jewish Women, the League of Women Voters, the American Baptist Home Mission Society, the Washington Research Project, the National Federation of Settlements, and United Neighborhood Houses, and others—but again no improvements were made.

Finally, there is no participation in the formula for State-by-State distribution. If the bill passes, we are authorizing the appropriation of $800 million, and no one knows or has the slightest idea how much his State will receive. There is nothing at all to assure that each State will get its appropriate share.

Mr. President, we have letters from the National Governors' Council, the President of the American Academy of Pediatrics, the National Association for the Education of Young Children, the Child Welfare League of America, Inc., the National League of Cities and United States Conference of Mayors and the Day Care and Child Development Council of America—all spelling out exactly what I have said in my remarks.

I am hopeful that the amendment offered by the Senator from Illinois will be accepted. That will truly be in the spirit of the amendment which we thought we were adopting, as offered by the Senator from Delaware (Mr. ROTH), because it would put this program along with the others on a pilot basis. We would not be establishing willy-nilly what I regard to be one of the least acceptable proposals for day care that I have ever seen. I think it is a bad proposal. I do not think it has been considered seriously. I do not think it has responded to the best advice. I regret saying this. When we start authorizing programs to serve our children in this country, we had better be careful what we are doing.

One of the key reasons, therefore, that I hope the amendment of the Senator from Illinois will be adopted is that we need a program that really does the job. The Senate has twice adopted such a program. On two occasions we have adopted child development acts which deal with all the issues with which this measure fails to deal. If that were adopted and fully funded, in my opinion we would be proceeding on the course that this country—but more important—our children and our families require.

I sincerely hope that the amendment offered by the Senator from Illinois will be accepted.

Mr. President, I ask unanimous consent that the letters to which I have referred be printed in the RECORD.

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

CHILD WELFARE LEAGUE OF AMERICA, INC.,
October 2, 1972.

HON. WALTER F. MONDALE,
Chairman, Subcommittee on Children and Youth, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR SENATOR MONDALE: The Child Welfare League of America is very concerned that child care programs will be adversely affected by the actions about to be taken in the Senate. Specifically, we are opposed to the enactment of those provisions of Title XXI of H.R. 1 which would establish a Bureau of Child Care in the Department of Labor.

We testified at length before the Committee on Finance of the United States Senate regarding our concern and some of that testimony may be of interest to you. In that testimony we said the following.

"We believe that there should be adequate provision for the availability of child care in order that women on welfare who seek employment may take jobs without detriment to their children's welfare. In this sense, we agree with Senator Long that the "availability of child care is a key element in welfare reform." We do not believe it essential, however, to include legislative provisions for the establishment of child care programs in the welfare reform bill. Separate child care legislation which provides for comprehensive programs for all children needing child care, including those receiving welfare assistance, would be preferable. A welfare reform bill might, however, include authorizations to pay for the needed child care of welfare families.

"Child care is not, in our opinion, a proper function of the Department of Labor. Child care should not be viewed primarily as a manpower device. It must be child and family-oriented to ensure that the child's welfare comes first. Therefore, the Department of HEW is the more logical department to administer child care programs. Expertise with respect to the services required for these programs is, or should be, in that Department. The HEW experts in the areas of child welfare, child development, health, education and nutrition, etc., are needed to establish and administer sound child care policies.

"It also seems unnecessary, as well as administratively and economically unsound, to have duplicate systems of child care in two departments.

"We believe that child care legislation now before the Senate Finance Committee should have much in common with the comprehensive child development program passed by the Senate and House but vetoed by the President. We hope that programs of the same scope and quality of the vetoed bill will become part of all child care legislation, although there may be differences in plans for the administration and financing of these programs.

"In closing, we wish to stress the need for quality child care to help all children achieve their maximum potential so that they may emerge from childhood as healthy, secure, and productive adults. They are, indeed, the future of this nation."

The Child Welfare League of America favors those parts of Title XXI which would increase the authorization for child welfare services and which would establish a National Adoption Information Exchange System. We hope that the Senate will agree with these provisions, and that appropriations will be made to enable these worthwhile activities to expand services to the nation's children.

Sincerely,

JOSEPH H. REID.

NATIONAL ASSOCIATION FOR THE EDUCATION OF YOUNG CHILDREN,
Washington, D.C., October 3, 1972.

Hon. WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: The National Association for the Education of Young Children (NAEYC) wants to register its concern for the potential harm that we see evidenced in some of the child care proposals incorporated into H.R. 1. Specifically, we are concerned about the possible reduction of standards for child-teacher ratios for children in group settings. The voting membership present at NAEYC's November 1971 conference passed a resolution which states a commitment to environments which permit, "maxi-

mum development and growth of children", specifically that all child care programs for young children must at least meet the minimum standard requirements as stated in the 1968 Federal Interagency Guidelines for Child Care, particularly those concerning child-teacher ratios, staffing patterns and parent involvement. The '68 Guidelines state that in day care centers, the total ratio of children to adults should not be greater than 5 to 1.

NAEYC is gravely concerned over the possibility of child care provisions being passed as a part of H.R. 1 which would set standards for 3-year-olds in group care centers at a level of at least 10 children per adult. The implications are obvious—inadequate supervision, dehumanization, and no possibility of providing quality experiences for children.

We call on you to act strongly to protect the children of this nation from such circumstances.

Sincerely yours,

MARILYN M. SMITH, Ed. D.,
Acting Executive Director.

Hon. WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: The American Academy of Pediatrics wishes to express its concern with Section 431 of HR 1 which would establish a Bureau of Child Care. The Child Care Program provided under this section represents the same approach to custodial care to which the Academy objected and the Senate agreed at the close of the last Congress. In a letter to Senator Long of December 18, 1970, the Academy urged the deletion from the Social Security Amendments of the provision establishing a Federal Child Care Corporation. In February, 1971, the Academy presented testimony to the Finance Committee specifying our reservations regarding this proposed approach and we offered positive alternatives for Committee consideration.

Section 431 will not provide for the establishment of child care programs of high quality. The minimal standards prescribed in the proposed legislation will result in mere custodial projects which will severely neglect the intellectual, social and developmental needs of children. State and local licensing will be superseded thereby negating much of the planning and program developing underway at the state and local level.

The Academy urges that the duplicative structure of child care as provided in Section 431 be struck from HR 1.

Sincerely,

JAY M. ARENA,
President, American Academy of Pediatrics.

NATIONAL GOVERNORS' CONFERENCE,
Washington, D.C., October 4, 1972.

Senator WALTER MONDALE,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR MONDALE: I appreciate your request for an analysis of the impact on States if the provision, as contained in the Senate Finance Committee's version of H.R. 1, to establish a Bureau of Child Care is enacted.

The National Governors' Conference has adopted the following policy statement regarding child care programs as related to welfare reform legislation:

"Provide for adequate day care programs for children of parents who are working or in training programs with provisions for a central state role and a comprehensive state plan, and which would not bypass States in the administration of such programs."

In analyzing the Senate Finance Committee's proposal in establishing the Bureau of Child Care, we would like to make the following comments:

1. We seriously question whether there is sufficient federal level knowledge of state or local conditions or the desirability as related to other licensing activities to justify the proposed federal preemption of all state or local health, fire, safety, sanitary, or other requirements with respect to facilities providing child care.

2. There is a total lack in the proposal of a presumed role for States in planning and administering child care programs. This is a serious deficiency in the proposal and is totally contrary to the policy position of the National Governors' Conference.

I hope that these comments will be useful to you.

Sincerely,

ALLEN C. JENSEN,
Special Assistant.

MAJOR WEAKNESSES IN BUREAU OF CHILD CARE

1. Creates a *new Federal Bureaucracy,* unrelated to any existing Departments or existing programs providing Federal assistance to day care. This encourages further fragmentation and duplication.

2. Creates a system of *total Federal control.* No role for states or localities in delivery system. Child care programs would even be exempted from State and local housing requirements regarding health, sanitation, etc.

3. *Inadequate Standards.* Assures purely custodial care. Existing standards set limits on maximum number of children per adults. This bill sets minimum. For example, for 3-year-olds in a day care center, existing Interagency Day Care Standards require that there would be no more than a 5–1 child-adult ratio. In the same case, the Bureau would require no less than a 10-1 ratio. And that is just the minimum. The Bureau proposal gives the Director the authority to define this ratio so that it could be 15–1, 20–1 or worse.

4. *Parent Participation.* Parent participation is limited to a requirement that parents be given the opportunity from "time to time", to meet the staff, and observe the children receiving care in a facility. Substantially weaker than existing Interagency Day Care Standards which require parental participation in policy making, staff selection, etc.

5. *Licensing.* Any facility in which the child care services are provided by the Bureau "shall not be subject to any health, fire, safety, sanitary or other requirements imposed by States or localities."

6. *Distribution of Funds.* No formula for State by State distribution.

NATIONAL LEAGUE OF CITIES,
U.S. CONFERENCE OF MAYORS,
October 4, 1972.

Hon. WALTER MONDALE,
U.S. Senate,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR MONDALE: We urge you to oppose any attempt to retain Title XXI, as currently drafted, in the welfare reform bill (H.R. 1). A federal child care corporation is an inadequate vehicle to assure quality services to the nation's children or to meet local needs and priorities. The policy of both the NLC and USCM mandates local government involvement in the delivery of child care services. Local governments must have the opportunity to plan, coordinate and operate their individual programs.

Sincerely,

ALLEN E. PRITCHARD, JR.,
Executive Vice President, National League of Cities.

JOHN GUNTHER,
Executive Director, U.S. Conference of Mayors.

DAY CARE AND CHILD DEVELOPMENT
COUNCIL OF AMERICA, INC.,
Washington, D.C., October 4, 1972.

Hon. Senator WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: In the recent fervor to complete Senate deliberations on H.R. 1, it is with great concern that the Council sees the direction being taken as one which will not emerge in the interests of the child care we advocate in our Statement of Principles.

We enclose a copy of our statement of September 24, 1971 before the Senate Finance Committee on this matter. Needless to say, the Council's thinking in this area has not wavered over the course of the past year.

We think that a review of this Statement by you and other Congressmen concerned about the direction of child care in our country would be beneficial.

Very truly yours,

THEODORE TAYLOR,
Executive Director.

STATEMENT BY MR. JOHN H. NIEMEYER, PRESIDENT, THE DAY CARE AND CHILD DEVELOPMENT COUNCIL OF AMERICA, INC., BEFORE THE FINANCE COMMITTEE, U.S. SENATE, SEPTEMBER 24, 1971

Mr. Chairman, distinguished members of the Committee: My name is John H. Niemeyer. I am President of the Bank Street College of Education in New York City. It is my honor to serve as President and Chairman of the Board of Directors of the Day Care and Child Development Council of America, and it is in this capacity that I speak to you today.

The Day Care and Child Development Council of America which I represent is a broad and inclusive organization. The Council brings together more that 4500 civic groups, public and private agencies, schools, churches and individuals. Our membership extends to every state in the union, and reflects a full spectrum of involvement in the care of children—from parents who are day care consumers, to practitioners whose daily work is the care of children, to professionals whose research and writings influence the field of child development.

The Council is a common effort by people who are working to achieve quality child care at all levels: local, state, regional, and national. It includes day care entrepreneurs; low, middle and high income parents; Blacks, Whites, Chicanos, Puerto Ricans, Indians, Orientals—professionals and laymen from all walks of life. What brings us together is a shared concern for the well being of our nation's children.

The purpose and priorities of the Day Care and Child Development Council are closely described in a Statement of Principles adopted in 1970 by the Board of Directors. Since this Statement bears directly on the concerns of the Committee, I will quote it in full.

THE STATEMENT OF PRINCIPLES

The Day Care and Child Development Council of America believes that quality child care services are a right: of every child, of every parent, of every community.

The goal of the Day Care and Child Development Council of America is to promote the development of a locally controlled, publicly supported, universally available child care system through: Public education—to mobilize public opinion and resources in support of children's programs; social action—to assist in formulating public policies which will result in well-planned, adequately funded, and well administered programs responsive to local needs and aspirations.

Assistance to local committees—to help citizen action groups and service agencies in meeting their community needs. Society is

obligated to support the realization of human potential. Child care services are a fundamental right for: The child—they provide children with opportunities to develop their full capacity as human beings during their crucial early years; the family—they provide parents with real choices about employment and other activities outside the home; the community—they provide one of the essential elements for improving the quality of life of the community.

We believe that America needs a coordinated network of child care and development services which:

Are available to children of all ages from conception through youth, to families from every kind of economic and social background and to every community, with priority to those whose need is greatest.

Are available through a wide variety of different types of programs and during all of the hours of the day and time of the year that children, families and communities need them.

Have the full range of components required to promote the intellectual, emotional, social and physical growth of the children they serve.

Insure parents a decisive policy role in the planning, operation and evaluation of programs which determine the environment in which their children live.

Place the major responsibility for planning and operating child care and development services at the local level.

Reflect and build on the culture and language of children, families and communities being served and enhance the distinctive features of the child's culture.

We believe that child care services should be publicly supported. The financing of quality child care services is a costly undertaking but the most prudent of long-term investments. The Nation's priorities must be reordered to provide the resources necessary for universal services.

We believe that child care services should be a public, social utility whose cost must be shared by the entire community much as we now pay for essential police, fire and public school services.

It is my purpose today to use the perspective of this Statement of Principles as a basis for analyzing a selection of major issues included in legislation related to child care pending before this Committee. This legislation includes:

S. 2003, the Child Care Services Act of 1971.

H.R. 1, the Social Security Amendments of 1971.

Amendments to H.R. 1 proposed by Senator Ribicoff.

I will also include in this analysis Title V, Child Development Programs, of S. 2007 which passed the Senate on September 9.

As a matter of initial summary, let me say that each of the specific issues discussed below is seen by the Council as a variation of the fundamental issue: The guaranteeing of quality, not just quantity in the care of our society's most precious resource, its children.

This is one of the truly basic enduring questions with which the American people and their representatives must grapple today. It finds expression regularly in many forms of policy decision. We believe that the ability to recognize this issue in its several variations and to deal with it directly is essential to any creative consideration of child care proposals today.

The following analysis will clearly reveal the Council's historic concern for quality child care programs. But this concern has never—and cannot now—relieve the Council of its profound sense of urgency to meet the growing quantitative need for child care services in America.

The issues which we have selected for analysis are elements in a system which we regard as indivisible. We begin from the premise that a desirable universal child care system must include:

(a) clear and meaningful local control.

(b) an assurance that parents will have the decisive policy-making role in planning, operating and evaluating programs.

(c) a full-range of components required to promote the intellectual, emotional, social, and physical growth of children.

To this we would add and underline—that it must also include financial resources commensurate with the job to be performed.

From the Council's point of view the absence of any one of these elements seriously calls into question whatever positive value may flow from the presence of the others.

Thus, in the legislation pending before your Committee today we find ourselves applauding features which facilitate the delivery of much needed child care services. We are glad to welcome measures which increase the supply of day care centers, and raise the federal government's level of financial support for day care services to a responsible point.

However, in the interest of quality, we have serious reservations concerning the manner in which S. 2003 and H.R. 1 deal with the inherently inter-related questions of local control, parental involvement, and comprehensiveness of services. For this reason, we strongly recommend that both of these bills be modified substantially in the course of their consideration by this Committee.

Now let me turn to the specifics of our analysis.

1. Local control

By "local control" we mean a mechanism by which an organization or person at the community or program performance level can be held accountable for program performance and can be designated as an operator of child care programs which receive public funds.

In S. 2003, the Federal Child Care Corporation is mandated to "take into account any comprehensive planning for child care which has been done." This wording seems to us only a perfunctory bow to local planning units, and is clearly unsatisfactory.

H.R. 1 provides that grants or contracts for service delivery may be made to or with any agency designated by appropriate elected or appointed official in the area and which demonstrates capacity to work with the area manpower agency. Local Educational Agencies are designated to deliver care provided on a group or institutional basis for children attending school.

The language of the bill provides very broad discretion for federal administrators and minimal apparatus for advice from local communities.

Senator Ribicoff has bolstered the role of community representatives in his proposed amendments to H.R. 1. He has proposed in addition to the stipulation that the Federal Child Care Corporation "take into account comprehensive planning . . ." the creation of "local, state, and regional councils as necessary to insure that child care services are appropriately located, that full utilization is made of existing resources, that cooperation is obtained from education, health, child welfare, social services, and volunteer groups, and that *substantial local community participation* (our emphasis) in the establishment, operation, and review of day care programs is obtained." "Furthermore, where the Corporation provides child care services *directly*, such councils shall *administer and operate* (our emphasis) such programs."

We find that the Ribicoff approach described here goes further than either S. 2003 or H.R. 1 toward providing meaningful local control. This Amendment could be strengthened by increasing from at least 25% to at least 60% the representation on its councils of parents whose children are presently in, or have in the preceding five years been enrolled in, a day care program.

However, we urge that, in providing for the delivery of child care resources and services, the Committee give serious consideration to the locally controlled Child Development Councils mandated in S. 2007. These bodies will be composed of persons appointed by the chief executive of the Prime Sponsor unit and of consumer representatives. They will select local project sponsors and be held responsible for federal funding sources for proper conduct of programs.

2. Parental involvement

Increasingly, our Council has been impressed with the contributions which parents—particularly low-income parents—have made toward improving child care programs through their service in policy-making capacities. In addition, parents have made significant the contributions as program volunteers (especially in Headstart programs), as classroom aides, lunchroom helpers, etc., and as program staff members. Our Council itself has benefited enormously from the input of parents, who now serve on all Board committees and lend expertise and extra vitality to Council deliberations.

We certainly share the Committee's desire to provide services in as economical a manner as possible. Therefore it is important to note our experience that the involvement of parents in the entirety of the educational experience of their children generates dividends even beyond those accruing to the involved parents' own children. The children of participating parents experience firsthand the commitment to democratic participation and the intimate concern evidenced by their mothers and fathers. But additional rippies of benefit accrue to other family members and other community adults and children who now have a familiar model to emulate. The process is one of self-realization. Through involvement, parents also exercise latent skills, develop confidence, promote their sense of well-being. This process of enabling parents has resulted in numerous cases of the parent achieving economic self-sufficiency, and leaving behind the stigma of social dependency.

There is a further reason for parental involvement in day care. A synthesis is highly desirable between the insights of professionals and practitioners—and the wisdom, desires, and "mother-wit" of parents for the formulation of child care experience which is neither alien nor contradictory to the family's culture and life-style.

For these reasons, we value significant parent participation on economic, as well as educational, social and cultural grounds.

It is highly distressing, therefore, to encounter in S. 2003 only the requirements that parents have the opportunity from time to time, to meet and consult with staff on the development of the child, and to observe the child, from time to time, while he is receiving care.

By the same token, we see no purpose served by restricting membership on S. 2003's National Advisory Council of Child Care to no more than one individual representing the interests of child care recipients.

While H.R. 1 makes no provisions at all for involvement of parents in child care programs, Senator Ribicoff has provided in his Amendments for a strengthened parental role via a more influential role for Advisory Councils to the Child Care Corporation at the national, local, state and regional levels.

Again, however, a superior provision for parental participation is found in S. 2007. There, at the project level, a Project Policy Committee, consisting of a minimum of 50% of parents of children being served, wields approval power over project planning, operation, and evaluation. At the Prime Sponsor level, 50% of the Child Development Council membership is drawn from representatives of existing projects to be served. Here program consumers exercise a decisive influence over programmatic policy as well as the selection of project sponsors and constituencies to be served first.

3. Comprehensiveness of program

The fundamental reason for establishing child care programs needs to be identified again and again as the development of children as human beings. As a human being, a child has physical, social and emotional needs. A child *needs* and deserves a surrounding in which he can exercise his body, can play, can reflect, can socialize with other children. A child needs nutritious food and rest. A child deserves attention and remedy for any physical deficiencies. A child needs recognition and affection from adults as well as peers. A child deserves the opportunity to learn about the world around him, to have his attention called to events and everyday factors which influence how he fares in the future. A child will be called upon to discipline his faculties and develop skills in order to increase his capacity to function adequately and independently in the world.

It is the responsibility of those who have been entrusted with the care of children to identify and provide resources which can meet such needs as these for all of America's children. And this is what we mean by comprehensiveness of services.

Last winter, the Child Care Forum of the White House Conference on Children issued a call for a diverse national network of comprehensive developmental child care services. It warned against a monolithic day care institution for children, and the Council shares this concern. No one type of program is right for all children. Programs should be designed for the varying needs of different children rather than children being molded to fit available programs. Allowance should, therefore, be made for the establishment of a wide variety of programs including where appropriate, group day care, family care, and home care; evening care, 24-hour care and emergency care; and covering all age groups from infancy through school age.

However, all of these programs need to provide comprehensive services, including educational, nutritional, health and social services to assure each child the opportunity to grow and develop to his full potential.

The Council is currently studying the whole issue of federal day care standards, especially as this relates to assuring comprehensiveness of developmental services. A distinguished task force drawn from the Council's membership will report to the Board of Directors within the week. A carefully considered position will be issued by the Council shortly thereafter.

It will be a pleasure for us to share our findings with this Committee at that time, for we consider the matter of standards a very urgent one.

In the absence of the results of this Council study, it may be helpful nevertheless for me to comment briefly on what appears in both S. 2003 and H.R. 1 as the *raison d'etre* of child care—and which, from the Council's point of view—is a totally inadequate basis on which to establish a system of comprehensive developmental services. Both S. 2003 and H.R. 1 specify child care programs as a response to the need for parents to be drawn into the labor force. But there is a fundamental difference between creating a program as a social good for the benefit of children—and creating a program to free parents for labor force participation. The former treats children as ends in themselves. The latter treats children as a means to some other end. The latter needs to be rejected, however attractively it may be cast.

It is for this reason that the Council hopes this Committee will not waiver in the need to thoroughly re-think and re-write the conceptual basis on which it is proposing that Child Care Services are to be provided for the children of America.

To this point, the tone of our analysis has been critical, particularly of the child care sections of H.R. 1 and S. 2003. We have been critical on our judgment that the weak provisions for parent involvement and local control augur ill for quality, comprehensive programs.

On the positive side, we applaud the efforts of the sponsors and supporters of these legislative proposals to address the raw inadequacies of facilities and monies to finance child care. We support a maximum allocation of resources to meet children's needs, and commend the provisions of the Long bill, S. 2003, which provide loans for construction of facilities and operation of program. As the Committee has determined, previous efforts to encourage states to utilize federal funds to finance child care for past, present, and potential public welfare recipients have faltered because of the difficulties over raising the 25% non-federal share under Title IV–A. The importance of 100% financing federally under this title, as provided in S. 2003, cannot be understated. We propose that the Committee consider a synthesis of the desirable elements of the proposed legislation, amending Title IV–A of the present Social Security Act to provide 100% federal financing for past, present, and potential welfare recipients and mandate the Office of Child Development, HEW, to administer the programs utilizing the delivery mechanism established in S. 2007 for that purpose. This would serve to avoid duplication of responsibility within the government for child care program administration and would be consistent with the philosophy of the Administration in severing eligibility for welfare assistance from the provision of social services.

Subsidization of low-income families for child care expense.

Objection has been raised in the past to the charging of fees for child care for low-income families who require child care to accept employment. The Council supports the provision of child care services as a public, social utility whose cost must be shared by the entire community much as we now pay for essential police, fire and public school services, and certainly deems it inequitable that low-income people carry an extra financial burden for child care services.

Though the Council under present circumstances approves of subsidization of low-income families for child care expenditures—a welcome addition to the Long bill in principle—we have reservations about the practical applicability of the approach to subsidization included in the bill. Rather, a clear-cut statement that "the Secretary is authorized to meet the full cost of child care services for low-income families, those below the Lower Living Budget of the Bureau of Labor Statistics, to enable an adult member of such family to engage in employment" would be preferable to the existing proposed language. Such persons could simply be defined as eligible for coverage under the Title IV–A program.

Further, we commend the importance of the provision of free child care services for OFF participants during training and for one year following commencement of full-time employment, as proposed by Senator Ribicoff. And the sums authorized by Senator Ribicoff—up to $1.5 billion for planning and establishing new facilities ($100 million); evaluation, training of personnel; technical assistance and research and demonstration projects begins to approximate resources for quality programs.

Mr. Chairman, as you know, our organization has appeared before the Committee in the past to present our views on earlier child care proposals. Rather than repeat in toto points made earlier and considered in the formulation of the present proposals, I would like to summarize some views expressed in earlier testimony:

(1) In any child care bill, we prefer language which emphasizes the intent of providing (a) a strong education program geared to the age, ability, temperament, and interest of each child; (b) adequate nutrition; (c) health program and services where needed; (d) opportunity for social and emotional growth, including a balance between affection, control, and the joy of meeting new challenges; group experience, and, as appropriate time for solitude and internalization of ideas and experience; (e) opportunities for parent education, participation and involvement; (f) social services as needed by the child and his family; and (g) adequate continuing training of personnel.

(2) We view with favor provisions in the various legislative proposals to provide 100% federal payment of the costs of child care, including program planning, operation and evaluation; construction of facilities, provision of training and technical assistance; and research and demonstrative projects.

(3) We oppose requiring any mother of minor children to take work or training as a precondition to the receipt of welfare benefits, and oppose any mechanism which places her children in a care situation without her full consent. Mothers should be free to choose the appropriate type of care situation for their own children. In this respect provisions in the Opportunities For Families Section of H.R. 1 should be revised.

(4) H.R. 1 provides that care provided on a group or institutional basis for children attending school shall be provided through arrangement with appropriate local educational agency. We feel that day care for school age children should offer a variety of program options. The use of school facilities and the operation of programs through contract with local education agencies should be one of many alternate arrangements that might be made for this service. However to limit out-of-school group programs to education agencies would result in an extremely narrow base of operational potential. Voluntary social service agencies, community action programs, recreation departments, churches, libraries, and a variety of other community resources should be utilized in the planning and operation of programs that will meet the social, recreational, educational, and protective objectives of care for children 6–14 years of age during the time that they are out of school.

(5) In conjunction with the environmental conditions in which a child is raised, the Council remains concerned about the income provisions in H.R. 1. We strongly endorse the principle of a minimum income for all families and recommend that it be established at the level of the lower living standard of the Bureau of Labor Statistics—now $6960 for an urban family of four.

(6) With respect to services financed currently under Title IV of the Social Security Act, we support the exclusion of the provision of social services from the "statewideness" requirement, as proposed by Senator Ribicoff. The statewideness requirement not only disallows flexibility in meeting the varying needs of different locales within the state, but it has been a major hindrance to the development of new services. States can often find resources to meet pressing needs in specific areas, but are unable to provide services to all people throughout the state. The result is that the services are provided nowhere!

Finally, my organization commends you and your colleagues over the serious efforts you have exerted in the interest of our nation's children.

If we can assist you in any way, we stand available and eager.

Mr. LONG. Mr. President——

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. PERCY. I recognize the distinguished Senator from Connecticut.

Mr. LONG. Mr. President, I object.

Mr. PERCY. Does the distinguished chairman of the committee want to speak first?

Mr. LONG. My impression is that the Senator is not the Presiding Officer of the Senate.

The PRESIDING OFFICER. The Senator from Illinois yielded to the Senator from Minnesota such time as he might consume.

Mr. LONG. Are we under controlled time?

The PRESIDING OFFICER. No.

Mr. LONG. Then, the Senator can yield for a question, or I would like to be recognized.

Mr. PERCY. Mr. President, I have no objection at all to the distinguished chairman speaking.

The PRESIDING OFFICER. The Senator from Louisiana is correct. The Senator from Illinois can only yield for a question without losing the floor, if the point is raised.

Mr. LONG. I make the point, Mr. President.

The PRESIDING OFFICER. The Senator from Illinois can continue, but he cannot yield, except for a question.

Mr. RIBICOFF. Mr. President, will the Senator yield for a series of questions?

Mr. PERCY. Yes; I am happy to yield.

Mr. RIBICOFF. I ask the distinguished Senator from Illinois whether his amendment would provide $1.2 billion of fiscal relief of the States in the first year?

Mr. PERCY. No, it does not.

Mr. RIBICOFF. Fiscal relief to the States.

Mr. PERCY. My fiscal relief amendment will not cost $515.6 million for fiscal year 1972, as opposed to $1.2 billion for the Bellmon amendment.

Mr. RIBICOFF. As I understand the Percy amendment, it knocks out all of title IV and parts of title V. Is that not correct?

Mr. PERCY. That is correct.

Mr. RIBICOFF. Is it not true that the Percy amendment, which includes the language of the Roth pilot program, also provides fiscal relief and requires maintenance of benefits at the January 1, 1971, level or any higher level?

Mr. PERCY. That is correct.

Mr. RIBICOFF. Is it not true that the Percy fiscal relief amendment provides that once a State's costs reach 100 percent of the calendar 1971 level, the next 20 percent of cost would be borne by the Federal Government?

Mr. PERCY. That is correct.

I want to point out specifically that it does provide for a ceiling. In other words, we do not want to have the sky as the limit. The States have an incentive to hold the costs down, and that is why the 20-percent ceiling was put in.

Mr. RIBICOFF. Is it not true that the fiscal relief in the Roth-Long measure just pours 20 percent extra matching into the States to subsidize the AFDC mess?

Mr. PERCY. That is true. As a matter of fact, the States could use that money for things other than welfare. It provides for a 20 percent Federal reimbursement regardless of whether or not they need it.

Mr. RIBICOFF. Is it not true, also, that the 10 percent work bonus in the Finance Committee bill is left intact?

Mr. PERCY. That is correct.

Mr. RIBICOFF. Is it not true that the proposal leaves much of the Finance Committee bill intact, in addition to the work bonus proviso?

Mr. PERCY. That is correct.

Mr. RIBICOFF. Does not the Senator believe that the distinguished Senator from Minnesota (Mr. MONDALE) exposed the weaknesses and the dangers in the bureau of child care now in the committee bill?

Mr. PERCY. Very grave weaknesses.

I might indicate that one of the original bills I introduced years ago was to provide construction money for day care centers.

I felt that when the distinguished Senator from Minnesota said that the Roth-Long measure destroyed the value of day care, he was certainly speaking for what my amendment was designed to correct.

Mr. RIBICOFF. Is it not true, also, that the Roth proposal would leave intact the weight subsidy and work bonus provisos of the committee bill?

Mr. PERCY. That is correct.

Mr. RIBICOFF. And the stringent child support and deserting fathers provision in the committee bill?

Mr. PERCY. That is correct.

Mr. RIBICOFF. So, instead of being a true pilot test, as in the Senator's amendment, we have some tests, to be sure, but at the same time freeze in many of the objectionable features of title IV of the committee's proposal.

Mr. PERCY. The Senator certainly has brought out exactly the thrust and intent of this amendment and what it is designed to correct.

Mr. RIBICOFF. Is it not true, as well, that the Roth proposal retains many of the repressive features of the Finance Committee version of H.R. 1?

Mr. PERCY. That is correct.

Mr. RIBICOFF. Is it not true, also, that the amendment of the Senator from Delaware, authorizing the so-called pilot program, provides no articulated goals to be tested?

Mr. PERCY. That is correct.

Mr. RIBICOFF. No specific standards or safeguards?

Mr. PERCY. That is correct.

Mr. RIBICOFF. No limitation on the number of States or individuals which may be involved in the test?

Mr. PERCY. You could take the whole State of New York, or the whole State of California.

Mr. RIBICOFF. No requirement for the pilot programs to be more than very generally related to the programs they are to test. Is that not correct?

Mr. PERCY. That is correct.

Mr. RIBICOFF. Is it not also correct that the weight supplement portion of the Finance Committee's workfare program, which encourages employers not to upgrade hourly wages even to the minimum wage—and there is nothing to assist workers in the lowest paying jobs—still remains as part of the bill we are now considering?

Mr. PERCY. That is correct.

Mr. RIBICOFF. I thank the distinguished Senator for his understanding and his clear responses. Again I commend the Senator from Illinois for his deep concern in this problem.

Mr. LONG. Mr. President, this amendment is a proposal to rewrite titles III, IV, and V as the Senator thinks they should be written. I would point out a number of things we would find objectionable to the Senator's proposal for titles IV and V. In the first place, the State welfare directors sent a group to discuss their problems with me some time ago, and they proposed a solution to it which is at the desk right now as the Long amendment to which the Roth amendment has been added. That provides that the Federal Government shall make a grant during the next 2 years of an additional 20 percent over and above what the Federal Government is providing the States with today for the cash welfare programs. By providing an additional 20 percent, they would have the relief they felt they needed to take care of the increases in their caseloads and to take care of the cost-of-living increases which occurred since that time.

The Senator's proposal would provide up to an additional 20 percent measured by the entire amount of Federal and State funds. So if the State puts up $100 million and the Federal Government puts up $100 million in matching funds, he would increase this by up to 20 percent of the overall.

It would, therefore, seem to me that instead we should give the welfare administrators what they are asking for, and they would be satisfied with that.

Further, we have heard a lot about the child care problem. I believe, as I recall, that I voted for the Mondale child development bill. The bill was vetoed by the President. That is not my fault. The President had his reasons which had to do with the fact that the bill would cost $2 billion at the beginning and then go up from there—some said as high as $20 billion. I do not know how high, but about $2 billion it would start out with.

I was aware of the administration's objection to it while the bill was on its way through the legislative mill. The point was whether it would cost too much and the administration did not feel they could afford it and that played a part in the veto, I am sure.

If we had enacted that bill for child care, the committee would not now be trying to provide more. We would be satisfied to drop out the child care provision in here. But we faced this situation: A lot of people would like to work but cannot find work because they cannot find anyone to take care of their children while they worked. So we said we would provide $800 million for child care as best we knew how, from the information available to us, from hearings we have held, and with the people who put together the Bureau that will assume responsibility for providing child care to working mothers or welfare mothers who want child care so that they can seek a job.

We provided $800 million. It had a chance of getting through for the reason that it is not a too ambitious figure. They sent to the President a bill that the Senator from Minnesota (Mr. MONDALE)

favored. We would think that perhaps with this lower figure we might be able to prevail.

The Senator is totally in error when he says there are no standards. We provided in the bill, and the Senator can turn to page 443 of the committee report and pages following and find that:

Under the committee bill, the Bureau may not require more adults than are needed to achieve a ratio of:

1. Eight children per adult, if child care is furnished in a *home;*

2. Ten children per adult if care is furnished in a *child care center;* and

3. 25 to 1 for *recreational programs.*

Although the Bureau may not require a lower number of children per adult, it may arrange for care in facilities with less children per adult.

Mr. President, I ask unanimous consent to have printed in the RECORD pages 443 through 446 of the committee report, describing the child care standards.

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

CHILD CARE STANDARDS

Of the millions of children who are not cared for by their parents during the day, well under one million receive care in licensed child care facilities. One of the major goals of the committee bill is to insure that the facilities providing care under the Bureau's auspices meet national child care quality standards which are set forth in the bill.

Many persons have argued that State and local licensing requirements are all too often overly rigid and restrictive—to the point where instead of protecting children, they relegate them to unsupervised and unlicensed care, if indeed any care, while their parents work.

The committee bill includes standards requiring child care facilities to have adequate space, adequate staffing, and adequate health requirements. It avoids overly rigid requirements, in order to allow the Bureau the maximum amount of discretion in evaluating the suitability of an individual facility. The Bureau will have to assure the adequacy of each facility in the context of its location, the type of care provided by the facility, and the age group served by it.

To promote the healthy development of children, parents should be actively involved in their children's progress. The committee bill sets as a Federal standard the requirement that every child care facility provide the parents with an opportunity to meet and consult with the staff concerning the child's development, and an opportunity to observe the child while he is receiving care.

Under the committee bill, the Bureau may not require more adults than are needed to achieve a ratio of;

1. Eight children per adult, if child care is furnished in a *home*;

2. Ten children per adult if care is furnished in a *child care center*; and

3. 25 to 1 for *recreational programs.*

Although the Bureau may not require a lower number of children per adult, it may arrange for care in facilities with less children per adult.

To assure the physical safety of children, the bill requires that facilities (other than homes) must meet the life safety code of the National Fire Protection Association. Homes in which child care is provided must meet requirements adopted by the local area that are applicable to general residential occupancy. This will provide protection for those many children today who are being cared for in unlicensed facilities, the safety of which is unknown.

One of the major administrative tasks of the Bureau will be the monitoring of child care facilities to insure that they meet the Federal standards. The committee bill requires the Bureau to establish an Office of Program Evaluation and Auditing to fulfill this function. Unfortunately, experience under the medicare and medicaid programs has shown that some individuals will abuse Federal programs for personal gain. It will be the job of the Office of Program Evaluation and Auditing to do their utmost to prevent this from happening.

In other provisions of the bill, penalties would be set for fraud or misrepresentation concerning the conditions and operation of a health care facility in order to be certified for participation under the medicare or medicaid programs. The penalty was set at imprisonment for up to 6 months, or a fine of up to $2,000, or both. To discourage individuals from fraud or misrepresentation concerning a child care facility, a similar penalty is included in the committee bill with respect to child care facilites. In addition, the facility involved will be ineligible to participate in any federally funded or assisted child care program for 2 years following conviction.

Any facility in which child care was provided by the Bureau, whether directly or under contract, would have to meet the Federal standards in the law, but it would not be subject to any licensing or other requirements imposed by States or localities. If any individual, group, State, or locality feels that the fire and safety standards are less protective of the welfare of children than those imposed by State and local ordinances, a hearing procedure is provided.

Requiring facilities to meet only the Federal standards will make it possible for many groups and organizations to establish child care facilities under contract with the Bureau where they cannot now do so because of overly rigid State and local requirements. From the standpoint of the group or individual wishing to establish the facility, this provision would end an administrative nightmare. Today, it can take months to obtain a license for even a perfect child care facility, by the time clearance is obtained from agency after agency at the local level. Under the bill, persons and groups wishing to establish a child care facility would be able to obtain technical assistance from the Bureau; they would have to meet the Federal standards and they would have to be willing to accept children whose fees were partially or wholly paid from Federal funds, in order to contract with the Bureau.

CHILD CARE AND EARLY CHILDHOOD EDUCATION

An emotional and controversial issue frequently raised in the discussion of child care concerns the position taken by some persons that all child care should provide an early childhood education experience. Without being too specific about the nature of this experience (for example, the Federal interagency day care requirements only state that "the daily activities for each child in the facility must be designed to influence a positive concept of self and motivation, and to enhance his social, cognitive, and communication skills"), early childhood education advocates contrast it with "mere custodial care" that is, care like that provided by mothers in their own home to their own children.

Effectiveness of early childhood educational programs.—Though advocates of early childhood education programs cite the immediate intellectual gains children realize as a result of their participation, evaluations of the programs have been virtually unanimous in agreeing that the gains are short-lived. For example, in a summary of recent research on early childhood development issued by the National Institute of Mental Health in 1970, the authors noted the "consistent findings of a dropoff of the gains achieved in the short-term programs when these programs are terminated. . . . Almost all the studies in the literature show a decline in performance after the short-term programs are ended for the children. . . . The evidence is fairly clear that the gains of programs that are of a short term are gains that fail to last. . . . There is no evidence . . . that pre-school instruction has lasting effects upon mental growth and development."

In an article entitled "The Environmental Mystique" that appeared in the magazine *Childhood Education* in 1970, Dr. Edward Zigler, Director of the Office of Child Development in the Department of Health, Education, and Welfare, stated:

"Learning is an inherent feature of being a human being. The only meaningful question, therefore, is not *"Why* do children learn?" but, "Why is it that some children do not learn?" Approached in this way, the problem is not one of getting intelligence into nonlearners but rather of determining the conditions and attitudes that interfere with the natural process of learning. We are all aware that children learned before cognitive theorists told us how and before the invention of talking typewriters. Indeed, children learned before schools of any sort existed. How could this learning have been possible without the formal programing of experiences which we have come to associate with the formal educational process? The answer, I think, is that in his natural state the child is a much more autonomous learner than adherents of the pressure-cooker approach woud believe. I am convinced the child does most of his learning on his own and often the way to maximize it is simply to let him alone. He accomplishes some of the most significant learning in his every day interaction with his environment. Learning for the child is, thus, a continuous process and not one limited to the formal instruction and whizbang remedial efforts that have recently captured our attention. . . . Whatever the nature of cognitive development has been overemphasized in our current society."

Thus it has been repeatedly found that by the third or fourth grade there is no difference between children who have had preschool educational experience and those who have not. Professor Carl Bereiter, who has devoted his career to the education of young children, drew the following conclusion in a paper presented at Johns Hopkins last year:

"It appears that the main thing wrong with day care is that there is not enough of it and the main reason there is not enough of it is that it costs too much. At the same time, those who are professionally dedicated to advancing day care seem to be pressing continually to make it more costly by setting certification requirements for day care workers and by insisting that day care should be educational and not just high-quality institutionalized babysitting.

". . . Producing a measurable educational effect in young children is far from easy; . . . it requires as serious a commitment to curriculum and teaching as does education in older children. I cannot imagine day care centers on a mass basis carrying out educational programs of the kind needed to produce measurable effect. If they cannot do so, then it will prove in the long run a tactical blunder to keep insisting that day care must be educational. Sooner or later those who pay for it will begin demanding to see evidence that educational benefits are being produced, and the evidence will not come forth.

"It would seem to me much wiser to seek no more from day care than the sort of high quality custodial care that a child would receive in a well-run home, and to seek ways to achieve this level of care at a cost that would make it reasonable to provide it to all those who need it. One should not have to justify day care on grounds that it will make children do better in school any more than

one should have to justify a hot lunch program that way."

Educational services for school-age children.—It is anticipated that most of the children receiving child care under the guaranteed employment program in the committee bill will be children who are in school most of the hours of the day for nine months of the year, and who will require supervision only during the hours they are not in school and during vacation periods. There appears to be no reason to require that educational services be provided to a child who already spends six hours a day in school.

In testimony before the Finance Committee, Dr. Zigler stated that for $80 a year per child an enrichment program could be provided for children receiving child care in family day care homes. Another approach suggested would have children receiving care in family child care homes go to a child care center several times during the week for a more educationally oriented experience at a much lower cost than if they spent full time in the day care center. Thus it should be possible with some imagination to enrich the experience of children who receive care in a home setting while at the same time not adding prohibitively to the cost of child care.

Committee bill.—In view of the considerations discussed above, the committee bill does not require that all child care arranged for by the Bureau of Child Care be educational in nature, nor does it require a formal educational component. However, in arranging for a child's care the Bureau would first have to see if a place is available under a child development program under other legislation if the parent prefers this type of care. Furthermore, educationally oriented child care could be arranged for by the Bureau if fees are available to pay for this kind of care.

Any educationally oriented child care arranged for by the Bureau would have to meet any applicable State or local educational standards, in keeping with the general philosophy of State and local control over education.

Mr. LONG. Mr. President, there is a great deal of detailed language spelled out in the committee report. One point that strikes me particularly about the Senator's statement is that he says we do not require that we go by State fire hazards or State fire codes. That has been one of the big problems. Some of the local groups have provided standards for fire hazards and matters of that kind, building code standards, and so forth, that cannot be met. So that we have some antiquated standards on the one hand and standards put there because the manufacturers of a particular product lobbied to get State and local governing bodies to put their particular proposal into effect, and in many cases people cannot provide the child care because of completely unrealistic building code requirements.

In order that this could be made available to everyone, we said that in the case of facilities that are not homes, they must meet the standards of the Life Safety Code of the National Fire Protection Association, 21st edition, 1967, would provide.

So as far as we know, if we are willing to adopt a uniform code that everyone will meet in providing for fire safety for day care centers, that is as good as any. If anyone knows of anything better, I would like to know about it. We would be willing to consider it.

This is the same Life Safety Code we require that nursing homes meet. I point out that the fire standard we provide for nursing homes is where patients are not ambulatory so that if this is a safe enough standard for them, where they are not able to get out of bed and move around, it should be safe enough to provide for child care centers where children are able to move about under their own power under the guidance of someone, if something of that sort should develop.

So these things have been considered. It has been suggested by some that because of the cutback in the social services programs, that was a part of the revenue-sharing bill, there is not adequate money for child care.

It is sort of hard to satisfy some of our liberal friends, coming or going. They complain on the one hand that we do not provide enough money for child care and then, when we do provide it, they take us to task because the safety codes we provide are only those of national standards required for nursing homes, where the patients are bedridden and cannot get out and walk under their own power.

It is sort of hard to satisfy all of the demands they impose on us. I would be happy for the Committee on Labor and Public Welfare to provide child care for all these working mothers, for all these welfare mothers who would like to seek jobs so that they can have it. We did provide that this child care would be in addition to child care that working mothers would be provided and what other facilities could be made available by these other programs. I regret the Senator from Minnesota and those who join in him are not able to work out a bill and get together with the President to provide adequate child care for these welfare mothers or these working mothers.

But since they were not able to do it, we found ourselves with the burden of trying to provide child care for people who would like to work.

There are good provisions in this bill that the Senator would seek to strike. For example, his proposal would strike the child support requirement in the bill. I have grave difficulty in believing that he is being urged to do that by this administration, because even Mr. Richardson and Mr. Veneman and all those in the administration who spoke to us took the view with respect to every one of these provisions that they would recommend that these fathers ought to be required to support their children. They are now seeking to duck that responsibility.

We ought to pursue them across State boundaries, and the Federal authorities ought to try to help in this matter.

We have yet to find the first objection to this. Those representing the administration said that anything we wanted to do along that line, they would recommend. It seems strange that those who would agree with the Department of HEW keep trying to strike these provisions where we would encourage the district attorneys and the U.S. attorneys to get these fathers to support their children.

This is about the third effort that has been made now to strike the provision in the bill that would catch these runaway fathers and make them do their duty.

I do not know why the Senator and those who do not like the committee's handiwork keep trying to strike out the child support provisions.

We had the overwhelming endorsement of all women's organizations interested in the matter. When they saw that we had provided in our bill an effective way to make these fathers support their children and give the mothers lawyers, at Government expense if need be, and pursue them at Government expense wherever we had to and make them pay for the support of their children, even if they were Federal employees, or make them pay something for the support of their children, as far as I know, every organization representing women supported the proposition.

I do not know why the Senator from Connecticut (Mr. RIBICOFF) wants to strike it. The senior Senator from Illinois (Mr. PERCY) wants to strike it. The junior Senator from Illinois (Mr. STEVENSON) wants to strike it. We cannot find anyone in the Nixon administration or in HEW who will publicly admit that he is against child support, even though they have not offered us any direct suggestions as to how it could be done. However, they have indicated that if we wanted to do something about it, they would go along with it.

The Senator would strike the child support provision.

I come now to the provision having to do with people working at low-paid jobs. In our bill we do not in any way modify the minimum wage law. We respect the jurisdiction of the Committee on Labor and Public Welfare. However, the law permits people to pay less than a minimum wage in a great number of situations. One example is when a person goes to work in a home as a domestic. That employment is not covered by the minimum wage, and the wage that person might receive might be only $1 or $1.50. A person might be able to make a little money to help increase the family income by taking a babysitter's job so that a workingman and his wife may go out for a night and enjoy themselves and leave their children in the care of someone they could trust.

If they take such a job, that is not covered by the minimum wage. If it happens to be a welfare mother who is trying to do what she can to aid her little family, and she goes into the home of a working family and babysits for 6 hours while that man and wife go out for an evening's entertainment, and she makes $1 or $1.50 or $1.20 an hour—to gear it in with the present minimum wage—I do not know why our friends are against our paying an additional 30-cents-an-hour increase in the income of that welfare mother who takes her children with her and does some babysitting to help earn money for her family.

Here are some other situations where a working mother could be expected to earn some money that is not covered by the minimum wage: recreation aide, swimming pool attendant, park service worker, environmental control agent, sanitation agent, library assistant, police agent, fire department assistant, social service aide, family planning aide, child care assistant, consumer protection aide,

caretaker, home for the aged, work in the agricultural pursuits: jobs picking, grading, sorting, or grading crops; fertilizing, and other preparatory work; milking cows; caring for livestock.

In small retail stores: sales clerk, cashier, cleanup man.

In small service establishments: beautician assistant, waiter, waitress, busboy, cashier, cook, porter, chambermaid, counterman.

In domestic service: gardener, handyman, cook, household aide, child attendant, attendant for aged or disabled person.

When people take any one of those jobs, just going into a home where there is an aged person and helping to cook and helping with some of the housework, if the person doing that is comes off welfare, what is wrong with the Federal Government subsidizing or supplementing the income that such a person can make in that way? Is it not better to add something to what they might make, than keeping them on welfare?

Mr. President, it makes better sense to me. And if we do it the way the committee suggested, when that person goes to work and makes some money by helping to look after some person in the old folks home, for example, it is to their advantage to report it so that we can add something to it for their benefit. However, proposals are made to strike that out of the bill. They would like to have it so that when a person goes to help grandpa or grandma cook the food and pass the time of the day with grandpa or grandma, the person would be encouraged to be a cheater, because every time that person would make a dollar, Uncle Sam would reach in and take 60 cents away from him. That is the approach they recommend. Under this amendment, as a matter of fact, if a man makes over $30, Uncle Sam would take 67 percent of that money away from him.

Mr. President, that makes people want not to report their income. We on the committee propose to encourage people to do the honest thing rather than to encourage them to do the dishonest thing. We say, "If you get a job cooking, as a maid, a library assistant, or a swimming pool attendant, tell us about what you made and we will add something to it." What is cruel or oppressive about this? The only thing I can find about it—and that is not objectionable—is that it tends to defeat this silly system under which we encourage people not to report their income and we put them on welfare. We on the committee would encourage them to be honest people and reward them for doing this.

It is just the opposite approach. It is a divergent point of view. If we want to encourage the people of this Nation to be honorable and reward them for hard work, we should agree with the committee proposal. We do not want to encourage them to get on the welfare rolls and not tell us that they are working.

Do we want to move in that direction, or do we want to do the things that are right? Furthermore, we on the committee would provide a tax advantage to a businessman who hires someone who is on welfare.

Let us analyze this for a moment. Here is a businessman who is in a position to hire someone at a job which pays the minimum wage or better.

He has two people available to him. One of them has four or five children to support, and that person is on welfare because he does not have a job. The other person does not have any children to support. If you want to help the little children and you would like for that family to get off welfare and help papa or mama get a job so they can earn their way rather than be on welfare, you would hire that man. They would strike the provision to encourage those people to hire the poor person on welfare who has children to support. We must recognize that these people on welfare, for the most part, do not have skills, training, or work experience. You need to give someone an advantage or some incentive to hire this poor fellow or lady who does not have the skill, the experience, or the training.

That person must be helped to get off of welfare and into workfare. But they would strike that provision. I do not know why.

Put all these people on welfare and then when they go to work, take two-thirds or 60 percent out of their checks, which encourages them to work and not report their income.

It is not right for people to talk about welfare reform when they encourage people by the tens of millions and provide them with the incentive to do the wrong thing, when we could just as well take the same amount of money to encourage people to do the right thing.

The Percy amendment would cost more money in fiscal relief than we are proposing. It would prevent the Senate——

Mr. PERCY. Mr. President, would the Senator clarify that statement? I want to be sure I heard it correctly. My fiscal relief amendment would be more costly? As I understand the Bellmon amendment the cost would be $1.2 billion, against $515 million for the Percy amendment.

Mr. LONG. The Senator's proposal would be permanent legislation and it may be after a couple of years that they will not need this big increase. For example, starting in 1974 the provisions we have in this bill would take virtually all aged people out of poverty, and a State would either need to have no program for the aged or they would need very little. After all, when a businessman is provided a tax advantage in terms of investment tax credit, the cost to us is $2.5 billion. I voted for that and so did the Senator from Illinois.

Mr. PERCY. Would the Senator yield for a clarification?

Mr. LONG. I will in just a moment. When we provided a businessman, not for his advantage but for the good of the country, a 7-percent investment tax credit, it will cost us $3 billion a year and more in future years to do that, to encourage a man to buy new machinery, because it provides new employment.

It will not cost that much to give that same businessman a tax advantage to hire a person on welfare rather than to hire a person who would not need to apply for welfare assistance.

I yield to the Senator from Illinois.

Mr. PERCY. I am very pleased that the distinguished chairman raised this point of open-ended fiscal relief because it gives me the opportunity to clarify this point. Because, as the distinguished Senator from Utah thoughtfully said on this floor, try to be fiscally conservative in every way I can. In this amendment I have limited my fiscal relief provisions to fiscal 1972 and 1973.

So I ask the question again. In view of the fact that the Bellmon amendment costs $1.2 billion in the first year, and more in the second, and the Percy amendment costs $515.6 million the first year, and $704.5 million in the second year, can it not be said that the Percy amendment is more fiscally sound and less costly than the Bellmon amendment, which has been accepted?

Mr. LONG. The Bellmon amendment has not been voted on at this point. I hope it will.

Mr. PERCY. I accept something as tantamount to being accepted if the chairman expresses himself and says that it will be accepted. But I want a clarification here now that the Percy amendment is far less expensive than the Bellmon amendment.

Mr. LONG. It might be somewhat less expensive.

Mr. PERCY. Somewhat? $515 million as opposed to $1.2 billion?

Mr. LONG. I was informed, and if the information I was given was wrong I stand corrected, but I was informed it went on indefinitely in the future.

Mr. PERCY. That is not true.

Mr. LONG. Then, my understanding is, and what I am posing here, would cost $1.2 billion in fiscal 1973, and it would be about $1 billion in fiscal 1974. That is what the welfare administrators came to me asking for. This does at least have the advantage of encouraging them to economize on their own systems because if they can save some money this would be something they could be use as they felt it should be used. I would think between the two figures in this regard I would rather go to conference with what they are asking for, and if we find what they are asking for is too much we could go to the figure the Senator is suggesting, rather than to go with the Senator's figure and find that is not adequate. I think what the Senator wants to do in this respect is pretty much or about the same thing that I want to do.

But I cannot agree to these proposals to strike out things in this bill we think would do a great deal to help the poor, when we want to help them. With regard to the test proposals the Senator made, it was the thought of the Senator from Louisiana that the Secretary of HEW should try to work out his test for the family assistance plan in a fashion that the Ways and Means Committee would agree that would be a fair test because they recommended the family assistance plan to us.

Mr. PERCY. Will the Senator yield for a brief comment?

Mr. LONG. I yield.

Mr. PERCY. I accept absolutely the Senator's statement that he wants to

help those people on public welfare who really need it, for whom there is no alternative, and he does not want to see them discriminated against when they have no other way to maintain themselves.

But certainly the Bellmon amendment does not protect welfare recipients from benefit reductions. It is for that reason States are required and should be required to maintain benefit levels when we provide this kind of relief to them. We are not trying to have another disguised revenue sharing bill. We are not trying to provide additional funds so that they can use it for whatever expenditures they want.

It should not be looked upon and regarded by the States as another way of having revenue sharing.

I really feel the Bellmon amendment is far too expensive. I cannot imagine how a conservative can support it, when it provides a flat 20-percent Federal reimbursement regardless of need for every single State in the Union.

Mr. LONG. In the first place, we do not think there should be a maintenance-of-effort requirement here, for many reasons. The Senator is trying to strike the child-support requirement, but we feel that by providing that requirement, a State will reduce its caseload at least by 15 percent, and we think it possible to reduce it by more than that. By the requirement we have provided that fathers must support their children, and by providing incentives for district attorneys to prosecute fathers who are denying their responsibility toward their children or escaping them, and by requiring that U.S. attorneys participate in those efforts, it is our judgment that where this has been done it results in about a 15-percent saving. We think the saving would be that much.

If a State is going to save that much, I do not see why we should require the money to be spent, when the whole purpose is to make the father do his duty.

We have provisions in his bill which provide that where a father is not paying for the support of his children, his check can be garnished. Even though he may be working for the Federal Government, his check can be garnished. In other words, we propose to reach across State boundaries to get those people, even though they may be Government employees, and make them pay for the support of their children and their families.

When the welfare rolls can be reduced in that fashion, there should not be a maintenance of effort requirement to make them spend more.

In the State of Nevada, to give an example, where somebody made an effort to purge the rolls of people who did not belong there, that Governor reduced the welfare rolls by about 20 percent and he also reduced payments to the extent that over 50 percent of those people who were being paid too much because they were not reporting income that was available to them.

After the welfare rights people and others fought it and made the State go through hearings and different delays, and one thing and another, the Governor reported that, after having been forced to go through hearings, the expense came to just about the same magnitude.

Governor Reagan reported that he had had significant success in reducing the welfare rolls by eliminating people who are not eligible and by requiring fathers to be honest toward their families and by trying to make people work.

By the Roth amendment, which the Senator is seeking to resist, for example, New York State and California would be permitted to do things which they have been seeking to do and have had some success in doing, and that is requiring some of these people to work for their welfare money. By doing that, they will be able to reduce their welfare rolls, because welfare will not be that much more attractive than working.

If we followed that principle, Governor Rockefeller would like to do it, and so would Governor Reagan. If they do it, they are going to reduce their costs of welfare. Why is the Senator going to make them spend more money?

One of the biggest justifications for getting them to spend money is the argument, "Go ahead and waste the money. Put people on who do not belong on the rolls. Do not be strict about the rolls. Let them have the run of it and let them have their say, because, in the last analysis, Uncle Sam pays 50 percent or Uncle Sam pays a great deal of it. Therefore, just go ahead and pour the money down the rat hole."

A while back we had the story of what happened, under the maintenance of effort position, in Missouri, which was locked into a situation in which it was in fiscal straits. The officials asked for relief from the maintenance of effort requirement, and we finally got it for them. Some of the bureaucrats had objections, but we finally got relief for them. A State ought to be encouraged to save money.

I would have proposed—and it would be no longer in the bill because of its being stricken by the amendment—that in the future we should not pay money on an open-ended basis to the States, because it does not encourage economy; that we provide cash amounts, so that if a State found its money was being wasted and it tended to find ways to eliminate that waste, and eliminated from the rolls people who should not be on the rolls, the State would benefit in that way and at the State budget level, and those people would have the incentive to take ineligible people off their rolls. That provision would be eliminated, because they would be forced to spend the money even though they might not think it necessary.

For those reasons, I do not think the proposal should be agreed to.

Mr. PERCY. Mr. President, I would like to respond. Then I shall be very happy to yield to my distinguished colleague to cover the day care portion.

I have been very sympathetic with the Finance Committee, with its chairman, and with the ranking Republican member on the Finance Committee in trying to do everything we conceivably can to get at the problem of welfare deadbeats. There is no one that I know of who would in good conscience vote to provide money for people who are abrogating their responsibility, who are refusing to work, who are refusing the training and education necessary to provide them with skilled job opportunities. Certainly, to the extent that we are going after legitimate welfare deadbeats, I sympathize with the committee and will cooperate with it.

We know also that there is a certain amount of fraud. We do not know exactly how much. It is like the old adage about advertisements—"half of the money is wasted." It is true of General Motors, and it is true of other big corporations. The problem is, Which half? They try to cut out expenses which provide the least return on investment. We try to provide welfare systems that cut out as much fraud as is possible. Very often fraud is due to the administrative setup. There are not a sufficient number of caseworkers. They are inundated with paperwork and do not have time to provide the necessary services. That is why we have excessive costs.

We all agree that we want to do something in this area. As to fathers who want to escape responsibility, every reasonable effort should be taken to find them, but I maintain that while we are looking for the fathers, we cannot penalize the children. They are, after all, innocent. They are going to be the welfare recipients of the future, and they are going to be on welfare the rest of their lives unless they have adequate care at this time.

So while we are looking for the deadbeats, we should not be punishing those who need help.

Those are factors on which we do not disagree at all. We just disagree on whether this fraud is the overwhelming pattern or whether it is a exception to the rule. One can say that all business is corrupt, or he can say that all labor unions are corrupt, but we are probably talking about a 3- to 5-percent factor. Survey after survey has been conducted to ascertain whether welfare recipients are just a bunch of deadbeats. The findings have shown that to be false. We have to have an understanding on this point.

As far as fiscal relief is concerned, I only ask my distinguished colleague, is it not only fair to require States to maintain benefit levels if they are to receive additional Federal help?

As we establish a fiscal relief program, should we not prevent States from further reducing their present benefit levels which are already low? The State of Connecticut is the only State in the Union to provide a benefit level that is higher than the poverty level.

I am sure that the distinguished Senator, when he indicates his compassion for the poor—and his record through the years has evidenced that, time after time—would want that kind of a safety valve feature in a fiscal relief measure. The Percy amendment provides that safety valve, and the Bellmon amendment simply does not provide it.

I am not offering another revenue-sharing bill here. We do not need to provide, under a welfare bill, money to States that do not need it.

I do feel it is quite necessary to set it right. As far as I am concerned, I believe my colleague, the chairman of the Finance Committee, agrees with many of my feelings on this. We all have compassion for the needs of the elderly, especially the elderly poor. There are 5 million impoverished people 65 and over in this country. There is no stigma to being poor, particularly when you are old and poor and there is no way for you to get a job. And it is not a crime to be poor. But it is a crime when a society with the means of our society does not make provisions to care adequately for its low-income poor.

The Percy amendment is designed to provide some relief for that type of situation, and it is far less costly than the Bellmon amendment. I feel that the direction we are taking is the right direction, and I would urge the distinguished chairman of the Finance Committee to let us vote this amendment up or down. And I would hope that it would receive his support because it embodies a principle which he has supported time after time on this floor. He agrees with the principle of fiscal relief. This is one of the few opportunities we have to provide the fiscal relief that I think the States need in this respect.

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

Mr. PERCY. I am happy to yield.

Mr. CHILES. I understood the Senator, in his colloquy with the chairman of the Committee on Finance awhile ago, talking about the Bellmon amendment, which would cost $1.2 billion and to say that the Percy amendment would cost roughly $500 million. Would the Senator explain to the Senator from Florida why the Bellmon amendment is more expensive, and where the additional cost comes in?

Mr. PERCY. The Bellmon amendment costs more because it would provide States with a flat 20-percent Federal reimbursement over their fiscal 1972 welfare expenditures. My amendment, on the other hand, would provide States with up to a 20-percent Federal reimbursement, based on the States increases in welfare expenditures over and above what they spent in fiscal 1971.

Mr. LONG. Mr. President, let me explain this in a slightly different way, so that the Senator from Florida can understand it.

The idea is that some States, such as Illinois, find themselves in a financial tight spot, and other States have managed their programs so that they are not in the same financial difficulty. The Percy amendment would save money by providing it to the States that are in the financial bind, and not make money available to the States which are not in the financial bind. It would provide money to Illinois because Illinois is in a tight situation at the moment. If Florida is not in that kind of situation, Florida would not get anything.

The welfare administrators of this country did not think something of that sort should be agreed to by the Senate, for the simple reason that they do not see why Senators who come from States which have policed their programs so as to stay within cost should have to have their people pay taxes to send their money to States which have not kept their programs within cost, so that States which have let their programs run out of bounds and become very costly would get a substantial amount of help, and those which have not done it would not receive help.

The proposal I am recommending to the Senate, which is a proposal that the welfare administrators have recommended to this Senator and that the Senator from Oklahoma (Mr. BELLMON) was recommending, is one which all welfare administrators think is fair, because it would treat all the States the same and say, "All right, we will provide 20 percent more Federal money to all the States," and that the State which has closely policed its program would get 20 percent more Federal money, and the State that has done the opposite would get 20 percent more as well.

That makes better sense. As far as the so-called maintenance of effort is concerned, the reason we are providing this money to the States is so they can provide the additional amounts that they want for additional benefits to their people, but if we provided some additional funds to help Florida, for example, and Florida did not want to raise their benefit level and did not want to expand the eligibility, I would assume that Florida would spend the Federal money in their program, and they might reprogram some of their State money to spend it on something else, where they thought it was needed more.

But I would think the Senator from Florida, the Senator from Louisiana, or a Senator from any State would be a little reluctant to provide additional money for Illinois, because Illinois let their program expand until it has them in financial difficulty, and deny his own State its proportionate amount of funds merely because his State has kept its program within the budget.

If we want to do justice among all the States, I would think we would treat them all alike and provide a flat, across-the-board increase for all, and that is what I suggested, because the welfare administrators suggested it to me.

The Senator has offered his proposal. It is not identical with the one he suggested before, but the one thing they all had in common was that they took very good care of Illinois. Some of the proposals I have seen, as I recall the previous Percy amendments, would provide zero for Louisiana, but provide a great deal of money for Illinois. I do not see why Louisiana should be penalized because it has tried to keep its program within its estimated cost, any more than any other State ought to be penalized for that reason. It sems to me they ought to be treated the same.

Furthermore, let me say this: While there may be merit to some of the Senator's proposals of what he would seek to do here, this is a blunderbuss attack on this bill. This bill has incentives for people to go to work. They would be stricken. This bill has incentives for people to hire those who are on welfare. They would be stricken. This bill has strong, effective provisions to seek and require a father to support his children. They would be stricken. This bill has money for child care, and arrangements to provide for child care. That would be stricken.

Those things, Mr. President, should not be stricken in any such blunderbuss fashion as this. If they are to be changed, they ought to be changed by the Senate looking individually at each one of these individual items.

Mr. PERCY. Mr. President, I wonder if the distinguished Senator from Florida, in response to his question, would really like some facts. Because I cannot accept the fact that in the State of Illinois, the State of Ohio, and the State of Indiana, all our problems are created by poor administration. We have one of the best administered programs in Illinois by any measurement test.

But let me just tell the Senator why we have these problems, and why we need fiscal assistance and help.

First of all, the State of Illinois pays, though the poverty level is around $4,000 for a family of four, $3,276 to a family of four. Contrast that with Alabama, which pays $972; Arkansas, $1,272; Mississippi, $720; and the State of Texas, which pays $1,776.

Let me give the figures as to what has happened in the way of migration into the State of Illinois—and these same figures are available for many other States in the Union that have been recipients of migration. Minnesota certainly has been the recipient of migrants from the South and other parts of the country where people cannot get a job. They cannot make do. The problem is that we in Illinois do provide, though not even at the poverty level, benefits at something closer to the poverty level than many other States.

In 1972, we had an increase in our welfare rolls of 770 families from the State of Mississippi. They came to Illinois in 1972 and went on the Illinois welfare rolls. From the State of Missouri, 682 families; from Puerto Rico, 474 families; from Tennessee, 361 families; from Arkansas, 302 families; from Texas, 209 families. In the most recent 12-month period, an average of 580 families a month were added to the Illinois welfare rolls after living there less than a year.

What should the State of Illinois do—put a barricade at the State entrance and say, "You can't come into the State"? We must receive these people. We must take them in. They use public transportation facilities. They come by bus or jalopy, by every means of transportation, and somehow the State has to provide for them. We are not going to let them starve.

That is why we have the problem. It is not the result of faulty administration. The administration is thorough and done under an able, tough Governor. It has been good administration under several Governors, Democratic and Republican, and the problem is the same. These are the facts. This is not fiction.

Mr. RIBICOFF. Mr. President, will the Senator yield so that I can comment to the distinguished Senator from Illinois?

Mr. CHILES. I yield.

Mr. RIBICOFF. I have listened to the Senator from Illinois response to the Senator from Florida.

From long experience as a Governor and as Secretary of Health, Education, and Welfare, and from following the problems of welfare, I know that the State of Illinois, for many years, under Democratic and Republican Governors, has always had one of the most able, imaginative, and best administered welfare programs in the United States. The State of Illinois was a bellwether State, where other States came to observe and tried to understand what the State of Illinois was trying to do.

The Senator from Illinois explanation of the situation in Illinois is correct, from my personal experience and knowledge; so it has nothing to do with misfeasance or bad management of the welfare program in the State of Illinois.

Mr. PERCY. I thank the Senator. He has had an overview that very few in the Senate have had.

Of all the States in the Union, only Connecticut provides a family of four with a benefit payment over the poverty level—$4,020.

No wonder, then, that its need for fiscal relief is greater than a State which, by its unconscionably low payments, drives people out of the State.

I have seen evidence that this is true in other States. They would be willing to offer a one-way bus ticket to get people out of the State and shift their problem to the State of Illinois, the State of Florida, the State of Connecticut, whatever State it may be. I think that welfare is a national problem, not one that can be blamed on poor administration in Illinois or any other State.

Mr. LONG. Mr. President, the point about this matter is that the reason why the fiscal relief provisions cost less in the Percy amendment is that it is provided for the so-called needy States, and for the purpose of that amendment, Illinois is a needy State.

I do not know whether Florida would be a needy State, but Illinois would get $41 million of the $515 million that the Senator would provide. Because of the generous program they have in Illinois, the State finds itself in financial straits, so Illinois would get $41 million. Some States would get a great deal, and some would get nothing.

In Louisiana, if we are forced by a court decision to add people to the rolls that we did not think belonged there, we would perhaps have a cutback across the board in order to manage the budget, the increased caseload that the court pushed onto us. If you have done that and you are well within your budget, then you would not be a needy State.

Proceeding with that standard of need, some States—Illinois in particular—would receive a great deal of help and other States would not receive any help. I do not think that States that would appear not to be needy, just because they have carefully administered their program or have kept it within the amount of money they have appropriated and budgeted for their program, ought to be denied their share of the fiscal relief money, simply because they have prudently and carefully managed their program.

I can sympathize with Illinois and people who have migrated to that State. I point out that it is not the fault of this Senator, and it certainly is not the fault of the Finance Committee, that the courts have stricken down all the residency requirements. We have affirmatively provided by law that States could have residency requirements. As the Senator knows, the Supreme Court says we cannot authorize a State to have a residency requirement if it is imposed by the State.

When States such as New York and, to a lesser degree, Illinois have very high levels of benefits, they do attract people, and it creates a problem. That is one reason why I would urge that they do some of the things we ought to be doing here, to try to put some of these people to work, so that welfare would not be all that attractive.

I do not think the Senate would want to vote for a kind of relief that gives a great amount of advantage to some. I do not think the Senate would feel that, on the motion of a single Senator, we ought to let him strike all the provisions that provide incentives to go to work, or strike out all provisions that provide incentives for employers to hire people who otherwise would be on welfare, or strike out the provisions against which I have yet to hear the first argument—that U.S. attorneys and district attorneys ought to be encouraged to pursue runaway fathers; that we ought to have stronger laws to act against those fathers; that we ought to have the power to garnishee their income from the employer, so that when these fathers move from place to place, they can be pursued and made to do the honorable thing.

I do not see why those provisions should be stricken, but that is what the Senator would do with his instruction to recommit this matter to the committee and report back and to write the bill the way he would like us to write it.

I would hope that such suggestions Senators might make would be offered individually, if they wish, so that we could consider them on their own merits. But I do not think the Senate would want to proceed with the kind of blunderbuss attack the Senator makes.

Also, the Senator provides in his amendment that States cannot reduce payment levels. That is about the only way up to now that some States have been able to keep going at all or to defend themselves against completely unpredictable court decisions. For example, in Louisiana, when the court said we could not attribute the income of anyone living in the home to the family living there with him, they could not have any kind of a man in the house rule of any sort whatever, and could not have a residency requirement, the caseload in Louisiana at that point was increased 50 percent. How are we supposed to comply with the court decision if we cannot reduce the level of the payments? That is a problem created by the court decisions which so far as many were concerned was an error. But, after all, that is their function to rule on those things. Sometimes the States have to have the power to make reductions in order to continue to stay fiscally solven and comply with court decisions.

So that all these different things, the bunderbuss attack the Senator would make on the provisions in the Roth amendment, or in the committee bill, I would say, should not be agreed to. If he wants to come back and offer separate amendments, perhaps we could consider them better.

Mr. PERCY. Mr. President, will the Senator yield for a clarification of one point? Did he not say that under the Percy amendment——

Mr. CHILES. Mr. President, has not the Senator yielded the floor? I would like to seek recognition.

Mr. PERCY. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator had yielded the floor. The Chair will recognize the Senator from Florida (Mr. CHILES).

Mr. CHILES. Mr. President, I have been on the floor for about two and a half hours now trying to corner everyone I could corner, the staffs of committees, the staff of the Senator from Illinois, and everyone else I could find, to try to understand what the amendment of the Senator from Illinois does, what the amendment of the Senator from Oklahoma is, and where we stand on this particular bill.

I can tell you, Mr. President, that I do not understand it now. I do not know whether anyone else in here understands it either. But I know that every other Senator who is off the floor does not understand it. What we are talking about and what the Senate thinks is whether we will adopt a pilot plan and, if so, what kind of pilot plan will we adopt.

I find that we are dealing with things well beyond the pilot plan, that we are dealing with the provision that the committee worked on, workfare, which a number of States had recommended support for. We are dealing with a provision of $500 million in one of them and $1.2 billion in another.

When we come in to vote on a motion to table or on an amendment, everyone will walk in that door thinking they are voting for a pilot plan, the Percy pilot plan as opposed to the Roth pilot plan. Certainly this is complicated. There are over a thousand pages in the bill. But when we are having this kind of debate in the closing hours of this session, dealing with $500 million or $1.2 billion and I cannot even find out from the staffs what they are, as they are not printed, and I cannot find out what they are, we begin to see how we are doing business here. It is ridiculous that we can come in here and cannot find out what is going on. We would think that we are going into this pilot plan and look at everything about it. Are we not going to pass on something in title IV, being a study. That is not true. All kinds of things in addition to a study are contemplated. All kinds of major changes in the present plan are contemplated in addition to the study.

Mr. President, I will bet that 80 percent of Senators do not understand that, and they do not understand what we are talking about and what you have been talking about, and what I have been trying to listen to. I wonder how many Senators on the floor right now understand it. Your staffs do not. I have been trying to talk to those to try to find out whether they understand it, what we are dealing with here, we are dealing with a major question of reform, but we are dealing with it in the 11th hour of this session, and we are dealing with it when we are talking and we cannot get anyone on the floor to understand it when we talk about dealing with pilot plans and then get off into a change of a major formula, and then providing money for the States—whether to give 20 percent to every State whether they need it or not, or 20 percent to such of those States who would like to get additional money, or whether they need it—either one of which I am not sure of. I have no way of trying to determine whether we are dealing with that kind of question when we think we are studying going into a pilot plan.

I walked outside a minute ago and I was approached by Common Cause, and the League of Women Voters, and they said they are supporting the Percy pilot plan, that they were for that pilot plan because they think it is a better pilot plan than the Roth pilot plan, but they do not know that this amendment changes the major cost factors. They did not understand that. They did not understand the Bellmon amendment, and that is one that will be adopted, yet we talk on the floor as though it were an existing part of the Roth plan already—tantamount to being accepted because we have discussed it. Yet I cannot find a copy of the Bellmon amendment. It has not been reduced to writing. Yet it is such an integral part of this debate, already assuming that the amendment is a part of the Roth amendment and has already been adopted.

Mr. President, this is a heck of a way to do business. This is a heck of a way to say that we are making headway with major reform in welfare, especially when we generally can pick up the newspaper and read that we have already decided to scrap title IV and there is just going to be a study—a study of the workfare plan by the committee and the distinguished chairman, that there will be a study of the Ribicoff plan, and that there will be a study of the administration's plan.

I thought that was the direction in which we were going but I find that is not true. We are not talking about just a study, we are talking about adopting many major items that the committee had in relation to reform. Now we are talking about a change in the formula and how we will distribute the funds, but there will be one or two different amendments.

Senators will walk in that door and feel that they are voting either on a motion to table or this pending motion. They are no more going to understand the provisions in that than anything in the world.

The Senator from Louisiana said one valid thing and that is, he thinks that we should work on this in some kind of pieces, to try to determine, will we deal with a pilot plan, will we deal with a distribution of the formula, or will we deal with separate things? Are we going to say that we are adopting parts of a major reform as proposed by the committee in the workfare proposal, or are we talking about just a pilot study?

Mr. President, if you will tell me some of the ground rules, then I will make up my mind how I want to vote. I should like to be able to know what amendment I am voting on because I have to be responsible for my vote to the people of Florida. I cannot understand it now.

Mr. PERCY. Mr. President, if the Senator from Florida will yield, I can answer that. I can answer it in 1 or 2 minutes. Because the States did not get welfare reform as scheduled, and because they did not get revenue sharing as originally scheduled, 22 Governors contacted me to say that they were in a fiscal crisis. I therefore put in an emergency welfare relief amendment, with White House agreement, which would hold harmless the States up to a maximum of 20 percent in welfare costs over their June 30, 1971, expenditures. Several reimbursements have been made to insure welfare cost control. At the same time, also, to protect the welfare recipient by requiring the States to maintain a benefit level as a condition to receiving the interim fiscal relief. Federal reimbursement under my amendment would be calculated strictly according to the welfare costs of the case needs of each State.

The HEW studies show that Florida would be eligible to receive $6.6 million for fiscal 1972, and $6.6 million for fiscal 1973.

I cannot tell the Senator how much the Bellmon amendment would provide for the State of Florida because those figures are not available for Florida, Illinois, or for any other State. But I can assert that the chairman's statement that the Percy amendment would not permit the State to reduce its welfare benefits is simply not accurate. Any State can reduce its welfare payments down to zero if it wants to under the Percy amendment. All that happens is that it is not eligible to receive the extra Federal relief payment which would make the whole half of the fiscal year 1972. So that is as clear and concise an explanation as I can give. It is very simple, and it is exactly what the amendment would do.

Mr. CHILES. Mr. President, that is very clear, but that is only one part of the Percy amendment. I want to know something else about the Percy amendment. I want to know about the reform. I want to know what it does with regard to child care. I want to know what it does with respect to striking the welfare portion of the bill. I want to know all about the amendment. The Senator has explained just a little part of the Percy amendment.

Mr. PERCY. Mr. President, in no more than 1 minute I can explain its other provisions.

Mr. President, if the Senator will yield me 1 minute, I might precisely explain the language.

My amendment knocks out title IV, the workfare plan. It accepts a work bonus and tax rebate for the elderly.

Second, it authorizes three pilot programs. No one program is allowed to test more than 100,000 participants.

That is as simple an explanation of the amendment as I can make. We do not have a great deal of time remaining. If the Senator from Florida would yield 5 minutes to the Senator from Minnesota, we could complete our total explanation and could get into the aspects which the chairman of the committee wants to discuss.

Mr. CHILES. I would be delighted to yield to the Senator from Minnesota.

Mr. MONDALE. Mr. President, I have a good deal of sympathy with the points made by the Senator from Florida. I think that most of my colleagues when they voted on the Roth amendment felt that they were voting in effect on a series of pilot tests for the principles involved. They did not feel that they were establishing a major program on a permanent basis.

Embodied in the Roth amendment is the establishment of a massive, new program of child care which is different from the program adopted twice by an overwhelming margin in the U.S. Senate.

It would establish a totally federally controlled, permanent, massive, new agency in which the States and local communities would have no say whatsoever, in which the parents would have no say-so whatsoever. It would authorize in the first year $800 million and then such sums as necessary in following years. It is sort of like the old foreign aid. No one knows where it will end. It violates every principle that I have been able to determine to be essential for decent child care.

It is opposed by virtually every organization that has shown any interest in this matter in the whole Nation with respect to child care.

I think the cosponsors of the amendment—and I would suspect that many of our colleagues—may not have been aware of the fact that it was not a pilot program, but was a permanent, massive, new, and, I assume, a multimillion-dollar program which among other things could seriously tamper with families.

It is too bad that not every Senator is present when we discuss this matter. However, I have a great deal of sympathy with what the Senator says.

Mr. CHILES. Mr. President, I agree with the Senator from Minnesota that I feel a majority of the Senate felt when they were voting on the Roth amendment that they were voting on a test of the different proposals. Again, I think the same thing can be said when they come in to vote on this matter and on the motion to table. They will not understand what is in the amendment.

We are going back to try to take out the child care program. We are going back to try to take out some of the workfare proposals. We are changing the distribution monetary formula or trying to change it, and the Bellmon provision is coming behind it or in front of it.

We are dealing with all of these frustrations. It is a complicated issue to try to make a decision on one of these mat-

ters at a time. We did not hear the testimony or participate in the hearings. And I know how many hours the Finance Committee has worked. It is hard enough for me to try to decide these things one at a time. And when they throw them all in at once and when I do not know they are in here, it makes it twice as hard.

This is a deliberative body. We are not making our decision in the right way.

Mr. RIBICOFF. Mr. President, I want to compliment the Senator from Florida for throwing some light on the operations of the U.S. Senate. The Senator from Florida has pointed out very clearly that the U.S. Senate has been confused here today. The Senator from Florida has a just complaint.

The reason that the parliamentary situation developed this way is so that the Roth amendment would be voted on first for the exact purpose indicated by the Senator from Florida. Everyone thought we were going to pass a pilot program.

Everyone thought that if they voted for one pilot program they would have accomplished what they wanted.

What I tried to do this morning in the motion to recommit was to open up this bill to some sunshine, the sunshine that the Senator is trying to bring to bear on the processes of Government.

Under my amendment to recommit, we would have been in a position to debate and discuss each and every proposal and facet of title IV. This motion failed by a vote of 44 to 41.

Now we have voted for a proposal that is not a true pilot program. The public thinks that we will have a true pilot program. While I do not have much sympathy with the way the Administration has handled this whole welfare situation since its inception, I have the utmost sympathy for the Secretary of HEW when he tries to put into effect what was accomplished by the Roth amendment and the Roth vote.

The only thing that will bring order out of this confusion is the commonsense of WILBUR MILLS, chairman of the House Ways and Means Committee when this bill gets to conference.

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

Mr. CHILES. I yield.

Mr. ROTH. Mr. President, I would like to point out to the Senator from Florida that the Senator from Delaware sent to every Member of the Senate on October 2 a letter explaining exactly what this amendment contains. I know that this is a complex situation. However, advance notice was given as to what was contained in the amendment. And of course, this morning when the so-called Roth amendment came up we outlined what was included. So an effort was made to notify everyone what was included in my proposal. It is only fair for everyone to recognize he was given the information. I realize time is limited and it is difficult to catch up with things, but it is not because those sponsoring the legislation did not put the Senate on notice.

Mr. RIBICOFF. Mr. President, if I may comment briefly, I have the utmost respect for the Senator from Delaware. He was a constructive Member of the House and he is a most constructive Member of this body.

I tip my hat to the Senator from Delaware because no one has been as much in the forefront as he has in helping people understand the Federal bureaucracy. But I am sure that he will admit that no one this morning had the slightest idea that the amendment in the first degree that would be presented would be the Bellmon amendment to which your amendment was attached. The Senator did make clear what he intended to do with his amendment, but the Senate was not aware what the vehicle was.

It is not the fault of the Senator from Delaware, or the Senator from Louisiana, or me that there is poor attendance in the Senate when matters of such importance are discussed.

Here we are disposing of matters of grave import, affecting millions of people, and involving billions of dollars and confusion surrounds the issue. That is why I compliment the Senator from Florida. What he said today should be required reading for all of us.

Mr. CHILES. The concern of the Senator from Florida is that I am here voting and I do not understand what I am voting on. I think we are entitled to get to these questions before us in pieces so we can understand them and so that it will not be reported to be a pilot plan or one thing, when, in effect, it is another major issue the other way.

The amendment of the Senator from Illinois covers many items. It is said this is a pilot plan. The amendment of the Senator from Delaware certainly covered extensive items. I reiterate, the thing I am interested in is trying to see if we can break these things down so that we know what we are voting on. If we are voting on a pilot plan we know that is what we are voting on, and if there is a difference in those plans, that we understand the difference, and if we are voting on workfare, we know that; and if it is on a permanent basis or a study basis, we will know that; we will know if we are creating a new agency for child care. All of those matters need to come before us issue by issue and that is the only way the Senate would be able to address itself to them and make a proper determination on the issues involved. This amendment fails to do that and I think the other amendment fails to do that.

Mr. MONDALE. The Senator's point is well taken. The Senate is supposed to handle these matters issue by issue. But regretfully, the Roth amendment was adopted in the nature of an amendment in the second degree so we have no way to modify it. It is true that the Senator from Delaware sent us a letter explaining this, but we thought when it was proposed we would have a chance to debate it and discuss critical items in the amendment, but it was put to us in the form of an amendment in the second degree and no amendments were in order. So all we have left is the Percy amendment, and I am deeply interested in that amendment. The Percy amendment preserves the status quo the question of child care, while the Roth amendment establishes a mammoth new agency dealing with child care, which I think violates every principle I have seen that makes sense in child care.

Mr. RIBICOFF. The difference is this. If the Percy amendment is tabled or defeated, then the Senator and all of us are stuck with the Roth amendment. If the Percy amendment prevails the entire subject matter is open for discussion and amendment. At that stage the Senator from Florida or any other Senator can introduce individual amendments and vote on every provision of title IV. But if the Percy amendment goes down or is tabled, these issues are closed to us. That is the situation that faces the Senate.

Mr. CHILES. What provision would keep the Percy amendment from being modified, and dealing with this subject matter by subject matter?

Mr. RIBICOFF. The Percy amendment to recommit with instructions puts the entire subject matter of welfare reform on the table before this body for amendment and for discussion. The Senator can discuss or amend any part of title IV.

At the present time the Senate has before it the Roth amendment which cannot be changed and will prevail if the Percy amendment is tabled. This will probably happen and that is why I say the only hope on this issue is the common sense of WILBUR MILLS in conference.

Mr. LONG. Mr. President, those of us who serve on the Committee on Finance have been working on this bill for the better part of 3 years, and much of even the House language in this bill was written in the Committee on Finance during the previous Congress.

It was not the idea of the Senator from Louisiana that the Senator from Delaware (Mr. ROTH) should offer his proposed amendment to titles IV and V; but it was a subject he was privileged to offer. He wrote to every Senator and told them he was going to offer the amendment, so we had some idea what his amendment was going to be, and some of us had a chance to talk to him about it and say, "If you want to offer an amendment of that sort, I hope you will not want to strike from title IV and title V provisions which as far as we are able to determine not a man in the Senate has any objection to. And it would seem to us if you are concerned about the cost of something, you are concerned about the work program in this bill."

So the Senator drafted his proposal, which any Senator in this body, including the Senator from Florida, has a right to do. He did not try to fool the Senate or make any sort of end run on anybody. He wrote to every Senator in this body and said, "I am going to offer this amendment. Would you like to be a cosponsor. I hope you will vote for it."

The Senator from Connecticut (Mr. RIBICOFF) had every right to do what he did. He proposed a substitute for the entire Roth amendment.

If that substitute had been agreed to, then that would not have been subject to amendment. We could not have amended it, because it was in the second degree.

If it was agreed to, we could not amend it; we could only vote up or down on that amendment.

Apparently the Senator from Connecticut saw nothing wrong about substituting an amendment for the other amendment, where his would not be subject to amendment, either before or after. He had every right to do it. I find no criticism in that.

Yesterday evening we were notified there was another amendment to be offered in the second degree, in the nature of a substitute for the Roth amendment. That was the Stevenson amendment. There appeared every prospect that the Roth amendment would not get to a vote; that every time, some Senator would call up his family assistance plan or other proposal, and they would write another substitute for the Roth amendment.

They do not have to do business that way. If the amendment were agreed to, they could amend the bill at the end of the bill. They could add an amendment which would read that "notwithstanding what appears elsewhere in the bill, thus and so shall be the case." They could offer a substitute for the entire bill even if it had become law. They could change the Roth amendment anyway they wanted to. But Senators have had their amendments voted on, either directly or on motions to put them aside, so we could vote on the Roth amendment.

So facing an interminable series of substitutes for the Roth amendment, the Senator from Louisiana offered an amendment, because, if we are going to strike out the work programs then the States are going to have to have fiscal relief that does not appear elsewere in the bill. That was not suggested by the Senator from Delaware (Mr. ROTH), so I offered an amendment that would strike titles IV and V, well understanding he was going to offer an amendment in the second degree, so he would have a chance to have a vote on it.

I do not know why it should be thought that every Senator should have a chance to have a vote on his amendment except the Senator from Delaware. I guess the only reason for that is that he appears to have a majority, so it appears it is not going to come to a vote.

So when we faced a parliamentary situation where they could not vote on the amendment or offer an amendment to it, then those who are opposed to it started offering motions to recommit, to redraft the bill back to the way they want it. They have had this in common. Whereas we on the Finance Committee spent years working on what is in titles IV and V, individual Senators who are not even on the committee have moved to recommit and report back after striking out provisions that would pass by unanimous vote, save perhaps for themselves. I think they would even vote for provisions they were striking out.

I was led to believe that we were confronted with a situation where someone else would offer a substitute for titles IV and V, and having an amendment offered to that, it would be in the second degree and would not be subject to amendment.

I personally believe the Roth amendment should have come to a vote. That is why the Senator withdrew it, so he could offer it in the second degree. If it is not going to be done, we are going to have interminable motions to recommit or to write the bill according to what individual Senators think should be in it.

Mind you, Mr. President, motions to recomit are not being offered by the Senator from Delaware; he says, "Senator, here is my amendment. Here is what I am going to propose. Would you like to join as a cosponsor?"

The proposals made are not even in print. Take the Percy proposal. I was told, "Senator, you mean you cannot tell me anything about it?" Of course not. I did not see what was in there until the Senator from Illinois offered it. How could I know? I did not know, and neither did my staff.

Under the Percy amendment, Florida would receive $6 million. Under the formula I offered, which the State administrators agree is fair, how much would Florida get? $44 million.

Suppose Senators had voted for this when it was offered. Why could not we offer information on it? Because nobody told the committee staff or anybody else what it was all about. This would be a substitute for what the Senate would be committed to, where presumably it would not be changed, in which Florida, which the welfare administrators think it fair, including the Senator, would be getting $44 million, and under this proposal he would get $6 million. Nobody was informed about that proposal.

What I have proposed relates to how the money would be divided between the various States.

I think I understand the Roth amendment. What the amendment would do is strike from titles IV and V those provisions about which he has very serious doubts and feels should be tested. It is directed toward the item in the bill that the administration says would cost $4.1 billion. We do not think it would cost that much. We think it would cost about $2.6 billion. But he would strike that part of the amendment. He would also leave out the part which provides that benefits would not be paid to strikers. Generally speaking, he would keep these other provisions which would try to make a father do his duty toward his children.

I have yet to hear anybody stand here and make the first argument about what is wrong with our child support provision, which would seek to make a father do his duty toward his children and prosecute him for not doing it. Yet we have had a vote today on three motions whereby each Senator would, by his motion, rewrite titles IV and V, leaving that provision out.

That was also in the Percy motion today. It would rewrite titles IV and V and leave this section out.

Mr. CHILES. The Senator has informed the Senator from Florida on something. That is what I have been trying to get information on for 3 or 4 hours. For the first time I have been able to get a figure. I would like to check the figure. It was brought out that under one proposal, which is the Bellmon amendment, which has not been adopted here, but we talk like it has been adopted—and that is a little confusing to the Senator from Florida; I do not know how that works.

Mr. LONG. It is right at the desk.

Mr. CHILES. We assume it is already part of the Roth amendment when we talk about that.

Mr. LONG. I have never assumed it was, because I have never said that. I have stood on the floor and said that was the difference between the Roth proposal and my proposal. That was a part that was not stricken by the Roth proposal. After the vote on the Roth proposal, I stood up and said that the Senate ought to know that was my proposal and the Roth proposal did not substitute that part of it. I am sorry the Senator did not hear it, but if he reads the RECORD tomorrow, he will see it is there. I explained it to the Senate, because it is a very important item.

Mr. CHILES. It is very important, because in the discussion it was suggested that under the Roth proposal, Florida would get $44 million, and under the Percy amendment it would get $6 million.

Mr. LONG. This is what the welfare administrators recommend. I have been recommending it for more than a year.

They recommended that to relieve the situation for the remainder of this year and for next year, up until January 1974, the simplest way would be to provide a 20-percent increase in the Federal grants to the States.

It may be that Florida may not need all that money in that category of programs, and if so, if they want to spend it for social services, for example, they could spend it for that, or for whatever sort of things they want to spend it for, or they could reduce some of their State contribution, if they wanted to, and use the State money for something else.

Mr. CHILES. Again, the Senator from Florida would like to be able to face that test clearly, as to whether I want to go under one formula or the other, without feeling I am being influenced, in what I am going to do on child care, workfare, and all these other provisions all lumped together, because I would like to be able to determine how I want to vote on those others on their own merits, rather than with something that directly affects dollars to the State. Perhaps the Senator can add that as a sweetner or kicker and influence my vote on the other matters, but I do not think he should. I think I ought to be able to decide on each of those other items without having it all lumped together.

Mr. LONG. I can assure the Senator that as far as the Senator from Louisiana is concerned, I do not want to deny anyone the right to have a vote on anything in this bill that he is interested in. Insofar as the Senator from Louisiana is concerned, before we are through voting on this bill, the Senator will have that opportunity.

I noticed that the Nader people wrote something up very critical of the Finance Committee. They say we operate with no rules, or practically none.

Generally, the way this Senator tries to do business as committee chairman is to try to see that on everything we

do, on every semicolon, every comma, every period, any member of the committee can have a vote on anything he wants to vote on, as many times as we want to vote, so that one member cannot bar another from having his item considered; so that no matter in what order we take the thing up, when we are through the thing we are voting on is not only what the majority wants, but so far as possible what everyone wants. And I am confident that by the time we get through with this measure, we will have done that.

But at the moment we are confronted with a blunderbuss proposition.

Mr. CHILES. Mr. President, if the Senator will yield, I think we are confronted with a second blunderbuss proposition. We have already been hit by one today, and this is a second one.

Mr. LONG. But the Senator can offer, if he wants to, an amendment which attempts to rewrite 100 pages of this bill. If he wants to do it, he has that privilege. That is what the Senator from Illinois has done. So now we have a proposal to rewrite it in a different fashion. I just hope that the Senate will see fit to let us vote on the Roth amendment, and then, having done so, proceed to do whatever the Senator wants done. Even if he wants to change it, it can be done; and I think I can show the Senator how to do it. All he needs is 51 votes to bring it about.

Mr. President, I move that the pending motion be laid on the table.

Mr. CRANSTON. Mr. President, before he does that, will the Senator yield for a unanimous-consent request?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that immediately following the vote on the motion to lay on the table the pending motion, the Chair receive a message from the House of Representatives with respect to the President's veto message, and that the time in connection with the veto message then begin to run.

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

Mr. LONG. Mr. President, I move that the pending motion to recommit and report back be laid on the table.

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

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. GRAVEL). The question is on agreeing to the motion of the Senator from Louisiana to lay on the table the pending motion to recommit. 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 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 Rhode Island (Mr. PELL), the Senator from Oklahoma (Mr. HARRIS), and the Senator from Massachusetts (Mr. KENNEDY) 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 Rhode Island (Mr. PELL) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BROCK), the Senator from South Carolina (Mr. THURMOND), 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 Delaware (Mr. BOGGS), the Senator from New Jersey (Mr. CASE), the Senator from Colorado (Mr. DOMINICK), the Senator from Oregon (Mr. HATFIELD), the Senator from Ohio (Mr. SAXBE), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

If present and voting, the Senator from Delaware (Mr. BOGGS), the Senator from Oregon (Mr. HATFIELD), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 49, nays 32, as follows:

[No. 517 Leg.]

YEAS—49

Allen	Edwards	McClellan
Anderson	Ervin	Miller
Baker	Fannin	Montoya
Bellmon	Fong	Packwood
Bennett	Fulbright	Pearson
Bentsen	Gambrell	Proxmire
Bible	Goldwater	Randolph
Buckley	Gurney	Roth
Byrd, Harry F., Jr.	Hansen	Smith
Byrd, Robert C.	Hollings	Sparkman
Cannon	Hruska	Spong
Chiles	Jackson	Stennis
Church	Jordan, N.C.	Stevens
Cotton	Jordan, Idaho	Symington
Curtis	Long	Talmadge
Dole	Magnuson	Young
	Mansfield	

NAYS—32

Aiken	Hart	Pastore
Bayh	Hartke	Percy
Beall	Hughes	Ribicoff
Brooke	Humphrey	Schweiker
Burdick	Inouye	Scott
Cook	Javits	Stafford
Cooper	Mathias	Stevenson
Cranston	Mondale	Taft
Eagleton	Moss	Tunney
Gravel	Muskie	Williams
Griffin	Nelson	

NOT VOTING—19

Allott	Hatfield	Pell
Boggs	Kennedy	Saxbe
Brock	McGee	Thurmond
Case	McGovern	Tower
Dominick	McIntyre	Weicker
Eastland	Metcalf	
Harris	Mundt	

So Mr. LONG's motion was 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 agreed to the amendments of the Senate to the following bills:

H.R. 11047. An act for the relief of Donald W. Wotring; and

H.R. 11629. An act for the relief of Corporal Bobby R. Mullins.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2770) to amend the Federal Water Pollution Control Act.

ENROLLED BILLS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills:

H.R. 7378. An act to create a Commission of the Federal Court Appellate System of the United States.

H.R. 12652. An act to extend the life of the Commission on Civil Rights, to expand the jurisdiction of the Commission to include discrimination because of sex, to authorize appropriations for the Commission, and for other purposes.

H.R. 14909. An act 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.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. HOLLINGS).

The message also announced that, on reconsideration, two-thirds of the House agreed to pass the bill (H.R. 15927) to amend the Railroad Retirement Act of 1937 to provide a temporary 20 per centum increase in annuities, to simplify administration of the act, and for other purposes, which had been returned by the President of the United States with his objections.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that time on the conference report on S. 2770 just received from the House be limited to 30 minutes, to be equally divided between the majority leader and the distinguished Republican leader, or their designees.

Mr. BUCKLEY. Mr. President, I respectfully suggest that several Senators will want to make comment on that particular conference report. I think more time is required.

Mr. ROBERT C. BYRD. Mr. President, most Senators on this side of the aisle are willing to accede to that request and put their statements in the RECORD.

Mr. BUCKLEY. If they had time to prepare them, but the Official Reporters can only report what is being stated.

Has this been cleared with the chairman?

Mr. ROBERT C. BYRD. I understand it is agreeable to him.

Mr. BUCKLEY. I withdraw my objection.

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

INCREASE IN RAILROAD RETIREMENT ANNUITIES—VETO

The PRESIDING OFFICER (Mr. GRAVEL). Pursuant to the previous order laid before the Senate a message from the House of Representatives, which was read, as follows:

The House of Representatives having proceeded to reconsider the bill (H.R. 15927) entitled "An Act to amend the Railroad Retirement Act of 1937 to provide a temporary 20 per centum increase in annuities, to simplify administration of the Act, and for other purposes," returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of Representative agreeing to pass the same.

The PRESIDING OFFICER laid before the Senate a message from the President of the United States to the House of Representatives.

(The President's veto message is printed at page 33734 of the CONGRESSIONAL RECORD of today.)

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the message be considered as read and that it be spread on the Journal.

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

The Senate proceeded to reconsider the bill (H.R. 15927) to amend the Railroad Retirement Act of 1937 to provide a temporary 20-percent increase in annuities, to simplify administration of the act, and for other purposes, returned by the President on October 4, 1972, without his approval, and passed by the House of Representatives, on reconsideration, on October 4, 1972.

Mr. MANSFIELD. Mr. President, may I say that immediately after the vote on the President's veto, we will go back on H.R. 1.

The vote on the veto will be under the 10-minute rule and, may I say to Members on both sides of the aisle, I yield what time I have to the distinguished Senator from California (Mr. CRANSTON). The full 20 minutes do not have to be used up because the issue is simple and is understood by all Senators.

The PRESIDING OFFICER (Mr. GRAVEL). The question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

Mr. SCOTT. Mr. President, I transfer my time to the distinguished Senator from New York (Mr. JAVITS).

The PRESIDING OFFICER. The Senator from California (Mr. CRANSTON) is now recognized.

Mr. CRANSTON. Mr. President, as chairman of the Subcommittee on Railroad Retirement of the Labor and Public Welfare Committee, I urge my colleagues to override the President's veto of H.R. 15927, a bill which amends the Railroad Retirement Act to provide a temporary 20-percent increase in annuities. The bill, as amended in subcommittee, was unanimously reported to the full committee, and the Committee on Labor and Public Welfare unanimously reported it, as amended, to the Senate.

On September 19, 1972, it passed the Senate unanimously with amendments which the House quickly approved.

This act would provide a temporary—and I stress temporary—20-percent increase in railroad retirement benefits—matching the amount of the increase in social security benefits enacted in Public Law 92-336. It also makes certain technical changes in the present law to facilitate administration.

But it does more than that. It directs the representatives of employees and retirees and representatives of carriers to report to the Senate Committee on Labor and Public Welfare, and to the House Committee on Interstate and Foreign Commerce, no later than March 1, 1973—their mutual recommendations designed to insure the solvency of the railroad retirement account, and it directs the Railroad Retirement Board to comment on that report by April 1, 1973.

The President, in his veto message totally ignores this highly responsible action by the Congress.

BENEFIT INCREASE

In recent years, benefit increases in social security and railroad retirement have been linked with a comparable railroad retirement increase following closely behind each social security increase. The 20-percent increase contained in this act is necessary and desirable in order to keep pace with the recent 20-percent increase in social security benefits contained in Public Law 92-336. Simple justice demands this increase and an override of the veto to bring it about.

The railroad retirement system is a vital income maintenance program to the 984,000 current beneficiaries, and to the approximately 611,000 active railroad men and women who are now contributing to the system and who are relying on its stability at the time they qualify for benefits.

In my own State of California, there are some 75,000 railroad pensioners, and approximately 40,000 active railroad employees.

In my capacity as ranking majority member of the Subcommittee on Aging of the Labor and Public Welfare Committee, I have had ample opportunity to observe the plight of our retired citizens—who have already contributed their productive lives to the economic strength of this Nation—and who should be entitled to live with dignity and reasonable assurance of an adequate retirement income in their later years.

The 20-percent increase in the benefits of railroad retirees contained in this act is necessary to help railroad retirement beneficiaries meet the spiraling cost of living. The effects of an inflated economy are felt by all Americans, but none so drastic—nor so unjust—as the effect on citizens living as best they can on fixed incomes.

Congress has already recognized the compelling needs of social security beneficiaries, and equitable treatment now requires an overwhelming vote for a commensurate increase for railroad retirees.

Mr. RANDOLPH. Mr. President, will the Senator from California yield?

Mr. CRANSTON. I yield.

Mr. RANDOLPH. What was the vote in the House to override the President's veto?

Mr. CRANSTON. Approximately 350 to 29 to override in the House, about 2 hours ago.

Mr. RANDOLPH. I thank the Senator from California very much.

Mr. CRANSTON. Mr. President, the need to increase railroad retirement benefits to keep pace with the rising cost of living is great, but such increases place a dangerous strain on a retirement system already facing very serious fiscal problems. Perhaps the major cause of the problem has been the declining level of employment in the railroad industry—resulting in a substantial decrease in contributors to the pension fund. The railroad industry has declined from 1,680,000 employees in 1945 to about 611,000 employees in 1970.

The findings of the Commission on Railroad Retirement, in its report received September 7, 1972, indicate that the actuarial sufficiency of the railroad retirement account is in serious decline. The Commission report further estimates that by the year 1985 the account will be bankrupt—and by 2000 could be operating at a deficit in excess of $23 billion—if the 2-percent increases and the one we are considering are made permanent and if a more adequate method of financing the account is not implemented.

Railroad employees are now contributing 9.95 percent on the first $750 of each month's pay to the retirement program, and the tax rate will increase to 10.25 percent, with a wage base increase to $900, in January of 1973. Each employee's contribution is then matched by his employer. It is clear, I think, that this source of revenue for the fund is already severely strained.

Because of the serious nature of these problems and the ramifications they have for over 984,000 annuitants and 611,000 active workers—certainly the most important factor in our deliberations—I offered an amendment to H.R. 15927, accepted unanimously by the committee, which would establish a congressional policy that the temporary increase in the committee bill, along with the 10- and 15-percent increases, all due to expire on June 30, 1973, would be made permanent only if at the same time changes are made in the railroad retirement system to insure the receipt of sufficient revenues to make the railroad retirement account actuarially sound in the foreseeable future.

This amendment thus directs, as I stated previously, labor and management representatives to submit their recommendations, formed with consideration of the recommendations of the Railroad Retirement Commission, designed to insure the solvency of the account if these increases are made permanent.

Additionally, the amendment mandates that a copy of these recommendations be directed to the Railroad Retirement Board and further directs the Railroad Retirement Board to submit to the House and Senate committees its comments and those of the administration on that report.

Mr. President, I wish to point out that the full report of the Commission on Railroad Retirement was received by the Labor and Public Welfare Committee on September 7, 1972, and is available to the public from the Government Printing Office.

The Railroad Retirement Subcommittee will be carefully studying this report as we await the recommendations of labor and management in the March 1, 1973, report.

CONCLUSION

Mr. President, in closing I wish to urge Senators to join with me in overriding the President's veto. This would reflect a very real responsiveness by Congress to the very real needs of hundreds of thousands of elderly Americans—while stressing the continued solvency of the account in order to meet the future needs of railroad retirees.

Mr. JAVITS. Mr. President, I have 10

minutes, but inasmuch as I shall vote to override the veto I yield myself 30 seconds to say that the distinguished Senator from California (Mr. CRANSTON) has made at least part of the argument that I would make. In all fairness, I would like to suggest to any Senator on this side of the aisle who wishes time, that he can have as much of it as he wishes.

I yield at this time 2 minutes to the Senator from Kentucky (Mr. COOK).

Mr. COOK. I thank the Senator from New York. I merely wish to say that I, too, will join the Senator from New York in voting to override the President's veto but I think that when the Senator from California says the President misses the point, he does not really miss the point at all. For us to say that we are not going to be faced with a determination, when we come back here next year, relative to what we intend to do with this program and what we intend to do about making it a more solvent trust, is to say that we ourselves are living in a delusion.

I would say to all those presently now employed and to all those presently paying at the present rate, that apparently, there will have to be an increase sometime next year so that we can fulfill the steps we took before and the steps that I assume we will fulfill now.

Again, it is this Senator's intention to vote to override because I think we ourselves failed to take this into consideration when we took into consideration the social security increase. We really should have taken care of both of them at the same time. Not having done so, we found ourselves in the position to do what we did a short time ago.

It is this Senator's intention to vote to override, but it is also this Senator's knowledge and understanding that we will be faced, next year, relative to what we will do and what we will have to do, apparently, in relation to the solvency of the trust.

Mr. CRANSTON. Mr. President, I concur with much of what the Senator from Kentucky (Mr. COOK) has just said. The President is right that the railroad retirement account is having serious great financial difficulties and that we have great problems to deal with. The House and the Senate have sought to act responsibly by not granting a permanent increase but rather a temporary one until next June 30 which gives us time to come to grips with this problem as soon as we meet next year.

Mr. COOK. I do not know of any increase the Senate ever gave in relation to social security or railroad retirement that ever became temporary. It immediately became permanent. So we face the issue in the future as to what we will do in relation to that policy.

Mr. TAFT. Mr. President, I would like to say at the outset, that, like the Senator from Kentucky and the Senator from New York, I expect to vote to override the veto. I arrived at that conclusion when the committee held hearings on the bill. In full justice to the administration, it should be said that the very argument presented in the veto message was presented to the subcommittee. The only basis on which I supported the legislation in the subcommittee was that was the only way in which we would get legislation this year on this subject in order to show there is great need for this at an early date.

I would like before we vote to get some assurances from the chairman of one of the various committees that we will look into this area.

What has not been said is that a commission has studied the problem very fully and recommended against the solution that the committee came up with on a temporary basis.

I think the recommendations of that subcommittee should be studied fully and there should be early legislative action to prevent the pending bankruptcy of this fund, which will occur unless we take some action after having acted on the measure the way we have, and the way that I presume we will act in overriding the veto of the President.

There is a great need for responsible action. However, I am very much of the feeling that we ought to react and come up with some legislation which recognizes the effect on the railroad retirees. We must not kid ourselves. They will do better than they have in the past, and better than the social security recipients.

What the President has said is correct, and it is much to his credit. It ought to be the same dollar amount under the circumstances prevailing today. We are not going to pass legislation that says that. However, we tried it before. I thought that we should go ahead in the way we did, even though I did so with serious misgivings.

Mr. JAVITS. Mr. President, I gather that I have 7 minutes remaining.

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. Mr. President, I yield myself 3 minutes, and beg the attention of the Senate because I think it is only fair to the President of the United States, although I am not going to vote to sustain. If any other Republican has anything to say on this matter I will make these remarks as an advocate in the best way I can.

In essence the President's point is that a commission has studied this matter. That commission is the Commission on Railroad Retirement which was created by the Congress in 1970.

It has recommended measures to deal with this emergency situation involving the railroad retirement fund. It is opposed to what we passed and what the House passed in overriding the veto. It is opposed because, as the President said:

> The Commission also reached the sobering conclusion that the enactment of an across-the-board 20 percent increase, without adequate financing, would bankrupt the system in 13 years.

In short, what is happening here is that we are sailing into this system very hard, and we are only pyramiding the pressures on the system. This has been going on for a long time. It has been going on because the number of retirees exceeds the number of workers.

The answer is that automation and the contraction of railroad systems and the passenger carriers has simply reduced so badly the actuarial base as to put this fund in the gravest jeopardy. The fund is in jeopardy now. The President does not state that, but I am sure he would. Nonetheless, by the 20-percent increase we put the fund in greater jeopardy than it would otherwise be.

Second, and very importantly, the President does not make a sterile veto. He suggests an alternative.

The President says that we should increase that portion of the pension which is social security by the same 20 percent we increased social security benefits.

If we were to do that, we would do about two-thirds of what we are doing in the bill which the House has voted to override. The best information I can get today—and I think it is fairly accurate, as my staff obtained it—is that an individual under that proposal, by just increasing the social security component, would get $28 a month more in retirement. A couple would get $47 more a month.

Under the bill we are now considering an individual would get about one-third more.

The President is not making a sterile veto. He is suggesting an alternative which he is ready to sign. I would have supported that myself in preference. However, life being what it is, the majority felt that was not the way to go, and I was not so dogged in my determination that I would not go with them. I will go with them in overriding the Presidential veto.

In all fairness, the President's arguments are very strong and have a lot of facts to back them up. The President says:

> I am in favor of increased Railroad Retirement benefits. I would sign a measure which was adequately financed.

He would sign a measure which just increased the social security component. The President then goes on to say:

> But H.R. 15927 does not meet this test and thus it would threaten the very existence of the Railroad Retirement Fund which already is on a shaky financial ground. In addition, the bill in its present form would contribute to inflation which harms all the people, including the railroad retirees themselves.

The President then goes on to say:

> In passing this bill, the Congress has mistakenly assumed that railroad retirement benefits should be increased by the same percentage as Social Security benefits.

He points out that railroad benefits are higher than social security benefits and says that they may be twice as high. However, I point out that they have been paying in twice as much also.

So we are dealing with the situation of a shaky fund which is being put in even more trouble by the bill. However, the feeling is that the workers should not be called on to pay the tab, it having happened through national circumstances over which they have no control. Next year we will have to face up to the problem of providing adequate financing for this fund.

I think that is a fair representation of the President's position.

Mr. CRANSTON. Mr. President, after

one brief reply, I am prepared to yield back my time.

Let me say clearly that the Railroad Retirement Subcommittee, both majority and minority members in bipartisan fashion, have endeavored to deal with this matter in a responsible fashion. We will continue to deal with the problem in a responsible way. We will carefully evaluate the information that is given to us by the Commission report and the report that this act directs to be submitted.

Let me finish by saying that I agree with the President thoroughly when he said in his message in a constructive spirit:

> Working together, I hope that we can constructively reform this system so it can continue to serve the needs of railroad workers and their families for decades ahead.

That must be, and will be our objective in the months ahead.

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

Mr. CRANSTON. I yield.

Mr. BUCKLEY. Mr. President, in the last 3 or 4 years have there been increases for the beneficiaries, and if so what has been the aggregate percentage increase?

Mr. CRANSTON. There have been three temporary increases which, accumulatively, total 51.8 percent over the last 3 years. This is the same amount granted social security beneficiaries, and these three railroad retirement increases will expire on June 30, 1973.

Mr. JAVITS. The President makes a big point of that in his message.

Mr. BUCKLEY. It exceeded the inflation rate?

Mr. JAVITS. The Senator is correct.

Mr. BUCKLEY. I thank the Senator very much.

Mr. WILLIAMS. Mr. President, it is absolutely shocking that the President has vetoed the railroad retirement amendments which would have provided a 20-percent increase in retirement benefits to railroad retirees. This increase follows a pattern used in 1966, 1968, 1970, and again in 1971 to grant comparable percentage increases to railroad retirees following increases in social security.

It seems to me incredible that the President could state in his veto message that this bill "would contribute to inflation which harms all the people, including the railroad retirees themselves." Fortunately, the other body has just overridden the veto by a vote of 353 to 29. I hope the Senate will do likewise.

As we all recall, the President resisted congressional efforts to increase social security by more than 5 percent. Yet he is now claiming credit for the social security increase. Are we now to be treated to a similar spectacle on railroad retirement?

This legislation benefits approximately 700,000 former long-term railroad employees. All of them are on retirement.

It is unconscionable to suggest that they would be harmed by this increase. The fake whipping boy of inflation just will not suffice as an explanation to these needy and deserving Americans. Let us stop fighting inflation at their expense.

Mr. FANNIN. Mr. President, I wish to make this statement in conjunction with my vote in support of President Nixon's veto of H.R. 15927, a bill which would jeopardize the Federal soundness of the railroad retirement system.

Without any provision for financing the new benefits, this bill would provide a temporary increase of 20 percent in railroad retirement benefits, matching the recent increase in social security benefits.

Without an accompanying increase in taxes to finance the benefits, it would be the third railroad retirement benefit increase in 3 years, totaling 51.8 percent.

We all favor increased railroad retirement benefits but only increases which are adequately financed. H.R. 15927 does not meet this test; rather it would threaten the very existence of the railroad retirement fund which already is on shaky financial ground.

The Commission on Railroad Retirement was created by the Congress in 1970 to study the troubled railroad retirement system and recommend measures necessary to place it on a sound actuarial basis. Yet the Congress has acted on H.R. 15927 before it has had an opportunity to consider and act on the recommendations of its own Commission for basic changes in the railroad retirement system.

The Commission found that existing railroad retirement benefits are adequate, particularly for workers retiring after a full career. Retired railroad couples receive higher benefits than 9 out of every 10 retired couples in the country. The Commission also reached the sobering conclusion that the enactment of an across-the-board 20-percent increase, without adequate financing, would bankrupt the system in 13 years.

Again, for these reasons I have supported the President's veto with the hope that working together we can constructively reform this system so it can continue to serve the needs of railroad workers and their families for decades ahead.

Mr. BUCKLEY. Mr. President, it is with reluctance that I will vote against the motion to override the President's veto. I believe it is foolhardy to enact the legislation without at the same time coping with the important issues raised by the President in his veto message. I do not feel that the haste with which the Congress is acting in this matter is justified, given the fact that other increases guaranteed to beneficiaries under the railroad retirement system have been more than adequate, according to the manager of the bill, to cover the loss in purchasing power caused by inflation.

Mr. President, I ask unanimous consent that President Nixon's veto message be printed in the RECORD.

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

PRESIDENT NIXON'S VETO MESSAGE

To the House of Representatives:

I today am returning without my approval H.R. 15927, a bill which would jeopardize the fiscal integrity of the railroad retirement system and hasten its bankruptcy.

This bill would provide a "temporary" increase of 20 percent in railroad retirement benefits, matching the recent increase in social security benefits—but without any provision for financing the new benefits.

It would be the third railroad retirement benefit increase in three years—totaling 51.8 percent in all—to be made without an accompanying increase in taxes to finance the benefits.

I am in favor of increased railroad retirement benefits. I would sign a measure which was adequately financed. But H.R. 15927 does not meet this test and thus it would threaten the very existence of the railroad retirement fund which already is on shaky financial ground. In addition, the bill in its present form would contribute to inflation which harms all the people, including the railroad retirees themselves.

I have often stated my strong belief that the millions of older men and women who did so much to build this Nation should share equitably in the fruits of that labor, and that inflation should not be allowed to rob them of the full value of their pensions. By providing a 20 percent benefit increase without adequate financing, however, this bill goes far beyond reasonable equity.

In passing this bill, the Congress has mistakenly assumed that railroad retirement benefits should be increased by the same percentage as social security benefits. In fact, the two systems are entirely different. Railroad benefits are much higher than social security benefits—for full-career workers the benefits may be twice as high.

The railroad retirement system payments are a combination of social security benefits augmented by the equivalent of a private pension. There is no valid reason why the private pension equivalent necessarily should be increased whenever social security benefits are raised. Other industries have not raised their pension benefits by 20 percent as a result of social security increases, even though most of them provide less adequate benefits.

The argument that these "temporary" benefits do not require a tax increase is, in my judgment, a delusion. I cannot imagine that the Congress would find it possible or desirable to slash railroad retirement benefits next year or in any year.

The imprudence of H.R. 15927 is underscored by the recent report of the Commission on Railroad Retirement. That Commission was created by the Congress in 1970 to study the troubled railroad retirement system and recommend measures necessary to place it on a sound actuarial basis. Yet the Congress acted on H.R. 15927 before it had an opportunity to consider and act on the recommendations of its own Commission for basic changes in the railroad retirement system.

The Commission's findings do not support H.R. 15927 and a majority of the Commissioners recommended against such legislation.

The Commission found that existing railroad retirement benefits are adequate, particularly for workers retiring after a full career. Retired railroad couples receive higher benefits than 9 out of every 10 retired couples in the country. The Commission also reached the sobering conclusion that the enactment of an across-the-board 20 percent increase, without adequate financing, would bankrupt the system in 13 years.

I believe that railroad beneficiaries should now receive the same dollar increases in benefits as social security recipients with similar earnings. A 20 percent increase in the social security portion of railroad retirement benefits can be financed without worsening the financial position on the Railroad Retirement Trust Fund. The Congress followed this sound approach when it increased railroad retirement benefits in 1968.

Therefore, I propose that the Congress enact a bill which again applies this principle, instead of H.R. 15927. The 1972 increase under my proposal would average $28 per month for single retired railroad workers and would be about $47 a month for married couples.

It would not deepen the presently-projected deficits of the Railroad Retirement Trust Fund.

I urge the Congress to adopt this prudent alternative, which would give these deserving pensioners an equitable benefit increase on a timely basis and which would still preserve the flexibility for basic readjustments that will be needed later in the railroad retirement system.

Working together, I hope that we can constructively reform this system so it can continue to serve the needs of railroad workers and their families for decades ahead.

RICHARD NIXON.

THE WHITE HOUSE, *October 4, 1972.*

The PRESIDING OFFICER. All the time having expired, the question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

The yeas and nays are mandatory under the Constitution.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Oklahoma (Mr. HARRIS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), and the Senator from Rhode Island (Mr. PELL), are necessarily absent.

I further announce that the Senator from 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 Rhode Island (Mr. PELL), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BROCK), the Senator from South Carolina (Mr. THURMOND), 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 Delaware (Mr. BOGGS), the Senator from New Jersey (Mr. CASE), the Senator from Colorado (Mr. DOMINICK), the Senator from Oregon (Mr. HATFIELD), the Senator from Ohio (Mr. SAXBE), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

If present and voting, the Senator from Delaware (Mr. BOGGS), the Senator from New Jersey (Mr. CASE), the Senator from Oregon (Mr. HATFIELD), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The yeas and nays resulted—yeas 76, nays 5, as follows:

[No. 518 Leg.]

YEAS—76

Aiken	Cannon	Fulbright
Allen	Chiles	Gambrell
Anderson	Church	Gravel
Baker	Cook	Griffin
Bayh	Cooper	Gurney
Beall	Cotton	Hansen
Bentsen	Cranston	Hart
Bible	Curtis	Hartke
Brooke	Dole	Hollings
Burdick	Eagleton	Hruska
Byrd, Harry F., Jr.	Edwards	Hughes
Byrd, Robert C.	Ervin	Humphrey
	Fong	Inouye
Jackson	Muskie	Sparkman
Javits	Nelson	Spong
Jordan, N.C.	Packwood	Stafford
Jordan, Idaho	Pastore	Stennis
Long	Pearson	Stevens
Magnuson	Percy	Stevenson
Mansfield	Proxmire	Symington
Mathias	Randolph	Taft
McClellan	Ribicoff	Talmadge
Miller	Roth	Tunney
Mondale	Schweiker	Williams
Montoya	Scott	Young
Moss	Smith	

NAYS—5

Bellmon	Buckley	Goldwater
Bennett	Fannin	

NOT VOTING—19

Allott	Hatfield	Pell
Boggs	Kennedy	Saxbe
Brock	McGee	Thurmond
Case	McGovern	Tower
Dominick	McIntyre	Weicker
Eastland	Metcalf	
Harris	Mundt	

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the bill, on reconsideration, is passed, the objections of the President of the United States to the contrary notwithstanding.

SOCIAL SECURITY AMENDMENTS OF 1972

The Senate resumed 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. PERCY. Mr. President, I send to the desk an amendment to the Long amendment as modified by the Roth amendment and ask that it be stated. For the benefit of my colleagues, I shall be very brief in the presentation of this amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment to the amendment, as follows:

H.R. 1

EMERGENCY FISCAL RELIEF FOR STATES

SEC. 560. Title XI of the Social Security Act (as amended by sections 221 (a), 241, 505, 542(10), and 512 of this Act) is further amended by adding at the end thereof the following new section:

"EMERGENCY FISCAL RELIEF FOR STATES

"SEC. 1180. (a) The Secretary shall, subject to subsection (c), pay to any State which has a State plan approved under title I, X, XIV, or XVI, or Part A of title IV, of this Act, for each quarter beginning after June 30, 1971, through the quarter ending December 31, 1972, in addition to the amounts (if any) otherwise payable to such State under such title on account of expenditures as cash assistance, an amount equal to the excess (if any) of—

(1) an amount equal to the lesser of—

"(A) the amount of the non-Federal share of the expenditures, under the State plan approved under such title or such part A (as the case may be), as cash assistance for such quarter (not counting any part of such expenditures which is in excess of the amount of the expenditures which would have been made as cash assistance under such plan if such plan had remained as it was in effect on June 30, 1971) or,

"(B) an amount equal to 120 per centum of the amount referred to in clause (2), over

"(2) an amount equal to 100 per centum of the non-Federal share of the total average quarterly expenditures, under such plan, as cash assistance during the 4-quarter period ending June 30, 1971.

"(b) For purposes of subsection (a), the non-Federal share of expenditures for any quarter under a State plan approved under title I, X, XIV, or XVI, or part A of title IV, of this Act as cash assistance, referred to in subsection (a) (1), means the excess of—

(1) the total expenditures for such quarter under such plan as, respectively, (A) old-age assistance, (B) aid to the blind, (C) aid to the disabled, (D) aid to the aged, blind, or disabled, and (E) aid to families with dependent children, over

"(2) the amounts determined for such quarter for such State with respect to such expenditures under, respectively, sections 3, 1003, 1403, 1603, and 403 of this Act and (in the case of a plan approved under title I or X) under section 9 of the Act of April 19, 1950.

"(c) No payment under this section shall be made for any quarter to any State on account of expenditures, as cash assistance, under a State plan of such State if—

"(1) the standards, under the plan, for determining eligibility for, or the amount of, cash assistance to individuals under such plan have been so changed as to be less favorable, to all (or any substantial class or category) of the applicants for or recipients of such assistance under the plan, than the standards provided for such purpose under such plan as in effect on June 30, 1971, and

"(2) the amount of the non-Federal share of the expenditures, under such plan, as cash assistance for such quarter is less than 150 per centum of the non-Federal share of the expenditures, under the State plan, as cash assistance for the quarter ending June 30, 1971."

Mr. PERCY. Mr. President, this amendment is the so-called Percy amendment, which has been discussed at great length over a period of many, many months. The administration clearly supports it, and they have just reaffirmed their commitment to me.

I believe the Senate will remember that when I first introduced the welfare fiscal relief measure last November 17 as an amendment to the Revenue Act of 1971 we had considerable debate at that time. At that time I agreed to withdraw the amendment, provided that it would be put on H.R. 1, and that it would then receive administration support.

The distinguished Senator from Louisiana, the chairman of the Finance Committee, at that time indicated he supported the amendment in principle for the States.

Such an amendment was absolutely necessary because we did not enact revenue sharing, as soon as planned, and we did not enact welfare reform, as planned, and the States were and are in a fiscal crisis.

Twenty-two governors contacted me, urging that I press for this amendment. So, at this time, to honor the commitments that were then made—and I am grateful to the administration for honoring its commitment—this amendment would eliminate the Bellmon amendment, which is a part of the Roth amendment—and provide this sorely needed fiscal relief. Mr. President, I am happy to yield for a unanimous-consent request.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous-consent that there be a time limitation of not to exceed 20

minutes on this amendment, to be equally divided between Mr. PERCY and Mr. LONG.

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

How much time does the Senator yield himself?

Mr. PERCY. I yield myself such time as I may require.

The pending amendment would cost a maximum of $515.6 million in fiscal year 1972 and a maximum of $704.5 million in fiscal year 1973.

The schedule of benefits, which would be received by the States, as provided to me by the Secretary of Health, Education, and Welfare, has been clearly laid out. As for the Bellmon amendment, its cost is estimated to be $1.2 billion just in the first year. I do not have an estimate for the second year.

We do not have any official breakdown of the Bellmon figures as to how it would affect the States.

But, on my amendment—and this is the reason why the administration specifically committed itself to support this amendment—I feel that we must provide Federal reimbursement to the States retroactive to fiscal 1972 for that portion of their welfare expenses that exceeded those in fiscal 1971 up to a maximum increase of 20 percent. That maximum ceiling of 20 percent is imposed so that the States could have every incentive to have tight controls over welfare costs.

Given the administration and Finance Committee support for fiscal relief last November, the States have gone ahead and incorporated their potential fiscal relief reimbursements in their welfare budgets. The administration, concerned with the financial plight of the States, included a $1 billion line item in its fiscal year 1973 budget request to allow States to borrow 1 month's welfare reimbursement from fiscal year 1973 funds for use in fiscal year 1972. According to HEW, all States, with the exception of only Kansas and Nebraska, have taken advantage of this advance funding position. And, in March 1973, all the States that have borrowed will have to pay back their debt.

In all fairness, we cannot leave the States holding the bag. We all owe the States an obligation to fulfill our commitments to them so that they can pay back what they have borrowed.

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

The amendment which is pending, which I offered, and which was referred to as the Bellmon amendment, because it was introduced as separate legislation by the Senator from Oklahoma (Mr. BELLMON). was a result of all the welfare departments of the Nation asking for a uniform basis which they think woull be fair to all the States to meet their welfare financial problems.

What it would do would be that for 1973 and for 1974, up until the States get big relief that they are going to get under the bill for the aged, where we in effect take the program for the aged off their hands and provide for the aged by a Federal program. which will give the States much relief, up to that time when they will get a big windfall and probably will not need relief, we provide an additional 20 percent. In other words, if they are putting up $100 million, we would add $20 million, so that a State would have $120 million in order to take care of the cost of living increases under the welfare program, and take care of the increased case load that has been forced on them by court decisions and other findings that have been made. The proposal I have made is a flat, cross-the-board increase for every State.

It does not have anything to do with whether a State is spending more than before or whether a State is spending less. It simply increases the funds available to each State, and this is what the welfare administrators think would be fair.

The Senator's amendment would work on a different formula. It would take care of the States which have run themselves into extreme financial difficulty, and it would do much less for States that have been more prudent in managing their programs, so that those States really do not need to come to Washington, but they would get their share based on the Federal commitment.

It may be, Mr. President, that the administrators have asked for more than is really necessary, but if that is the case, it is something we can trim back in conference when we have the administration people to advise us about it. But what sense does it make to provide relatively a great deal more for one State than for another State, when, after all, all the States are having to pay for it?

The Percy amendment would cut back on every State, and very drastically on some of them. I think, Mr. President, we would be much better advised to vote the amount that is asked for here, which is an amount that would adequately care for every State, and an amount which the State administrators felt would be fair, would be equitable among the States, and would treat them uniformly, without rewarding one State or another State because they had a particular problem within the State.

We do not look at the problem, which is a crisis, I might say, in Illinois, or a particular problem that might exist in Oklahoma, where they have a very severe crisis, by the way. We simply say that we treat all States uniformly, and if a State has prudently run its program, it would get the same 20 percent as everyone else, and if they do not need the money to pay additional welfare benefits, it would not require them to do that. Let them use it for what they think they need to use it for. If they think their program is adequately financed, and that they are going as far as they need to go with benefits, they can put the money into State funds for something else.

It has been said that we cut back too drastically, for example, in social services. We have had a lot of complaints, I know I have, about cutting back what is a meritorious program in social services.

The amendment that I have at the desk, which was initially the Bellmon amendment, would permit those States to put the money into social services if they think they could better use it there than by putting it somewhere else. It is their money; they can put it where they want to put it. That is far better than to force them to spend it on welfare categorically, if they think they ought to spend it on something else.

I do not think Senators would want to vote for the drastic cutback that would be entailed by the Percy amendment, compared to the amendment which I have at the desk, unless they have had a chance to clear it with their welfare directors, and find that their welfare directors think that the reduction in funds recommended by Senator PERCY would be appropriate, and that they could stand it.

Under the Roth amendment we would save a great amount of money. By our committee estimate we estimated the Roth amendment would save the Government about $2.6 billion. By administration estimates, they estimate that it would save $4.1 billion. It would save a great deal of money.

But one problem is that it would also leave the States with a fiscal price to pay in trying to maintain the existing level of their programs while we were testing and seeing whether we wanted to go to a family assistance program, and prior to the time relief be available to them otherwise under the generous benefits provided in the program for the aged would go into effect.

I think we have met the problem about the best way we can at this time. If it should be proved that we have been too generous to the States generally, we can reduce that in conference. As Senators know, you cannot in conference raise any figure, you can only cut back. I would think we would be in a better position to take what the welfare administrators think they need and what they feel would be fair and would treat them equitably, rather than the proposal the Senator has offered, which is tailored, I am sure, to meet the problem in Illinois, but not necessarily to meet the problems in other States.

So I hope, Mr. President, that the amendment of the Senator from Illinois will not be agreed to.

Mr. PERCY. Mr. President, I just simply cannot see how anyone in good conscience, anyone who has any sense of fiscal responsibility, can vote for the Bellmon amendment and give this windfall to States that have demonstrated they are not using the money and do not need it. The Bellmon amendment is not geared to welfare needs at all. It gives every State, whether it has welfare cost increases or not, a 20-percent increase across the board—a terrific inducement to get votes, but not to put the money where it is needed. The demonstrated need is where the States are paying the money out in hard cash right now.

Second, it does not protect welfare recipients from benefit reductions. States do not have to maintain benefits to qualify for relief. A State could just drop its welfare program and take the money and use it for anything else.

Mr. President, this is a welfare bill, it is not another revenue-sharing bill. We have just passed a $5.3 billion revenue-sharing bill. The cost of the Bellmon

amendment is exorbitantly high—about $1.2 billion—and that is why the administration is so adamantly against the Bellmon amendment, which was run in on the Roth amendment.

I wonder if we are going to realize some day what we approved in that whole Roth amendment. We certainly do not realize the consequences now. It certainly could be a windfall for a State whose welfare needs do not require relief, and could allow the State to use that welfare money for other purposes.

I have listened to a great deal of this debate. I think now we should deal with the problems of the people we intend to try to help. There have been a great many distortions and a great many fictions presented on the floor of the Senate today, where we should be dealing with facts. I am not going to take the time of the Senate to deal with those facts this evening, but will insert them in the RECORD. I ask unanimous consent that my comments on this score, showing the number of indigent people in this country, who they are, the best calculations we could make as to their ability to work, whether they are independent or not, and whether these generalizations we hear about the shiftless, lazy, poor, have any foundation in fact whatsoever, be printed in the RECORD at this point.

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

STATEMENT BY MR. PERCY

Let me begin by saying that there is no one in this room who believes, more strongly that I in the American work ethic. Work—hard work—has allowed me to achieve the position I hold today. Work incentives and work requirements are needed in our welfare system. As President Nixon said, "A welfare system is a failure when it takes care of those who can take care of themselves." Those who can work must work, but what about those who cannot work and who cannot take care of themselves?

Let us look at the facts. How many of those on welfare can really help themselves? There are some 14 million welfare recipients in this country today. Of the 14 million, 8 million are dependent children; 3.1 million are disabled and elderly; and 2.7 million are mothers of dependent children. Less than 1 percent, or fewer than 200,000, of our welfare population are able-bodied men.

Let us look beyond our welfare population. Let us look at our total poverty population. According to a recent publication from the Office of Economic Opportunity, titled "The Poor in 1970," there are approximately 25 million poor people in this country. Children and women constitute the greatest percentage of the poor in America. They, together with the elderly, represent from 83 to 85 percent of all the poor.

We all agree that those who can work should work. But what about the children, the elderly, the disabled, the blind, and the mothers of dependent children? Do they deserve punishment because they are poor? In this great country of ours, can we not find the means in our hearts, minds, and resources to help those who cannot help themselves?

Let us look further at the facts. Contrary to what many believe, no one is getting rich on welfare. The average family on welfare today is receiving far less than what the government calls a poverty-level income ($3,900 for a family of four). Connecticut is the only state in the union with a benefit level higher than the poverty level—$4,020 for a family of four.

And contrary to what many believe, the poor do want to work, and they do work. According to OEO's "The Poor in 1970," nearly 25 percent of our poor are employed full-time; 84 percent work full-time half of the year; and another 41.1 percent work on a part-time basis.

The OEO study is not alone in its findings. In 1969, HEW conducted a study of the AFDC program by surveying 35 counties—10 urban and 25 rural—in 10 states. The survey, employing a structured questionnaire, interviewed over 11,000 respondents. The data showed that 58 percent of the respondents were employed for some of the three year period studied; 9 percent worked throughout; and 33 percent depended solely on welfare. Poor health, domestic responsibilities and inability to find work, in that order, were cited as the three main reasons for unemployment. Few of the respondents believed that getting help from welfare would result in a better life. Most felt being on welfare was the major meaning of "the worst life."

In a Washington, D.C. study, unemployed black men indicated that they valued work, but after repeated failures in the work world due to lack of education and training, they sought self-fulfillment in other activities and spurned new responsibilities for fear of failure.

In a California study of male heads-of-households, results showed that affluent white men, affluent black men and poor black men all had about the same preference for work over unemployment. Poor blacks indicated the same willingness to make special efforts to find successful job opportunities as did nonpoor blacks and whites.

In a New York City AFDC study, 70 percent of the AFDC mothers interviewed said they would prefer to work. Nationally, more than 80 percent indicated a preference for work over welfare.

Various studies of poor young people across the country showed that more than 72 percent would prefer work to welfare. Their hopes were for white-collar jobs and middle-class material wealth.

And recently the Brookings Institution, a non-partisan research organization, published the first comprehensive study of poor people's life aspirations and work orientation. This study, titled "Do the Poor Want to Work?" made the following findings:

"All groups of women, ranging from long-term welfare to outer-city white, give equally high ratings to the work ethic, but show a wide difference in beliefs about the effectiveness of their own efforts to achieve job success. Long-term welfare women lack confidence in their ability while outer-city white women feel much more secure.

"Teen-age males who have spent virtually their entire lives on welfare have certain positive orientations toward work. Having no working parent in the home has made the sons' identification with work no weaker than that of sons from families with working fathers. Welfare youths from fatherless homes show a strong work ethic, a willingness to take training, and an interest in working even if it is not a financial necessity. Their mothers favorably influence these positive orientations. The welfare experience has not destroyed the sons' positive orientations toward work.

"The picture that emerges is one of black welfare women who want to work but who, because of continuing failure in the work world, tend to become more accepting of welfare and less inclined to try again."

If the poor want to work; if they do work; and if they do not prefer welfare as a way of life to working to support their families; why is there such underemployment of the poor; and why have our work training programs for welfare recipients failed so miserably?

Let us look at the history of our work training programs. The first program—the Community Work and Training program—was started in 1962 and discontinued on June 30, 1968. The second program—the Work Experience and Training Program—was started in 1964 and discontinued on June 30, 1969. Both programs failed because providing effective assistance to welfare recipients required a much greater effort than was possible under the program designs.

The performance of the current Work Incentive Program, WIN, has been sufficiently poor to demonstrate the improbability of placing any substantial number of the more than 2.7 million mothers currently receiving welfare in the regular job market. WIN, in its first two years of operation, reviewed about 1.6 million welfare cases eligible for the program. Only about 10 percent of the 1.6 million eligibles were considered suitable for enrollment. Of all those who had been terminated from WIN in 1970, only about 19 percent had jobs. WIN was successful in getting jobs for only about 2 percent of the total eligible welfare population.

Like work training programs, mandatory work laws have also not been successful in moving welfare clients into jobs. New York's work relief law which took effect last July 1, requires employables in home relief and AFDC categories to pick up their semi-monthly relief checks at state employment offices and to take available jobs or training. If not otherwise placed in 30 days, those on home relief must work for city agencies in return for their relief allotments.

A joint Federal-New York State study of the effect of the law found that 50 of every 100 clients referred to job offices were unemployable, placed in training, or refused service. Of the other 50, 34 were referred to jobs, of whom four were placed. This was roughly the placement rate in all nine areas studied.

Moreover, of the 455 clients placed, nearly a third—or 140—no longer had the jobs after the first week; only a third—150—were still employed three months after their placement. Including those no longer on the job, 154 had quit and 151 had been laid off. In the layoffs, 40.1 percent were for lack of work; 26.1 percent were for lack of qualifications; 20.4 percent were for absenteeism or illness; and 4.2 percent were for misconduct. In all, only 1.3 percent of the original 11,472 referrals were still on the job three months after their placement.

Work training programs and mandatory work laws have failed in the past because their success is largely determined by the state of the economy and the availability of jobs for welfare clients. Given times of high unemployment, the AFDC mother, responsible for dependent children, lacking in work experience, skills and education, facing possible discrimination because of race or welfare status, is, perhaps, the poorest of employment risks.

These programs and laws have also failed because they were conceptualized and designed without any understanding of the poor. As the Brookings Institution study concluded:

"Poor people—males and females, blacks and whites, youths and adults—identify their self-esteem with work as strongly as do the nonpoor. They express as much willingness to take job training if unable to earn a living and to work even if they were to have an adequate income. They have, moreover, as high life aspirations as do the nonpoor and want the same things, among them a good education and a nice place to live. This study reveals no differences between poor and nonpoor when it comes to life goals and wanting to work.

"To be effective, welfare and manpower policies for the poor must be based on

knowledge of how poor people view life and work."

Mr. PERCY. The point has been reiterated time and time again by the distinguished chairman of the Committee on Finance to eliminate fraud in the welfare system. I will back any measures to get rid of fraud. I will back any measures to get rid of deadbeats. I will back any measures to find people who are abdicating their responsibility to their children, or their wives and do, whatever we need to do to find them.

But you cannot take it out of the hides of those little children. You cannot take it out of the hides of the women who have been offended in this way.

We must be sure that the measures that pass this body, Mr. President, are humane measures that deal with the facts and realities of life as it exists in the major urban areas today. I reiterate, as I stated earlier on the floor of the Senate today, the number of families that have migrated to Illinois this year. I named the States from which they came, 500 or 600 families from Mississippi, from Alabama, from Georgia. They have come up to our State because some of those States pay a family of four, as I indicated, as low in the case of Alabama as $972 a year for welfare relief for a family of four. Another State, Mississippi pays $720 for a family of four for welfare. For the cost of one bus ticket, which some of those agencies offer to get them out of the way, they send them up to Illinois, to Ohio, to New York, or to California, and they are financially breaking the backs of our States. The States are doing everything they can. We have imposed taxes on every kind—heavy property taxes, sales taxes, income taxes—and they are still unable to find the money to pay the welfare costs.

I weep at the thought that we are going to walk away from this legislation once again, and not have a true welfare reform bill. Since it looks like we will not have true welfare reform, let us not walk away from all the Governors to whom we have pledged that we are not going to pass a welfare reform measure, let us put welfare fiscal relief in there to relieve those States of the problems created when we did not enact revenue sharing earlier.

I think we are imposing a terrible burden on ourselves if we enact the Bellmon amendment, which is a grab bag, a gift box to every single State, whether they need it or not. Can we afford to add a little old amendment here costing $1.2 billion, when that obligation can be met by the expenditure of $515 million, which is a great deal of money, but which is much less than $1.2 billion this year and next year?

I yield back the remainder of my time.

Mr. LONG. Mr. President, under the Percy amendment, if a State has been doing business in such a fashion that it was able to keep its welfare expenditures for this year at the same level as last year, they would not get $1. If it is found, for example, that they had to tighten up on their program, to eliminate some people who are ineligible, and perhaps even to reduce the level of benefits to stay within the funds available, they would not get a dollar of help. If they did as Illinois did, if they set their benefits well above the national average, they would not get any help.

Illinois pays $3,300, then $1,400 for public housing, $900 for medicaid—$5,600 of benefits for a family of four. It is very generous. It is more than they can afford, so the State is in deep fiscal trouble. The State that gets the most help under the amendment is one that creates the problem, because it has overspent. So the more irresponsible you are in handling your problems, the more help you get from the Percy amendment; and the more you keep your expenditures within your budget and keep them down to within what you spent before, the less you get.

Under the Percy amendment, some States would get great benefits, because they overspent and put into effect a program they could not afford; and other States that did not do that would get very little. I do not think the Senate wants to do business they way. I think the Senate would prefer, if there is going to be a formula, to have one that looks at all the States uniformly and on some basis treats them uniformly.

It may be that we have provided a little too much. We have provided more than the Percy amendment would provide even for the State of Illinois. But at least under this approach we have enough funds in there so that States are not going to be left distressed when this bill is passed or goes to conference. If fiscal stress occurs to States, it will not be because the Senate imposed it upon them. The Senator's amendment, while it is tailored to the Illinois problem, is not tailored to anybody else's problem, to my understanding, and I think the Senate would be foolish to adopt it.

Mr. President, I ask unanimous consent to have printed in the RECORD a table showing the difference between what the Percy amendment would provide the States and what the Long amendment—which was the Bellmon amendment prior to the time I offered it—recommended by the welfare administrators of this country, would provide to each State, so that Senators can see that every State would get the worst of it under the Percy amendment.

Perhaps Alaska would get $100,000 more under the Percy amendment.

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

FISCAL RELIEF FOR STATES IN FISCAL YEAR 1973 THROUGH INCREASED FEDERAL MATCHING OF PUBLIC ASSISTANCE COSTS

[In millions of dollars]

	Savings under Percy amendment	Savings under Long amendment
Alabama	$5.9	$31.9
Alaska	1.7	1.4
Arizona	2.3	10.5
Arkansas	3.0	20.3
California	167.4	227.1
Colorado	8.0	15.1
Connecticut	9.7	14.6
Delaware	1.3	2.7
District of Columbia	5.3	17.1
Florida	6.6	44.0
Georgia	8.2	42.5
Hawaii	2.9	4.9
Idaho	$1.0	$3.7
Illinois	40.7	96.4
Indiana	5.3	21.1
Iowa	4.9	12.6
Kansas	5.2	12.7
Kentucky	5.3	20.5
Louisiana	8.7	42.7
Maine	2.5	9.5
Maryland	9.8	18.7
Massachusetts	33.1	53.2
Michigan	34.7	64.2
Minnesota	10.3	27.5
Mississippi	2.9	21.1
Missouri	10.2	31.0
Montana	.5	2.7
Nebraska	2.2	7.1
Nevada	.6	2.2
New Hampshire	1.7	3.2
New Jersey	30.6	43.4
New Mexico	1.0	7.4
New York	127.4	187.6
North Carolina	6.0	22.5
North Dakota	.9	3.0
Ohio	21.1	46.3
Oklahoma	8.0	22.7
Oregon	4.8	10.6
Pennsylvania	47.5	81.2
Rhode Island	3.8	6.0
South Carolina	1.5	10.6
South Dakota	1.0	3.8
Tennessee	3.9	23.9
Texas	15.0	81.3
Utah	1.7	6.8
Vermont	1.3	4.3
Virginia	6.0	22.9
Washington	7.3	17.4
West Virginia	2.6	11.6
Wisconsin	8.7	18.3
Guam	.4	.2
Puerto Rico	.1	5.4
Virgin Islands	1.6	.2
Total	704.5	1,521.9

Note: Figures may not add due to rounding.

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

The question is on agreeing to the amendment of the Senator from Illinois.

The amendment was rejected.

The PRESIDING OFFICER. The question now occurs on agreeing to the amendment of the Senator from Louisiana, as amended by the amendment of the Senator from Delaware.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana, as amended by the amendment of the Senator from Delaware. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Oklahoma (Mr. HARRIS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Rhode Island (Mr. PELL), and the Senator from New Mexico (Mr. ANDERSON) 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 Rhode Island (Mr. PELL) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BROCK),

the Senator from South Carolina (Mr. THURMOND), 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 Delaware (Mr. BOGGS), the Senator from New Jersey (Mr. CASE), the Senator from Oregon (Mr. HATFIELD), the Senator from Ohio (Mr. SAXBE), the Senator from Colorado (Mr. DOMINICK), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

If present and voting, the Senator from Oregon (Mr. HATFIELD), 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 29, as follows:

[No. 519 Leg.]

YEAS—50

Baker	Fulbright	Mondale
Bellmon	Gambrell	Montoya
Bennett	Goldwater	Moss
Bentsen	Gravel	Packwood
Bible	Griffin	Pastore
Buckley	Gurney	Pearson
Byrd, Harry F., Jr.	Hansen	Proxmire
	Hollings	Randolph
Byrd, Robert C.	Hruska	Roth
Church	Humphrey	Sparkman
Cotton	Jackson	Spong
Curtis	Jordan, N.C.	Stennis
Dole	Jordan, Idaho	Stevens
Edwards	Long	Symington
Ervin	Magnuson	Talmadge
Fannin	McClellan	Tunney
Fong	Miller	Young

NAYS—29

Aiken	Cranston	Percy
Allen	Hart	Ribicoff
Bayh	Hartke	Schweiker
Beall	Hughes	Scott
Brooke	Inouye	Smith
Burdick	Javits	Stafford
Cannon	Mansfield	Stevenson
Chiles	Mathias	Taft
Cook	Muskie	Williams
Cooper	Nelson	

NOT VOTING—21

Allott	Eastland	Metcalf
Anderson	Harris	Mundt
Boggs	Hatfield	Pell
Brock	Kennedy	Saxbe
Case	McGee	Thurmond
Dominick	McGovern	Tower
Eagleton	McIntyre	Weicker

So the Long amendment as amended by the Roth amendment was agreed to.

Mr. LONG. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

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

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the bill (H.R. 11948) to amend the joint resolution authorizing appropriations for participation by the United States in the Hague Conference on Private International Law and the International—Rome—Institute for the Unification of Private Law.

The message also announced that the House had agreed to the amendment of the Senate to the joint resolution (H.J. Res. 1257) to authorize an appropriation for the annual contributions by the United States for the support of the International Agency for Research on Cancer.

The message further announced that the House had agreed to the amendments of the Senate to the joint resolution (H.J. Res. 1211) to amend the joint resolution providing for membership and participation by the United States in the South Pacific Commission.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 10243) to establish an Office of Technology Assessment for the Congress as an aid in the identification and consideration of existing and probable impacts of technological application; to amend the National Science Foundation Act of 1950, and for other purposes.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 976) to promote competition among motor vehicle manufacturers in the design and production of safe motor vehicles having greater resistance to damage, and for other purposes.

AMENDMENT OF FEDERAL WATER POLLUTION CONTROL ACT

Mr. MUSKIE. Mr. President, I submit a report of the committee of conference on S. 2770, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. CANNON). The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses or the amendment of the House to the bill (S. 2770) to amend the Federal Water Pollution Control Act, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of September 28, 1972, at pages 32768–32796.)

Mr. MANSFIELD. Mr. President, I yield my 15 minutes to the distinguished Senator from Maine (Mr. MUSKIE).

Mr. MUSKIE. I thank the Senator from Montana.

Mr. President, I ask for the yeas and nays on the conference report.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The Senator from Maine is recognized for 5 minutes.

Mr. MUSKIE. Mr. President, I ask unanimous consent that during consideration of the conference report on S. 2770, the following members of the staff of the Committee on Public Works be permitted on the floor:

Leon G. Billings, M. Barry Meyer, Harold Brayman, Sally Walker, Philip T. Cummings, John Yago, Dick Hellman, and Bailey Guard.

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

Mr. GRIFFIN. Mr. President, I ask unanimous consent that Mr. David Clanton be permitted the privilege of the floor during consideration of this conference report.

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

Mr. MUSKIE. Mr. President, may I say to my colleagues that we have a 30-minute time agreement here and we should not be troubled by the size of the documentation before me as I shall not take more than 2 minutes to present the report and then there will be several colloquies on points in the report which are of interest to particular Senators. Thus, we should be able to cover the ground quickly in the next 30 minutes.

Mr. President, the conference report on the Federal Water Pollution Control Act Amendments of 1972 is the pending business of the Senate. The Senate approved this legislation on November 2, 1971; the House acted on March 29; and the conference committee began its deliberations on May 11 of this year. Since that first session, we have held 39 meetings of the conference, often starting early in the morning and running late into the evening.

I have been a Member of the Senate for 13 years, and I have never before participated in a conference which has consumed so many hours, been so arduous in its deliberations, or demanded so much attention to detail from the members. The difficulty in reaching agreement on this legislation has been matched only by the gravity of the problems with which it seeks to cope.

Our planet is beset with a cancer which threatens our very existence and which will not respond to the kind of treatment that has been prescribed in the past. The cancer of water pollution was engendered by our abuse of our lakes, streams, rivers, and oceans; it has thrived on our half-hearted attempts to control it; and like any other disease, it can kill us.

We have ignored this cancer for so long that the romance of environmental concern is already fading in the shadow of the grim realites of lakes, rivers, and bays where all forms of life have been smothered by untreated wastes, and oceans which no longer provide us with food.

The amount of time spent in conference on this legislation, Mr. President, should not indicate any disagreement among the Senate and the House Members over the gravity of the problem. No one can face the facts of water pollution day in and day out without fearing for our future. In fact, it has taken this much time to hammer out an agreement because the conferees agreed that our product must, finally, be legislation which provides the means, properly administered, to eliminate this cancer.

There were disagreements over the means to achieve this goal, and the conference agreement before the Senate to-

day reflects accommodations made by both sides. In my own eyes, the conference agreement is not perfect; it does not retain everything from the Senate bill that we had hoped it would, but it was evident after review in the conference committee that there were aspects of the House-passed legislation that improved upon provisions of the Senate bill. This agreement, then, is the best of two proposals, not the lowest common denominator.

Senators will recall from the November debate on the Senate bill that there were three essential elements to it: uniformity, finality, and enforceability. Without these elements a new law would not constitute any improvement on the old; we would not bring a conference agreement to the floor without them.

As far as uniformity and finality are concerned, the conference agreement provides that each polluter within a category or class of industrial sources will be required to achieve nationally uniform effluent limitations based on "best practicable" technology no later than July 1, 1977. This does not mean that the Administrator cannot require compliance by an earlier date; it means that these limitations must be achieved no later than July 1, 1977, that they must be uniform, and that they will be final upon the issuance of a permit under section 402 of the bill.

Mr. President, the Senate bill established a deadline for the achievement of phase I by January 1, 1976. As I have noted, the conference agreement establishes a deadline of July 1, 1977. Since this legislation will not be signed into law until nearly 1 year after Senate action, the slippage in the timetable set forth in the Senate bill is, at most, only 6 months.

My colleagues will also recall that the Senate bill mandated requirements which would lead to the elimination of the discharge of pollutants or achieve effluent limitations based on the best available control technology by January 1, 1981. The Senate has maintained its position in that the goals of the Senate bill are intact. The requirement of the Senate bill as to the implementation of a no-discharge requirement where the technology is reasonably available is retained in the conference agreement, and the burden of justifying departure from the July 1, 1983, requirements remains on the polluter.

Phase II in the Senate bill was to have been implemented by January 1, 1981. The conferees agreed on a 6-year period rather than a 5-year period to move to this significant phase. But again because of the time in conference, the slippage in the Senate bill is no more than 18 months. What does that slippage mean? It does not mean that polluters will be discharged from their responsibility to comply with the law. It only means that the requirement set forth in this act will be achieved in some cases at a date which is somewhat later than originally intended by the Senate. The Administrator retains the authority to require the application of these controls at an earlier date, and it is intended that he will require their application at the soonest practicable time.

The Administrator retains the authority to establish schedules and timetables of compliance which eliminate the discharges of pollutants whenever he determines that the technology is reasonably available. At the same time, the Administrator is given clear guidance in the law to press forward to achieve the goals of the act; to assure that reasonable effort is put forth to move from one phase to the other; to guarantee that there is real progress from best practicable technology to best available technology; and, above all, to require, whenever technology is reasonably available, that the discharge of all pollutants be eliminated.

I would like to point out to my colleagues that the bill as passed by the House did not provide enforceable effluent control requirements other than those to be achieved by January 1, 1976. The bill as passed by the House required a National Academy of Sciences' study to determine what, if any, requirements should be imposed beyond January 1, 1976. The bill as passed by the House required subsequent action of Congress in order to impose any future, more strict effluent control requirements.

The third critical element that concerned the Senate in its consideration of this legislation was enforceability. Enforceability is assured through the provisions of the permit program and through section 309, the enforcement section of the act. The Administrator has the responsibility to determine the effluent limitations to be applied to each category or class of polluter, to set forth those limitations in a permit issued pursuant to section 402 of the act, and to enforce those limitations through the provisions of section 309.

The Administrator must issue an abatement order whenever there is a violation of the terms or conditions of a permit, including the effluent limitations, time schedules, and monitoring requirements. Should he fail to issue an order, a citizen suit may be brought against him to direct the issuance of such an order. The Administrator's authority is not limited to those cases in which there is a continuing violation. Any discharge, intermittent or continuous, which the Administrator finds violates the terms of the permit, is to be enforced. The conferees expect that the Administrator will act as aggressively against those violations which only intermittently occur as he will act against those violations which occur on a continuous basis. Failure to take this kind of effective action will permit intermittent dumping of waste with impunity. Citizen suits can be brought to enforce against both continuous and intermittent violations.

Mr. President, I have prepared and wish to include in the RECORD as part of my remarks a discussion of each of the significant provisions of the bill. I do this because the complexities of the individual provisions are such that the legislative history will be important to those charged with the responsibility for administering the program. At the same time, however, I would like to call attention to the fact that we have tried in this legislation not to leave the final evaluation of the bill to legislative history, but instead to write into law as clearly as possible the intent of the Congress.

The PRESIDING OFFICER. Without objection, the material will be printed in the RECORD.

(See exhibit 1.)

Mr. MUSKIE. Before inserting that discussion into the RECORD, however, and moving on to final consideration of the conference agreement, there is one other significant aspect of this legislation to which I would like to address a few remarks.

Mr. President, the question of adequate funding for the construction of waste treatment facilities has been a source of almost constant frustration for this Senator, members of the Public Works Committee, and the Senate since the grant program was expanded in 1966. It has been frustrating because in the face of facts which could not be more stark, in the face of a threat to life that could not be more real, in the face of cries from our cities and States that could not be more desperate—in the face of all these things, there are still those in high places who question whether we can afford to spend this money.

Can we afford clean water? Can we afford rivers and lakes and streams and oceans which continue to make possible life on this planet? Can we afford life itself? Those questions were never asked as we destroyed the waters of our Nation, and they deserve no answers as we finally move to restore and renew them. These questions answer themselves. And those who say that raising the amounts of money called for in this legislation may require higher taxes, or that spending this much money may contribute to inflation simply do not understand the language of this crisis.

The conferees spent hours and days studying the problem of financing the cleanup effort required by this new legislation. The members agreed in the end that a total of $18 billion had to be committed by the Federal Government in 75-percent grants to municipalities during fiscal years 1973–75. That is a great deal of money; but that is how much it will cost to begin to achieve the requirements set forth in the legislation. Because of the magnitude of this commitment, I would like to take a few moments of the Senators' time to explain briefly the basis for that figure.

The objective of the act, as set forth in section 101(a) is:

> To restore and maintain the chemical, physical and biological integrity of the nation's waters. In order to achieve this objective . . . it is the national goal that the discharge of pollutants into the navigable waters be eliminated by 1985.

These are not merely the pious declarations that Congress so often makes in passing its laws; on the contrary, this is literally a life or death proposition for the Nation. In order to achieve those objectives, the Administrator is directed in section 201(d) to assist in the construc-

tion of certain kinds of municipal waste treatment facilities:

(d) The Administrator shall encourage waste treatment management which results in the construction of revenue producing facilities providing for—

(1) the recycling of potential sewage pollutants through the production of agriculture, silviculture, or aquaculture products, or any combination thereof;

(2) the confined and contained disposal of pollutants not recycled;

(3) the reclamation of wastewater; and

(4) the ultimate disposal of sludge in a manner that will not result in environmental hazards.

These policies, together with the requirements to be applied to industrial and other point sources in phase I and phase II, simply mean that streams and rivers are no longer to be considered part of the waste treatment process. This fact has in turn meant that advanced waste treatment, a level of treatment not generally required under existing law and a level of treatment for which the technology in some respects may not yet exist for practicable application, will be required for every community in the Nation.

In testimony before the House Public Works Committee, Gov. Daniel Evans of Washington, an engineer by profession, suggested that:

Really what we need (to produce the technology required by the provisions of the bill) is a national commitment as to what we want to achieve . . . If we do that, I would be disappointed if modern technology . . . did not come up with the new and changed technology that may very well not cost more, but may very well cost less to achieve.

So there were two strong imperatives which worked together to convince the members of the conference that this much money was needed: first, the conviction that only a national commitment of this magnitude would produce the necessary technology; and second, the knowledge that a Federal commitment of $18 billion in 75-percent grants to the municipalities was the minimum amount needed to finance the construction of waste treatment facilities which will meet the standards imposed by this legislation.

Members will note that the original authorization of $14 billion for 3 fiscal years contained in the Senate bill has been increased to the $18 billion figure which I have been discussing. The increase of $4 billion is accounted for by changes in the bill since it was considered by the Senate:

First. The conferees decided that Federal assistance for the construction and reconstruction of collection systems and dealing with the problem of combined storm sewers in existing communities was necessary, given the new, more stringent requirements of the legislation.

Second. The conferees agreed on a Federal share of 75 percent for all grants, as opposed to lower Federal shares provided by the Senate.

Mr. President, to achieve the deadlines we are talking about in this bill we are going to need the strongest kind of evidence of the Federal Government's commitment to pick up its share of the load. We cannot back down, with any credibility, from the kind of investment in waste treatment facilities that is called for by this bill. And the conferees are convinced that the level of investment that is authorized is the minimum dose of medicine that will solve the problems we face.

Mr. President, the conferees attempted also to reduce the possibility that this legislation would be vetoed. In our last conference, the able and distinguished ranking minority member of the House Committee on Public Works offered two amendments which he indicated would reduce opposition to the bill from the White House and the Office of Management and Budget. These two amendments were accepted by your conferees and by other House conferees in order to remove the question of a veto on the basis of the money authorized by the legislation.

Under the amendments proposed by Congressman WILLIAM HARSHA and others, the authorizations for obligational authority are "not to exceed" $18 billion over the next 3 years. Also, "all" sums authorized to be obligated need not be committed, though they must be allocated. These two provisions were suggested to give the administration some flexibility concerning the obligation of construction grant funds.

The conferees do not expect these provisions to be used as an excuse in not making the commitments necessary to achieve the goals set forth in the act. At the same time, there may be instances in which the obligation of funds to a particular project in a particular State may be contrary to other public policies such as the National Environmental Policy Act. In these cases the conferees would, of course, expect the administration to refuse to enter into contracts for construction.

Mr. President, with the approval of these amendments, it is clear that any decision by the President to veto this legislation would be based on the regulatory aspects of this legislation. The President's views on those provisions are well-known. The President, the Council on Environmental Quality, and the Administrator of the Environmental Protection Agency vigorously opposed the regulatory provisions of the Senate-passed bill. The conference agreement does not represent a significant departure from those Senate regulatory provisions. Thus, the President may choose to veto this legislation on the basis of the stringent regulations it would impose on industrial polluters.

We all know that if Congress holds to its scheduled date of adjournment, this legislation may become subject to a pocket veto by the President. By pursuing this course of inaction, the President could effectively ignore the action of the Congress; that is his prerogative. But he cannot ignore the problem; and all a pocket veto will mean is that before Congress can act again, more lakes and streams will die, more rivers and bays will drown in human and industrial wastes, and more precious time will be lost in a battle where time is running out on our future.

I urge the President to recognize that a congressional statement of public policy as clear and as definite as our action today deserves an affirmative response one way or the other. And I hope that the Senate will schedule the remainder of its activities so as to be in session, prepared to provide an appropriate and firm response, if the President decides to veto this bill.

Mr. President, I ask the Senate to approve the conference report, and to do so with such evidence of support for its goals that the President and the Nation will know the extent of our determination and the depth of our resolve.

The conferees in both Houses spent many hours on this legislation. The chairman of the full committee, Senator RANDOLPH, Senator EAGLETON, Senator BAYH, Senator COOPER, Senator BAKER, and Senator BOGGS, all participated conscientiously. They have been equally dedicated to enacting the best legislation possible.

In addition to the members of the conference, special credit must go to the staffs of both the Senate and the House Committees on Public Works. The complexity of this legislation, the interrelationship between its various provisions, and the need to establish, with precision in law, a clear statement of the intent of Congress, placed tremendous demands on the talent and time of the respective staffs. I would particularly like to take note of the work of chief counsel of the Committee on Public Works, Barry Meyer; minority clerk, Bailey Guard, assistant counsel, Phil Cummings, minority counsels Tom Jorling and Dick Hellman, Hal Brayman, Leon G. Billings, John Yago, and Richard Wilson of the professional staff, Sally Walker, Ann Garrabrant, and Charlene Sturbitts of the research staff, Jim Jordan with Senator BAKER, Bob Maynard with Senator EAGLETON, Mike Helfer with Senator BAYH, Frankie Williams and Peggy Nagel of the clerical staff. The House committee staff, including chief counsel, Richard Sullivan, minority counsel, Cliff Enfield, committee counsels, Les Edalman and Gordon Wood, and particularly Robert Mowson of the House Office of Legislative Counsel who did the technical work on the bill, deserve special recognition.

EXHIBIT 1

POLLUTION DILUTION

The Conference agreement specifically bans pollution dilution as an alternative to waste treatment. At the same time the agreement recognizes that stream flow augmentation may be useful as a means of reducing the environmental impact of runoff from non-point sources. The agreement also recognizes that stream flow augmentation may be useful for recreational, navigation and other purposes. Finally, section 102(b) of this Act requires that any calculation of the need for and value of stream flow augmentation to reduce the impact of pollution must be made by the Administrator of the Environmental Protection Agency.

IN PLACE POLLUTANTS

The provision for removal of in place pollutants did not appear in either the Senate or the House bill. Its present form was included by the Conferees as part of an agreement which related to section 402(m) of the Senate bill and section 404 of the House bill regarding the disposal of dredged spoil.

Because of the rigorous nature of the test to be applied to any application for a permit

for the disposal of dredged spoil, the Conferees provided for a program to assure that the economic base of Great Lakes harbors would not be disrupted by environmental requirements. The Conferees intend that a major effort be put forth to remove in place pollutants, especially toxic pollutants, from harbors in the Great Lakes and that material be disposed of in a manner which shall assure minimal environmental impact.

The Conferees expect that the program initiated under Title II and III of this bill, which will require restrictive controls on effluent discharges from municipal industrial sources and effective regulation of non-point sources, will reduce the future accumulations of in place pollutants, thus easing the problems associated with dredged spoil disposal.

CONSTRUCTION GRANTS

The Conference agreement authorizes $18 billion for fiscal years 1973–1975 for 75% Federal grants to communities through contract authority. The Senate Conferees acceded to the House authorization figure only after accepting a House provision which authorizes grants for the reconstruction of existing sewage collection systems (an activity which is essential to the integrity of waste treatment systems where excessive filtration of ground water is a problem) and the installation of new collection systems in existing communities. This new area of Federal assistance recognizes that adequate collection systems are essential to the integrity of waste treatment systems which must deal with excessive filtration of ground water, and that adequate sytems will require a greater commitment of Federal and local funds.

The Conferees intend that priority on the distribution of funds made available by this Act be given to the construction of needed waste treatment facilities. The backlog of waste treatment plants has not declined substantially in the past five years, and our limited resources should be directed first to building waste treatment plants in communities with existing collection systems. After these projects are funded, money should be obligated for the replacement of existing collection systems or the construction of new systems. Under no circumstances are these funds intended for the construction of sewage collection systems in new communities or in new subdivisions of existing communities.

The Conferees agreed on the 75% figure after extensive debate over the nature of state participation, if any, in the water treatment plant construction program. The Senate bill provided for a Federal grant of 70% if the state participated, by grant, in the amount of 10% of the project's cost. The House bill provided a Federal grant of 75% if the state participated by grant, loan or otherwise in the amount of 15% of the project's cost. The Conferees could not agree on the nature of state participation.

Therefore, the Conference agreement does not require state participation. However, the Conferees hope and expect that states with grant programs will continue to assist communities to meet the backlog of waste treatment facility needs.

The absence of a requirement that a state participate in each project in order to receive a higher level of Federal assistance should provide the states with more flexibility in the distribution of limited funds. State resources can be directed to communities with particularly severe pollution problems or particularly severe economic problems. State grants can be made to assist in the construction cost of advanced waste treatment facilities or in the construction cost of facilities to deal with storm water overflow.

The Conferees wish to emphasize the complete change in the grant program that is authorized under the Conference substitute. Under existing law and procedure, the Environmental Protection Agency makes its first payment to a municipality upon certification that 25 percent of the actual construction has been completed. The remaining Federal payments are also made in reference to the percentage of completion of the entire waste treatment facility. Grantees and applicants therefore absorb enormous interest expenses and other costs as they await the irregular flow of Federal funds.

Under the Conference substitute, which is a program modeled after the Federal-Aid Highway Act, each stage in the construction of a waste treatment facility is a separate project. Consequently, the applicant for a grant furnishes plans, specifications, and estimates (PS&E) for each stage (or project) of the construction of the waste treatment facility, as defined by the term "construction" in section 212. Upon approval of the PS&E for any project, the United States is obligated to pay 75 percent of the costs of that project. For instance, the applicant may file a PS&E for a project to determine the feasibility of a treatment works, another PS&E for a project for engineering, architectural, legal, fiscal, or economic investigations, and another PS&E for actual building. This way the States and communities are assured an orderly flow of Federal payments. This should in turn result in substantial savings and efficiency.

The Conferees determined that utilization of a "needs" formula, together with the PS&E approach, would eliminate any need for special allocations for advanced waste treatment projects or other special cases. Projects such as the Blue Plains facility will receive adequate and timely funds under this provision so long as adequate funds are released for obligation.

It cannot be emphasized too strongly that the procedure adopted in the Conference substitute represents a complete and thorough departure from the present practice of making payments of the Federal share of treatment works. The Conferees urge the Administrator, the States, and local governments to draw from the experience of the highway program to improve the efficiency of the waste treatment grant program. When funding the construction of waste treatment plants, the Administrator, upon the request of a State, should encourage the use of a phased approach to the construction and funding of treatment works on a State's priority list. Such a phased program, which the Committee notes has been developed and approved in the State of Delaware, has enabled the State to accelerate the construction of sewage treatment facilities, and thus accelerate the attainment of clean water.

In providing for reimbursement to those agencies—including states, municipalities and intermunicipal agencies—which have continued with their water pollution control construction program but which did not receive the full amount of Federal contribution, it was the desire of the Conference to redeem the Federal pledge to make reimbursement payments and to provide the financial assistance necessary to enable such agencies to continue with their own water pollution control programs.

The $2.75 billion authorized for this purpose is intended to place all states and cities on an equal basis and to redress any discrimination that may have existed in prior programs against those larger municipal agencies which were unable to take full advantage of the Federal sharing programs in effect at various times since the inception of the program due to the lack of adequate appropriations, limitations on Federal contributions to individual projects, and allocations made by state agencies.

Projects constructed between 1966 and the present time should receive priority in funding under these reimbursement provisions. With regard to those projects constructed in the period 1956 through 1966, it was the desire of the Conference that the Administrator of EPA promulgate rules and regulations that will permit the objectives of equality and nondiscrimination to be achieved. While there have been changing standards and criteria for Federal approval through the life of the Federal grant program, the common sense approach should be that any project, in order to be eligible for reimbursement under this Act, should not be an inadequate or inferior project, but should have been built in accordance with the requirements prevailing at the time that the Federal contribution would have been granted had there been adequate funds to supply the matching portion. It was for this reason that the Conferees modified the requirement that would have imposed an obligation for applicants for reimbursement to have demonstrated that projects constructed in the 1950's and early 1960's complied with requirements enacted in 1966 and subsequently.

We believed it was important to demonstrate to the cities across the United States that their responsiveness to a national program should not result in their being shortchanged because those communities that did not respond were permitted to have larger Federal contributions authorized by subsequent legislation. We believe the Administrator should regard this section of the Act as remedial in character and should administer it in a fashion that will put those communities that did get going on cleaning up their rivers and lakes on an equal footing with those that failed to do so. Inasmuch as the Act (Section 206(c)) requires applicants to file for assistance within one year from the effective date of the Act, the Administrator should give high priority to establishing the procedures for submitting and processing such applications.

Both the Senate bill and the House amendment provided that a State may proceed to construct projects in anticipation of future obligational authority. Under this provision, a State cannot anticipate funds in excess of the total portion of the authorization in the Act to which that State would be entitled. In other words, no States will be eligible for obligational authority in excess of the total amount for which that State would be eligible had the total allocation to that State been made available on the date of enactment of this Act.

AREA WASTE TREATMENT MANAGEMENT

The Senate bill and the House amendment both required the development of areawide waste management plans. The House amendment limited such areawide waste management plans to designated areas within a State, while the Senate bill required that regions be designated for the entire geographic area of each State. The Conferees have agreed to require State-wide planning, either through a regional process in a designated area or by the State for areas outside of designated regions.

The Senate bill required that areawide waste management plans be developed by July 1, 1974. The House bill provided that a waste management planning process had to be initiated within two years after enactment. The Conferees have agreed to the requirement that there be a waste management planning process within one year after enactment. An initial plan would be filed with the Administrator within two years after that process is initiated.

The Conferees also agreed that waste management agencies must be designated covering the entire area of the State. More than one management agency may be designated in any planning region, and existing entities, including local governments or the State itself, should be utilized where appropriate. Those agencies shall be subject to the disapproval of the Administrator if he finds that they do not meet the criteria set forth in the Act. As to the similarities in the provisions, the Conferees expect the Sen-

ate and House report to express the intent of the Conference.

The Senate bill authorized a percentage of the total construction grant authorization as contract authority for funding the regional waste management planning aspects of this legislation. The Conferees agreed on a separate authorization included in Section 208 but provided that the funds thereunder would be available in the form of contract authority so as to expedite implementation of this vital section. The degree to which the Administrator takes immediate action to implement this section will be convincing evidence of the commitment of the Environmental Protection Agency to early and effective implementation of the water quality management policies established by this legislation.

EFFLUENT LIMITATIONS

The Conference agreement establishes a two phase program for the application and enforcement of effluent limitations. The first phase requires point sources to achieve that level of effluent reduction identified as "best practicable control technology" no later than July 1, 1977. The Conferees attempted to clarify what was intended by the term "best practicable control technology".

It is the intention that pursuant to subsection 301(b)(1)(A) and Section 304(b), the Administrator will interpret the term "best practicable" when applied to various categories of industries as a basis for specifying clear and precise effluent limitations to be implemented by July 1, 1977. In defining "best practicable" for any given industrial category, the Committee expects the Administrator to take a number of factors into account. These factors should include the age of the plants, their size, the unit processes involved, and the cost of applying such controls.

The Administrator should establish the range of "best practicable" levels based upon the average of the best existing performance by plants of various sizes, ages, and unit processes within each industrial category. In those industrial categories where present practices are uniformly inadequate, the Administrator should interpret "best practicable" to require higher levels of control than any currently in place if he determines that the technology to achieve those higher levels can be practicably applied.

"Best practicable" can be interpreted as the equivalent of secondary treatment for industry, but this interpretation should not be construed to limit the authority of the Administrator.

The modification of subsection 304(b)(1) is intended to clarify what is meant by the term "practicable". The balancing test between total cost and effluent reduction benefits is intended to limit the application of technology only where the additional degree of effluent reduction is wholly out of proportion to the costs of achieving such marginal level of reduction for any class or category of sources.

The Conferees agreed upon this limited cost-benefit analysis in order to maintain uniformity within a class and category of point sources subject to effluent limitations, and to avoid imposing on the Administrator any requirement to consider the location of sources within a category or to ascertain water quality impact of effluent controls, or to determine the economic impact of controls on any individual plant in a single community.

It is assumed, in any event, that "best practicable technology" will be the minimal level of control imposed on all sources within a category or class during the period subsequent to enactment and prior to July 1, 1977.

The Conference agreement requires that implementation plans and compliance schedules in existing water quality standards be adhered to, to the extent that those plans and schedules require compliance no later than July 1, 1977, and to the extent that they call for a degree of pollution control no less stringent than that defined by "best practicable control technology".

The Conference agreement applies a different test to the Administrator's determination of "best available demonstrated technology". In determining the degree of effluent reduction to be achieved for a category or class of sources by 1983, the Administrator may consider a broader range of technological alternatives and should, at a minimum, review capabilities which exist in operation or which can be applied as a result of public and private research efforts.

In making the determination of "best available" for a category or class, the Administrator is expected to apply the same principles involved in making the determination of "best practicable" (outlined above), except as to cost-benefit analysis. Also, rather than establishing the range of levels in reference to the average of the best performers in an industrial category, the range should, at a minimum, be established with reference to the best performer in any industrial category.

The distinction between "best practicable" and "best available" is intended to reflect the need to press toward increasingly higher levels of control in six-year stages. Through the research and development of new processes, modifications, replacement of obsolete plans and processes, and other improvements in technology, it is anticipated that it should be possible, taking into account the cost of controls, to achieve by 1983 levels of control which approach and achieve the elimination of the discharge of pollutants.

As to the cost of "best available" technology, the Conferees agreed upon the language of the Senate bill in Section 304(b)(2). While cost should be a factor in the Administrator's judgment, no balancing test will be required. The Administrator will be bound by a test of reasonableness. In this case, the reasonableness of what is "economically achievable" should reflect an evaluation of what needs to be done to move toward the elimination of the discharge of pollutants and what is achievable through the application of available technology—without regard to cost.

DISPOSAL OF SEWAGE SLUDGE

The Conferees have included a provision, not in either bill, which relates to the disposal of sewage sludge from waste treatment plants. During the Conference it became apparent that, unless a regulatory mechanism was established to control the by-products of advanced waste treatment plants, the disposal of residual sludge could cause a serious problem. Present practices which permit sewage sludge to be hauled out to sea and dumped or placed in areas on land where it is washed into streams and lakes, without regard to the impact on health and welfare, recreation, fish and shellfish and wildlife, are unsatisfactory.

Under section 405, which was proposed by Senator Boggs, disposition of sewage sludge in any manner which might affect the inland or coastal navigable waters would be prohibited (either by dumping sludge on land in such a fashion as to run off into waters or dumping in the ocean in such a manner as would have it returned into territorial waters). Also, this provision, in combination with section 403 which regulates any ocean dumping inside the three mile limit, should provide adequate safeguards against immediate threats to the shorelines, beaches and fish, shellfish and wildlife and recreational resources in coastal areas.

The Conferees do not intend for the Administrator or a State to make a plant-by-plant determination of the economic impact of an effluent limitation unless an owner or operator petitions the Administrator for relief from the effluent limits based on best available technology. In the event an owner or operator petitions for such relief, the burden will be on that owner to show both that modified requirements will represent the maximum use of technology within the economic capability of the owner or operator and will result in reasonable further progress toward the elimination of the discharge of pollutants.

WATER QUALITY RELATED EFFLUENT LIMITATIONS

The Conference agreement does not alter the Senate's original intent as regards authority to require implementation of water quality levels set forth in Section 302 of the Senate bill.

WATER QUALITY STANDARDS AND IMPLEMENTATION PLANS

The Senate accepted a House amendment which extends and expands the water quality standards procedure initiated in the Water Quality Act of 1965. The procedures set forth in this provision primarily rely on State action and cannot be construed as limiting application of any other requirements under Title III of this Act.

In agreeing to continue a water quality standards program, we do not intend to duplicate or delay the new regulatory provisions of the legislation. The Administrator should assign secondary priority to this provision to the extent limited manpower and funding may require a choice between a water quality standards process and early and effective implementation of the effluent limitation-permit program.

To the extent the State may wish to continue an examination of water quality in order to determine if more restrictive effluent limits may be required, this section will be useful. It should be made clear, however, that it is not intended that precise treatment requirements and specific time schedules for each discharger to public waters within the state be set forth in the water quality standards, including implementation plans, provided for in Section 303. These specifics should be included as conditions in permits issued under Section 402 based upon the time elements of Section 301 and the guidelines of Section 304. If a State establishes more stringent limitations and/or time schedules pursuant to Section 303, they should be set forth in a certification under Section 401. Of course, any more stringent requirements imposed by a State pursuant to this section shall be enforced by the Administrator.

If a State has limited resources and Federal program funding is inadequate, the primary state effort should be devoted to effective implementation of the new program and, to the extent not inconsistent, existing water quality implementation plans rather than assigning needed personnel to the added functions required under Section 303.

INFORMATION AND GUIDELINES

Section 304(b), as agreed to by the Conferees, requires that the Administrator publish regulations which shall provide guidelines for the establishment of the effluent limitations to be achieved by categories and classes of point sources (other than publicly owned treatment works) pursuant to section 301(b) of the Act.

Section 304(b) identifies certain factors to be taken into account by the Administrator in determining the "best practicable" treatment and the "best available" treatment applicable to categories or classes of point sources. Among those factors are considerations of costs. In determining the "best practicable technology" for a particular class or category of point sources, the Administrator is directed to consider the relationship between the total cost of the application of such technology and the effluent reduction benefits to be achieved from such application within that category or class.

In determining the "best available technology" for a particular category or class

of point sources, the Administrator is directed to consider the cost of achieving effluent reduction. The Conferees intend that the factors described in section 304(b) be considered only within classes or categories of point sources and that such factors not be considered at the time of the application of an effluent limitation to an individual point source within such a category or class.

Except as provided for in section 301(c) of the Act, the intent is that effluent limitations applicable to individual point sources within a given category or class be as uniform as possible. The Administrator is expected to be precise in his guidelines so as to assure that similar point sources with similar characteristics, regardless of their location or the nature of the water into which the discharge is made, will meet similar effluent limitations.

The Conferees have provided, however, a mechanism for individual point-source-by-source consideration in section 301(c). That section provides that the Administrator may modify any effluent limitation based on "best available technology" to be achieved by July 1, 1983, with respect to any point source, upon a showing by the owner or operator of such point source that an effluent limitation so modified will represent the maximum use of technology within the economic capability of the operator and will result in reasonable further progress toward the goal of the elimination of the discharge of pollutants.

In various places in section 304, and elsewhere in the bill, it is required that the Administrator of EPA publish guidelines on various aspects of the program. The Conferees expect that such guidelines will be subject to the normal requirements which apply to Federal regulations, such as publication in the Federal Register and availability for public comment, even though those requirements were not made explicit each separate time a guideline has been required by the bill.

The Conferees clearly contemplate that the decision-making responsibility, as in the Clean Air Act, on guidelines and regulations to be published under this Act rests, unless otherwise specified, with the Administrator of EPA and not such other agencies as the Office of Management and Budget and the National Industrial Pollution Control Council. EPA regulations and guidelines are not to be reviewed by these and other agencies prior to their promulgation except on the same basis as review and comment by members of the public. OMB comment and review should thus come in the form of comments available to the public, made during the period for public comment.

NATIONAL STANDARDS OF PERFORMANCE

The Conference agreement on section 306 follows, for all practical purposes, the intent of the Senate bill. The Senate bill and the application of an economic test to the determination of what new source performance standards would be required, and the nature of the economic test.

In order to assure that a reasonable cost test is met, the Conference agreement clarifies the fact that the Administrator must take into account the cost of compliance with any new source performance standards as applied to any caegory or class of new sources. The Conferees would expect that this cost test would be considerably more restrictive than the test which would be applied to "best available technology" because pollution control alternatives are available to a new source which are not available to existing sources.

It may be that in most instances, the technology for elimination of discharge of pollutants from new sources can be achieved on a considerably more reasonable basis than for existing sources. The Conferees intend that this alternative be examined carefully and each determination of standards applicable to any category of new sources be periodically re-examined by the Administrator to insure that any new source constructed does the best that can be done in terms of performance.

The Conference agreement requires establishment of a regulatory mechanism for new sources which anticipates not only that level of effluent reduction which can be achieved by the application of technology (including elimination of the discharge of pollutants), but also the achievement of levels of pollution control which are available through the use of improved production processes. This does not mean that the Administrator is to determine the kind of production proceses or the technology to be used by a new source. It does mean that the Administrator is required to establish standards of performance which reflects the levels of control achievable through improved production processes, end of process technique, etc., leaving to the individual new source the responsibility to achieve that level of performance by the application of whatever techniques determined available and desirable to that individual owner or operator.

The Conferees deleted reference to the term "modification" when applied to new sources. The inclusion of this requirement in the Senate and the House bill was believed by the Conferees to be superfluous in light of the provisions which require existing sources (which might become subject to new source performance standards as a result of modification) to meet specific levels of effluent reduction by specific dates pursuant to section 301. To subject those sources to interim levels of control, simply because of a "modification" would be redundant with the requirements of effluent limitations based on "best practicable" and "best available" technology.

In any event, modification or changes in the operation of an existing source so as to alter the nature or amount of pollutants discharged, would be a violation of the conditions of an existing permit and subject to review by the permitting agency. Further action by the source could be required. The Conferees determined that the process established under section 306 for "modifications" would be burdensome and duplicative, and it was therefore deleted.

TOXIC AND PRETREATMENT EFFLUENT STANDARDS

With regard to toxic pollutant control, the Senate bill and the House amendment differed in provisions for determining whether a pollutant would, in fact, be toxic. The House amendment proposed that there be an examination of the effect of a pollutant on receiving waters to determine toxicity. The Senate bill established a general test in order to assure a categorical determination as to which pollutants were toxic and which were not. The Conference agreement provides specific tests for toxicity as proposed by the House but retains the categorical determination established by the Senate.

Section 307(b) of the Senate bill and the House amendment were substantially similar. Under the Senate provision, compliance with pretreatment standards by industrial users of municipal waste treatment systems was to be enforced through permits under Section 402 and would have been enforceable directly by the Administrator. The House amendment did not so provide. Under the Conference agreement, individual industrial users of municipal waste treatment plants will not be required to obtain a permit under section 402. However, the Conferees agreed, in the alternative, that each municipal waste treatment plant permit must identify any industrial users (as defined in section 212) and the pretreatment standards applicable to each industrial user. The Conference agreement provides that a violation of pretreatment standards is enforceable directly against the industrial user by the Administrator.

The Conference agreement also provides that a municipal permit must include provision for notice to the Administrator whenever the conditions of industrial use of municipal waste treatment plant change. The Conferees intend that the Administrator have an opportunity (a) to identify any changes in the municipal permit; (b) to examine the impact on the municipal waste stream to determine if there will be a violation of the permit; and (c) to otherwise require the application of section 308 monitoring requirements to the applicable industrial user.

Finally, the Conference agreement provides that the Administrator establish pretreatment standards for new sources (subject to section 306) simultaneously with the establishment of new source performance standards in order to assure that any new source industrial user of municipal waste treatment plants achieve the highest degree of internal effluent controls necessary to assure that such users' contribution to the publicly owned works will not cause a violation of the permit and to eliminate from such contribution any pollutants which might pass through, interfere with or otherwise be incompatible with the functioning of the municipal plant.

INSPECTIONS, MONITORING AND ENTRY

The requirements of section 308 on monitoring were identical in the Senate bill and the House amendment except as to delegation of authority to the state. It was intended that the Administrator's duty to require monitoring be a mandatory one. The Conferees expect that the Administrator will require the most complete and effective monitoring as he "reasonably" can, from a cost standpoint. Thus, where, for example, continuous monitoring is a reasonable requirement, the Administrator must require such monitoring.

FEDERAL ENFORCEMENT

In section 309, the Senate receded to the House in not making civil enforcement mandatory upon the Administrator despite the feeling of the Senate Conferees that, on its own merits, mandatory civil enforcement is far preferable to a discretionary responsibility. It is important to note, however, that the provisions requiring the Administrator to issue an abatement order whenever there is a violation were mandatory in both the Senate bill and the House amendment, and the Conference agreement contemplates that the Administrator's duty to issue an abatement order remains a mandatory one. The duty to issue such an order, under section 309(a)(3), arises whenever, on the basis of any information available to him, the Administrator finds that any person is in violation of enumerated regulatory requirements of the Act.

It is expected, of course, that upon receipt of information giving the Administrator reason to believe that a violation has occurred, he has an affirmative duty to take the steps necessary to determine whether a violation has occurred, including such investigation as may be necessary, and to make his finding as expeditiously as practicable.

It is intended that enforcement action be initiated against both continuous and intermittent violations of effluent limitations as well as against violations of compliance schedules. Because section 402 permits are expected to include precise compliance schedules, the Administrator must initiate enforcement action whenever there are delays in such actions as completion of plans and design, letting of contracts, initiation of construction, or the meeting of construction deadlines.

OIL AND HAZARDOUS SUBSTANCE LIABILITY

The Senate bill and the House amendment differed on oil pollution and hazardous sub-

stance liability in the following respects. The Senate bill established authority for the Administrator to set the limits on liability for hazardous substances discharged from vessels and onshore and offshore facilities which could not be cleaned up. The House bill established through a penalty procedure a limit of liability of $50,000 for such discharges.

The Conference agreement intends that the House penalty provision shall operate for two years, after which time a modified liability-penalty provision as proposed by the Senate will be implemented. The two-year period should provide the Administrator with ample opportunity to designate those substances which are hazardous and cannot be removed, and to establish a penalty level for each.

The Conference agreement intends that also during the two-year period in which the House penalty provision shall operate, the Administrator and affected parties also will examine any problem associated with administrative establishment of liability limits. This period will also permit examination of the need for legislation to improve the existing methods of storing, shipping and handling hazardous substances which cannot be removed from the water.

The Conferees intend that prior to the expiration of the two-year period under which the House provision is operative, and after the maritime industry, the insurance industry, the chemical industry, and appropriate Federal agencies have examined the implication of the Senate provision, legislative recommendations will be made to the appropriate Committees of Congress as to the needs to improve the capability of vessels to avoid hazardous substance spills. Should effective legislation be enacted, the Conferees agree that the liability provisions imposed will be reviewed and necessary changes proposed by the Committee on Public Works.

NATIONAL STUDY COMISSION

The House amendment provided a study by the National Academy of Sciences of social, economic and environmental implications of "best available demonstrated technology" and of any effluent limits which would require the "elimination of the discharge of pollutants." Under the House amendment, such a study would have been completed in two years and would have been a condition precedent to any requirements beyond January 1, 1976.

The Conference agreement does not require a subsequent action of Congress to trigger those aspects of the program which are commonly referred to as Phase II and beyond. The requirement to achieve effluent limitations based on best available technology and the elimination of discharge of pollutants are automatic on enactment. Compliance is required by the dates established in section 301.

However, the Conference agreement does provide for a study proposed by Senate Public Works Committee Chairman Randolph, of the implications of the requirements of this legislation. As a supplement to and independent of the water quality inventory study required under section 305, the Conferees determined that it would be useful for the Congress to have an independent evaluation of the economic, social and environmental implications of the regulatory aspects of the legislation.

As amended by the Conference agreement, Section 315 calls for the establishment of a 15-member commission composed of five members of each House appointed by the Speaker and the President of the Senate respectively and five members of the public to be appointed by the President. The public members may be Federal officials. The Conference agreement specifies that the funds for the study shall be made available from Legislative Appropriations Act.

The Conferees cannot underestimate the importance of the study to be performed. In order to evaluate effectively the long term implications of the requirements of this legislation in time to make any mid-course corrections that may be necessary, this study must be funded, staffed, and initiated with expedition. Because the study will require contractual arrangements with such organizations as the National Academy of Sciences, the Brookings Institute, the Ecological Institute, and others, funding must be made available as early as practicable.

The Conferees expect the Commission herein established to have an adequate independent staff to evaluate and report on findings of the contractual studies made in its behalf. At the same time, the Conferees do not expect the staff of the Commission to duplicate capabilities available to it through contract. Appropriations for the Commission should be made from the Legislative Appropriations Act.

THERMAL DISCHARGES

The House amendment included a provision which treated "heat" discharges on a water quality basis rather than on an effluent control basis. Under the Senate bill "heat" was a "pollutant" subject to the technological requirements of Section 301 and Section 306.

Under the conference agreement thermal pollutants will be regulated as any other pollutant unless an owner or operator of a point source can prove that a modified thermal limitation can be applied which will assure "protection and propagation of a balanced indigenous population of fish, shellfish and wildlife".

It is not the intent of this provision to permit modification of effluent limits required pursuant to Section 301 or Section 306 where existing or past pollution has eliminated or altered what would otherwise be an indigenous fish, shellfish and wildlife population. The owner or operator must show, to the satisfaction of the Administrator, that a "balanced indigenous population of fish, shellfish and wildlife" could exist even with a modified 301 or 306 effluent limit. Additionally, such owner or operator would have to show that elements of the aquatic ecosystems which are essential to support a "balanced indigenous population of fish, shellfish and wildlife" would be protected.

The language in section 316, permitting a state to make the determination "if appropriate" that heat discharge may be subject to less stringent controls under this section, is intended to permit the state, if it is delegated responsibility for administering the permit program under section 402, to make the final determination in those cases in which the Administrator does not exercise his veto authority under section 402. The Conferees do not intend that this language alter the basis for later court review of a decision by the Administrator. The question upon review is whether the Federal requirements set forth in section 316, that control of thermal discharges provide for the protection and propagation of fish, shellfish and wildlife, were properly supplied.

A ten year grace period would be granted under the language of this section only when the owner or operator of the point source from which the thermal component is discharged demonstrates to the satisfaction of the Administrator that an effluent limitation applicable to such thermal component will result in a standard of water quality which assures protection and propagation of a balanced, indigenous population of fish, shellfish and wildlife, and such owner or operator obtains a permit under section 402 which sets forth such limit.

CERTIFICATION

The Conferees intend that the certification provision will assure a State water pollution control agency an opportunity to determine whether or not effluent limitations established for discharges subject to a section 402 permit will be at least as stringent as any applicable requirements of existing State program. Secondly, the Conferees agreed that a State may attach to any Federally issued license or permit such conditions as may be necessary to assure compliance with water quality standards in that State. The Conferees do not intend that any such State conditions would be less strict than the requirements which would be otherwise required by Federal law.

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM

The Conference agreement provides that the Administrator may review any permit issued pursuant to this Act as to its consistency with the guidelines and requirements of the Act. Should the Administrator find that a permit is proposed which does not conform to the guidelines issued under section 304 and other requirements of the Act, he shall notify the State of his determination, and the permit cannot issue until the Administrator determines that the necessary changes have been made to assure compliance with such guidelines and requirements. The Conferees have retained that portion of the Senate bill which permits the Administrator to waive entirely his authority to review permits for certain categories and classes of pollution sources to all States which receive a delegation. The Administrator is also permitted to specify categories and classes for which he will not review for specific States on the basis of the programs which are in existence in those States.

Additionally, the Conferees have retained the provision of the Senate bill which permits the Administrator to notify a State of intent not to review a specific permit within 90 days in order that the permit issuing process can be expedited. The Conferees also agreed that there should be no enforcement action taken for failure to have a permit until December 31, 1974, in order to provide an adequate opportunity for the Administrator to review and issue or not issue permits for the applications that are pending on date of enactment or will be pending as a result of expansion of the program.

Concern has been expressed that the "immunity" provision will cause dismissal of pending enforcement actions under the Refuse Act of 1899. Section 4 provides the following relevant words pertaining to the Refuse Act: "No suit, action, or other proceeding lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity . . . shall abate by reason of the taking effect of the amendment made by section 2 of this Act."

Without any question it was the intent of the Conferees that this provision include enforcement actions brought under the Refuse Act, the Federal Water Pollution Control Act, and any other Acts of Congress.

Additionally, it should be noted that the Administrator may immediately act on pending permit applications. Should he deny a permit to an applicant, the enforcement provisions of Section 309 also would be available immediately.

It was suggested to the Conferees that, if the Act's definition of "point source" is strictly and literally construed, it would subject discharges from marine engines on recreational vessels to the requirement for obtaining a permit under this Act. Since there are more than 6 million owners of recreational vessels which would be required to obtain permits if this interpretation were adopted, the Conferees believe that inclusion of recreational marine engines under the permit program would result in an unreasonable expenditure of administrative effort. It

was further recognized that to require each and every boat owner to obtain a permit for his engine would be unreasonable.

We expect the Coast Guard and the Environmental Protection Agency to review the problems associated with regulation of marine engine discharges and to recommend to the Senate and House Public Works Committees any necessary legislation. Pending the submission of this report we would not expect the Administrator to require permits to be obtained for any discharges from properly functioning marine engines or to institute any prosecution for failure to obtain such a permit. This does not, of course, preclude the Administrator from taking action against the discharges from marine engines of harmful quantities of oil under Section 311 of the Act.

There may be other areas where similar problems are created and we would expect the concerned agencies to bring such problems to our attention at the earliest practicable date in order for us to begin working on a solution.

OCEAN DUMPING

Section 403 of the Senate bill and the House amendment were substantially similar. The Senate bill provided authority for the Administrator to act to disapprove any discharge into the oceans prior to the promulgation of guidelines under this section.

The Conference agreement provides for the Administrator to review any proposed discharge into the oceans prior to the issuance of such guidelines and make a determination whether or not such discharges are in the public interest.

The Conferees intend that section 403 regulate the discharge of any pollutants subject to this Act from any outfall sewer regardless of where that sewer ends and from any vessel within the three mile limit, any other legislation to the contrary notwithstanding. Should the Administrator find that criteria regulating discharges into the territorial sea from vessels established by other legislation are in conflict with this legislation, the Conferees expect that this legislation shall prevail.

PERMITS FOR DREDGED OR FILL MATERIAL

A major difference between the Senate bill and the House amendment related to the issue of dredging. The Senate Committee had reported a bill which treated the disposal of dredged spoil like any other pollutant. Pursuant to an amendment accepted on the Senate floor, dredged spoil disposal was made subject to a different set of criteria to determine any environmental effects. The House bill not only established a different set of criteria to determine the environmental effects of dredged spoil disposal but also designated the Secretary of the Army rather than the Administrator of the Environmental Protection Agency as the permit issuing authority. The Conference agreement follows those aspects of the House bill which related to the Secretary of the Army's regulatory authority. However, consistent with the Senate provision, the Administrator of the Environmental Protection Agency has three clear responsibilities and authorities.

First, the Administrator has both responsibility and authority for failure to obtain a Section 404 permit or comply with the condition thereon. Section 309 authority is available because discharge of the "pollutant" dredge spoil without a permit or in violation of a permit would violate Section 301(a).

Second, the Environmental Protection Agency must determine whether or not a site to be used for the disposal of dredged spoil is acceptable when judged against the criteria established for fresh and ocean waters similar to that which is required under Section 403.

Third, prior to the issuance of any permit to dispose of spoil, the Administrator must determine that the material to be disposed of will not adversely affect municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife or recreational areas in the specified site. Should the Administrator so determine, no permit may issue.

The Conferees were uniquely aware of the process by which the dredge and fill permits are presently handled and did not wish to create a burdensome bureaucracy in light of the fact that a system to issue permits already existed. At the same time, the Committee did not believe there could be any justification for permitting the Secretary of the Army to make determination as to the environmental implications of either the site to be selected or the specific spoil to be disposed of in a site. Thus, the Conferees agreed that the Administrator of the Environmental Protection Agency should have the veto over the selection of the site for dredged spoil disposal and over any specific spoil to be disposed of in any selected site.

The decision is not duplicative or cumbersome because the permit application transmitted to the Administrator for review will set forth both the site to be used and the content of the matter of the spoil to be disposed. The Conferees expect the Administrator to be expeditious in his determination as to whether a site is acceptable or if specific spoil material can be disposed of at such site.

At the same time, the Committee expects the Administrator and the Secretary to move expeditiously to end the process of dumping dredged spoil in water—to limit to the greatest extent possible the disposal of dredged spoil in the navigable inland waters of the United States including the Great Lakes—to identify land-based sites for the disposal of dredged spoil and, where land-based disposal is not feasible, to establish diked areas for such disposal.

All of these alternatives are available. The only justification for continuing to utilize open water disposal is the cost of alternatives. The Conferees believe that the economic argument alone is not sufficient to override the environmental requirements of fresh water lakes and streams. Therefore, early action should be taken by the Administrator to develop alternative sites and alternative methods of spoil disposal.

GENERAL DEFINITIONS

The term "discharge" is a word of art in the legislation. It refers to the actual discharge from a point source into the navigable waters, territorial seas or the oceans. It does not refer to the contribution of waste by a point source to a treatment facility. The Senate provision differed from the House amendment by including in the definition of "discharge" not only direct and indirect discharges into the navigable waters, but also discharges into municipal waste treatment plants.

The Conferees discussed at some length whether or not such contribution from discharges by point sources should be subject to section 306 or should be required to obtain a permit under section 402 as required by the Senate bill. The Conferees agreed that no specific permit would be required for any industrial users subject to sections 204, 307 or 308 contributing to a municipal waste treatment plant, but that the permit for the municipal waste treatment plant would set forth the requirements imposed on the industrial user. The elements of the requirements on the municipal plant are set forth in section 402.

The language of the House amendment as regards pollutants associated with oil and gas production was clarified to indicate that the process of injection and disposal of materials associated with oil and gas production from wells would be excluded only where a State regulatory program existed. The Conferees intend that this provision assure that no injection or disposal occur in such a manner as to present a potential hazard to ground water quality. At the same time the Conferees did not intend to place in the Environmental Protection Agency the responsibility for regulating the process of oil production known as "secondary recovery".

One matter of importance throughout the legislation is the meaning of the term "navigable waters of the United States."

The conference agreement does not define the term. The Conferees fully intend that the term "navigable waters" be given the broadest possible constitutional interpretation unencumbered by agency determinations which have been made or may be made for administrative purposes.

Based on the history of consideration of this legislation, it is obvious that its provisions and the extent of application should be construed broadly. It is intended that the term "navigable waters" include all water bodies, such as lakes, streams, and rivers, regarded as public navigable waters in law which are navigable in fact. It is further intended that such waters shall be considered to be navigable in fact when they form, in their ordinary condition by themselves or by uniting with other waters or other systems of transportation, such as highways or railroads, a continuing highway over which commerce is or may be carried on with other States or with foreign countries in the customary means of trade and travel in which commerce is conducted today. In such cases the commerce on such waters would have a substantial economic effect on interstate commerce.

The Conferees omitted as unnecessary Senate language expressly defining "State" to include certain types of interstate agencies. It is the Conferees' intent that an interstate agency authorized or approved by act of Congress having substantial water pollution control powers or duties within a particular interstate river basin shall be treated as a State for purposes of the Act.

EMERGENCY POWERS

Under the Conference agreement, the Administrator may seek an injunction against any discharge which presents an imminent substantial endangerment to the health of persons, to their economic well-being, or to fish and wildlife.

This provision is intended to be supplementary to and not a substitute for the regulatory provisions of the bill. The Conferees recognize that most pollutants will have an adverse effect on elements of the aquatic ecosystem but do not intend that the Administrator use the authority in this subsection to deal with more general problems. However, from time to time, continuous discharges occur which present an imminent substantial endangerment to fish and wildlife or to persons. These discharges should be abated through this authority and should be subject to the establishment of a standard of prohibition under section 307 in order to assure that a general regulatory program is initiated as opposed to reliance in injunctive relief.

CITIZEN SUITS

The Conference agreed to define a citizen, for purposes of the citizen suit section of the water bill, as a "person or persons having an interest which is or may be adversely affected." It based this compromise language on Section 10 of the Administrative Procedures Act, 5 U.S.C. § 702, and the interpretation given to that section in *Sierra Club v. Morton*, 40 U.S.L.W. 4397 (1972). In *Sierra Club*, the Supreme Court held that under the A.P.A. the party seeking review must itself

be among those injured by the action or inaction complained of. The Court also held that non-economic injury to an environmental interest is sufficient to meet the A.P.A. test, stating specifically that "the interest alleged to have been injured may reflect aesthetic, conservational, and recreational as well as economic values". The Court also emphasized that "aesthetic and environmental well-being, like economic well-being, are important ingredients of the quality of life in our country, and the fact that particular environmental interests are shared by the many rather than the few does not make them less deserving of legal protection through the judicial process." Thus under the language agreed to by the Conference a citizen suit may be brought only by those persons or groups which are among those whose interest (whether environmental or economic) is or may be injured by the violation of the Act which is the basis of the suit.

The Conferees accepted a provision requiring that citizens seeking to bring an action give appropriate notice and wait 60 days before filing suit to give the appropriate administrative agencies a chance to act.

This 60-day provision was not intended, however, to cut off the right of action a citizen may have to violations that took place 60 days earlier but which may not have been continuous. As in the original Senate bill, a citizen has a right under section 505 to bring an action for an appropriate remedy in the case of any person who is alleged to be, or to have been, in violation, whether the violation be a continuous one, or an occasional or sporadic one.

OTHER AFFECTED AUTHORITY

Section 511(c)(1) of the conference report is intended by the conferees to clarify the relationship between the Federal Water Pollution Control Act (FWPCA) and the National Environmental Policy Act (NEPA) and to extend the provisions of NEPA to two activities of the Administrator.

The relation of FWPCA and NEPA should not require clarification. It was clearly intended, at the time Congress enacted NEPA, that environmental regulatory agencies such as those authorized by FWPCA and the Clean Air Act would not be subject to NEPA's provisions.

The debate in the Senate and the House at the time of approval of the Conference Report on NEPA is abundantly clear.

In a summary of major changes adopted by the Conference Committee which Senator Jackson (primary sponsor and floor manager of NEPA) included in the Record, the following statement appears:

"Many existing agencies such as the National Park Service, the Federal Water Pollution Control Administration, and the National Air Pollution Control Administration already have important responsibilities in the area of environmental control. The provisions of section 102 (as well as 103) are not designed to result in any change in the manner in which they carry out their environmental protection authority."

"It is not the intent of the Senate conferees that the review required by section 103 would require existing environmental control agencies such as the Federal Water Pollution Control Administration and National Air Pollution Control Administration to review their statutory authority and regulatory policies which are related to maintaining and enhancing the quality of the environment. This section is aimed at those agencies which have little or no authority to consider environmental values." (S. 17458—12-20-69)

I made the following statement as regards Senator Jackson's explanation:

"It is clear then, and this is the clear understanding of the Senator from Washington and his colleagues, and those of us who serve on the Public Works Committee, that the agencies having authority in the environmental improvement field will continue to operate under their legislative mandate as previously established, and that those legislative mandates are not changed in any way by Section 102-5." (P. 17458—12-20-69)

Also, in a colloquy with Senator Boggs, I extended my comments on the understanding of the Senate as regards the relationship between FWPCA and NEPA:

"Mr. BOGGS. Am I correct that the thrust of the direction contained in S. 1075 deals with what we might call the environmental impact agencies rather than the environmental enhancement agencies, such as the Federal Water Pollution Control Administration or National Air Pollution Control Administration.

Mr. MUSKIE. Yes. Sections 102 and 103, and I think Section 105, contain language designed by the Senate Committee on Interior and Insular Affairs to apply strong pressures on those agencies that have an impact on the environment—the Bureau of Public Roads, for example, the Atomic Energy Commission, and others. This strong language in that section is intended to bring pressure on those agencies to become environment conscious, to bring pressure upon them to respond to the needs of environmental quality, to bring pressure upon them to develop legislation to deal with those cases where their legislative authority does not enable them to respond to these values effectively, and to reorient them toward a consciousness of and sensitivity to the environment.

Of course this legislation does not impose a responsibility or an obligation on those environmental-impact agencies to make final decisions with respect to the nature and extent of the environmental impact of their activities. Rather than performing self-policing functions, I understand that the nature and extent of environmental impact will be determined by the environmental control agencies.

With regard to the environmental improvement agencies such as the Federal Water Improvement Administration and the Air Quality Administration, it is clearly understood that those agencies will operate on the basis of the legislative charter that has been created and is not modified in any way by S. 1075." (S. 17460—12-20-69)

Finally during consideration of the NEPA Conference Report in the House of Representatives, the following exchange between Representatives George Fallon and House floor manager Representative John Dingell appears:

"What would be the effect of this legislation on the Federal Water Pollution Control Agency?

Answer: Many existing agencies such as the Federal Water Pollution Control Agency already have important responsibilities in the area of environmental control. The provisions of Sections 102 and 103 are not designed to result in any change in the manner in which they carry out their environmental protection authority. This provision is primarily designed to assure consideration of environmental matters by agencies in their planning and decision-making—but most especially those agencies who now have little or no legislative authority to take environmental considerations into account." (H. 13093—12-23-69)

NEPA has proved to be a far-reaching and progressive statute. Prior to its enactment, few agencies, other than the Federal Water Pollution Control Administration and the National Air Pollution Control Administration, had specific mandates to consider the impact on the environment of the various activities under their control. In fact, many mission agencies asserted that they were not authorized to consider environmental values. As noted by Judge J. Skelley Wright in *Calvert Cliffs' Coordinating Committee* v. *AEC* (449 F.2d 1109), "Perhaps the greatest importance of NEPA is to require * * * agencies to *consider* environmental issues just as they consider other matters within their mandates." By and large, NEPA has been successful in requiring mission agencies to take environmental considerations into account as an integral part of the decision-making process that previously excluded them.

But, as indicated above, Congress did not intend that the several provisions of NEPA should apply to the activities of the agencies which now comprise the Environmental Protection Agency. Section 5(d) of the Council on Environmental Quality's NEPA guidelines of April 23, 1971—which purport only to deal with a single provision of NEPA (the requirement of section 102(2)(C) that detailed statements be prepared)—accurately reflect the intent of the Congress with respect to 102(2)(C). But section 511(c) of the Federal Water Pollution Control Act, as that Act is proposed to be amended by S. 2770, is not limited to section 102(2)(C) of NEPA.

I invite the attention of my colleagues to a recent decision of the Third Circuit Court of Appeals, *Getty Oil Co.* v. *Ruckelshaus* (__F. 2d___, September 18, 1972), a case in which the Getty Oil Company sought to enjoin EPA from issuance a compliance order under the Clean Air Act. A three judge panel rejected the arguments of the company, and Judge Rosen wrote the opinion of the Court. I quote from that opinion:

Appellant's remaining argument is that EPA's failure to file an environmental impact statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), renders the Administrator's compliance order ultra vires. Even if we were to agree in Getty's premise that EPA is subject to the NEPA requirement, such an issue is properly raised in a section 307 proceeding. To require an impact statement at the enforcement stage would do substantial harm to the Congressional purpose of obtaining expenditious compliance with primary and secondary air standards. Failure to utilize the 307 proceeding forecloses review in a civil or criminal proceeding for enforcement. 42 U.S.C. 1857h-5(b)(2). Furthermore, both EPA regulations and the guidelines drafted by the Council on Environmental Quality exempt regulatory activities from the impact statement requirements.

The Court further noted in a footnote to the second sentence of the above-quoted passage: "The cases cited to us by appellant are not persuasive that EPA is bound by NEPA." There certainly is no doubt in my own mind that EPA is not bound by NEPA.

The Environmental Protection Agency is a Federal agency charged by Congress with statutory obligations to comply with, to ensure compliance with, and to institute civil and criminal proceedings in cases of the violation of specific criteria and standards of environmental quality. If there have been any doubts as to whether the various provisions of NEPA apply to the activities of EPA, section 511(c)(1) is expressly designed to still such doubts with finality.

The mandate of NEPA is very broad. The mandate to EPA is quite narrow. The Federal Water Pollution Control Act Amendments of 1972, for example, charge the Administrator of EPA with a direct mandate to regulate the discharge of pollutants into the waters of the United States. The sole purpose of the Act is to establish a detailed regulatory mechanism for restoring and maintaining the chemical, physical, and biological integrity of the Nation's waters. The goal of the Act is to eliminate the discharge of pollutants into the Nation's waters by 1985.

In the administration of the Act, EPA will be required to establish numerous guidelines, standards, and effluent limitations. The Administrator will be required to apply those effluent limitations to thousands of point

sources of pollution across this Nation. With respect to each of these actions, the Act seeks to provide Congressional guidance to the Administrator in as much detail and with as much specificity as the two Houses could contrive.

Nonetheless, virtually every action required of the Administrator will involve some degree of agency discretion—judgments involving a complex balancing analysis of factors that include economic, technical, and other considerations. The Act seeks to guide the Administrator, to the extent deemed humanly possible by the Congress, in the matter of assigning relative weight to the many factors that he must, under the Act, consider. For example, Sec. 304(b) sets forth precisely the factors to be considered in developing guidelines for effluent limits:

§ 304(b)(1) "(B) specify factors to be taken into account in determining the control measures and practices to be applicable to point sources (other than publicly owned treatment works) within such categories or classes. Factors relating to the assessment of best practicable control technology currently available to comply with subsection (b)(1) of section 301 of this Act shall include consideration of the total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application, and shall also take into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, nonwater quality environmental impact (including energy requirements), and such other factors as the Administrator deems appropriate;

§ 304(b)(2) "(B) specify factors to be taken into account in determining the best measures and practices available to comply with subsection (b)(2) of section 301 of this Act to be applicable to any point source (other than publicly owned treatment works) within such categories or classes. Factors relating to the assessment of best available technology shall take into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, the cost of achieving such effluent reduction, non-water quality environmental impact (including energy requirements), and such other factors as the Administrator deems appropriate;"

If the general procedural or substantive reforms achieved in NEPA—however desirable and salutory they have proven to be when applied to mission agencies not charged with specific statutory environmental obligations—were permitted to override, supersede, broaden, or affect in any way the more specific environmental mandate of the FWPCA, the administration of the Act would be seriously impeded and the intent of the Congress in passing it frustrated.

The purpose of this bill is to set rapidly in motion an effective water pollution control program. The Act sets tight time limits within which the Administrator must take a multitude of actions, each heavily dependent on the other, that will, in the aggregate, produce a meaningful, effective, and truly workable program as quickly as possible. Should the Administrator find himself confronted with substantive or procedural requirements extraneous to this Act, the very program that the Act seeks to establish would be imperiled.

NEPA requires, in section 102(2)(B), for example, that agencies of the Federal government identify and develop methods and procedures "which will ensure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations." The groundrules for this kind of finely-tuned, systematic balancing analysis are explicitly set out repeatedly in the FWPCA.

This Act specifically identifies factors to be considered by the Administrator in making this kind of balancing analysis, and the conferees concluded that the substantive purposes and procedures of the Act fully satisfy and go far beyond what is required by 102(2)(B) and would be frustrated if other factors were to be injected into the decisions of the Administrator by NEPA. The actions of the Administrator with respect to various regulated activities under this Act should not be viewed as a "Federal handle" on those activities for the purpose of making those activities subject to a range of considerations that lie outside the ambit of the FWPCA.

Further, it should be pointed out that if the broad, somewhat vague balancing analysis that some courts have found in NEPA were to be super-imposed on the decisions of the Administrator taken pursuant to this Act, the owners or operators of sources of pollution which the Act seeks to regulate will use NEPA to delay the implementation of the Act on more general "cost-benefit" grounds. Such actions are pending presently against the Administrator in the federal courts, including a challenge to the validity of ambient air standards for sulfur oxides promulgated under the Clean Air Act.

There are other sections of NEPA which, if applicable to the Administrator, could impede implementation of the Act. Compliance with the "impact statement requirements" of section 102(2)(C) of NEPA, as one example, would increase unnecessarily the administrative burdens of EPA, which will be heavy enough as it is.

However, the conferees concluded that it would be sound public policy to extend the applicability of NEPA to two of the Administrator's regulatory responsibilities: the making of grants for the construction of publicly owned waste treatment works and the issuance of permits under section 402 of the FWPCA to "new sources" as defined in section 306.

The Conferees determined that it would be useful to apply, in the case of waste treatment grants, the requirement of NEPA included in sections 102(2)(C) and 102(2)(D). Application of these sections would cause the Administrator to consider "alternative" methods of waste treatment which may have the beneficial effect of decreasing blind reliance on "secondary treatment" and stimulate more innovative methods of waste treatment.

The Conferees believe that the owner or operator of what is to be a new source has a degree of flexibility in planning, design, construction, and location that is not available to the owner or operator of an existing source. The Conferees concluded, therefore, that it would be both appropriate and useful for the Administrator to consider the various "alternatives" described in sections 102(2)(C) and 102(2)(D) of NEPA in connection with the proposed issuance of a permit to a new source, whereas the Conferees concluded that the consideration of such "alternatives" in connection with the proposed issuance of a permit for existing sources, collectively or individually, would not be appropriate and consequently did not extend the various requirements of NEPA to such permits.

Thus, it is the clear intent of section 501(c)(1) of this bill that the only actions of the Administrator subject to any of the provisions of NEPA are the issuance of a permit to a new source and the making of a grant under section 201.

Because the language of 511(c)(1) speaks of "major Federal actions significantly affecting the quality of the human environment"—a phrase which only appears in section 102(2)(C) of NEPA—some will argue that the conferees intended to limit their attention to section 102(2)(C) and that all of the *other* provisions are therefore meant to be applicable to actions of the Administrator. I address myself to those who would grasp at this slender straw. The term "major Federal action" and NEPA are synonymous in the minds of the conferees. It is the clear intent of conferees of both Houses—it was certainly the clear intent of the conferees when this provision was unanimously adopted—that *all* of the provisions of NEPA should apply to the making of grants under section 201 and the granting of a permit under section 402 for a new source and that *none* of the provisions of NEPA would apply to any other action of the Administrator.

At page 149 of Report No. 92-1236, in the joint statement of managers on the part of the House and the Senate, we state: "If the actions of the Administrator were subject to the requirements of NEPA, administration of the Act would be greatly impeded." We do not say *"one* of the requirements of NEPA." We do not say *"some* of the requirements of NEPA." We say *"the* requirements of NEPA." That is what we said, and that is what we meant.

Section 511(c)(2) addresses itself to the authority of federal licensing and permitting agencies, other than EPA, as relates to effluent limitations and other requirements established pursuant to the FWPCA. EPA is the sole Federal agency specifically charged with comprehensive responsibility to regulate the discharge of pollutants into the waters of the United States, and section 511(c)(2) will ensure that no source of discharge which is in lawful compliance with an effluent limitation established pursuant to the FWPCA will be required to meet a different standard as a condition of a license or permit granted by another Federal agency, such as the Atomic Energy Commission. Such agencies shall accept as dispositive the determinations of EPA and the States (under section 401 and its predecessor, section 21(b) of the FWPCA prior to the 1972 amendments).

However, it should be emphasized, as it was by Senator Baker when he first offered this amendment in its original form during Senate consideration of S. 2770 on November 21, 1971, that nothing in section 511(c)(2) should in any way be construed to discharge any federal licensing or permitting agency, other than EPA, from its full range of NEPA obligations to make a systematic balancing analysis of the activity proposed to be licensed or permitted. For example, if, in making a NEPA analysis in connection with the proposed issuance of a license or permit to a source that is or will be in lawful compliance with an EPA effluent limitation and a State water quality standard, such an agency were to conclude that the environmental impact of the source, including impact on water quality, exceeded the benefits to be derived, section 511(c)(2) should not be construed as authorizing such an agency to ignore or fail to give full weight to any impact on water quality in making its final decision as to whether or not a license or permit should issue.

AUTHORIZATIONS FOR FISCAL YEAR 1972

Section 3 of the Conference report contains a minor typographical error in two places. In each place the phrase "not to exceed" appears as "and to exceed." Very obviously the intention is that the phrase read "not to exceed." The statement of managers makes this clear.

ENVIRONMENTAL FINANCING AUTHORITY

The House amendment included a provision to establish an Environmental Financing Authority to assist communities unable to obtain adequate financing to fund the local share of the cost of waste treatment

projects assisted by this Act. The Senate Conferees accepted the House provision with an amendment which will cause EFA to cease operation on July 1, 1975. This termination date was included to permit a complete re-evaluation of EFA at an early date.

It is obvious that the nature of the Conference agreement may alter the circumstances regarding community funding problems. With a guaranteed 75% Federal grant for the cost of projects, the effective rate of community obligation under the Federal Water Pollution Control Act will be reduced from a maximum of 70% to a maximum of 25%. This should reduce the need for an alternative assistance mechanism.

Because the conditions of local financing will have changed, the Conferees believe that a complete re-examination of the need for the Environmental Financing Authority should be submitted to the Congress within three years. If the Congress determines that this alternative financing mechanism is, in fact, needed by communities, then the Congress should re-enact the legislation.

The Conferees intend that should EFA be established, it should not come into competition with the private underwriting market. EFA should not become involved in any circumstances where a community can borrow money on the open market at reasonable rates. EFA should be the last resort for a community. It is not intended to interfere with the normal functioning of the private market. It is not intended to provide interest subsidies which would make EFA financing more attractive than private market financing. It is intended to assist those communities which, after a reasonable attempt to obtain financing in the private market, have been unable to obtain funds needed to construct waste treatment facilities at a reasonable cost.

While the Conferees do not expect communities will actually market test securities in order to become eligible for EFA, the Conferees expect, at minimum, a showing by a responsible broker (or brokers) that the community cannot obtain credit at the posted rate.

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

Mr. MUSKIE. Before yielding, I want to observe that the Senator from Texas (Mr. BENTSEN) is a member, and a very effective member, of the committee.

Mr. President, I yield 2 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 2 minutes.

Mr. BENTSEN. Mr. President, I intend to vote for this conference report, but I would be less than candid if I failed to register my strong objection to section 205, which establishes a new allotment formula for grants to States for the construction of waste treatment plants.

Mr. President, I sat in on the great majority of the 42 executive scssions the Senate Public Works Committee held on this measure. I supported the bill as it came out of committee.

During our committee deliberations on this measure, my Senate colleagues agreed on a formula for distributing funds among the States largely on the basis of population, with reallocation of any funds not obligated to be made on a priority basis to States qualifying for 70 percent Federal assistance.

The House adopted a different formula. The House bill authorized the Administrator to allot construction on the basis of a State's needs, not on the basis of population.

Normally, Mr. President, Senate and House conferees make some attempt to reconcile differences in the two versions of the legislation before them by working out a compromise incorporating some provisions of each bill.

But the bill we are asked to improve today contains no such compromise; the Senate conferees adopted the essence of the House bill.

As a result my State stands to lose considerable funding over the next 3 years, possibly up to $500 million.

That, of course, is a severe blow, not only to the Texas Water Quality Improvement Board, but to all of the citizens of my State.

The irony of the compromise is that it punishes those States which have taken the initiative to establish adequate water pollution control programs in the past. The States which have been lax and delinquent in cleaning up their waters will be rewarded.

Mr. President, I fail to understand why the conferees did not adopt some features of both the House and Senate plans. One solution, for example, would have been to weigh population and needs together in a formula which would have encompassed the best features of both bills. Instead, the Senate conferees opted to take the essence of the House plan. That, I am constrained to say, is a disappointment to committee members who worked long and hard to resolve the difficult problem of allocating funds among the States.

I am a realist. I know this conference report is going to pass. But I want the RECORD to show my objections to section 205.

I congratulate the distinguished Senator from Maine for the very fine work he has done throughout on this bill.

Mr. MUSKIE. Mr. President, I thank the Senator from Texas.

May I say briefly that this was one of the tough issues which we spent long hours on. We finally resolved it as we did and resolved it in the conviction that we are now prepared to do whatever is needed to do the job in every State. If Congress does this, then the means formula ought to produce the money to do the job. The Senator is assured of my commitment to that effect.

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

Mr. MUSKIE. Mr. President, I yield 3 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 3 minutes.

Mr. RANDOLPH. Mr. President, it is important for the record to indicate my appreciation to the members of the Public Works Committee for their fine work and for the able and dedicated leadership of the Senator from Maine (Mr. MUSKIE), who has served as the chairman of our Subcommittee on Air and Water Pollution. I was privileged to serve with him on the conference committee. Together with Senators BOGGS, BAYH, COOPER, BAKER, and EAGLETON, we represented the Senate in these thorough deliberations. Each of the Senate conferees approached the task with great seriousness of purpose and each made important contributions.

During executive sessions of the Public Works Committee, all members were diligent in their attention to this important legislation. In addition to the conferees, we are grateful for the active involvement of our committee colleagues (Senator JORDAN of North Carolina, Senator MONTOYA, Senator GRAVEL, Senator TUNNEY, Senator BENTSEN, Senator DOLE, Senator BUCKLEY, and Senator STAFFORD).

I also must commend the chairman of the conference (Representative ROBERT JONES of Alabama), who labored hard to bring forth a workable and effective bill.

I think it is also important to indicate to the Members of the Senate that the members of the Senate Public Works Committee all understand that there is no partisanship within the committee. They have all been involved very deeply in this legislation for a period of approximately 2 years, not only through the hearings of the subcommittee and the markups, and action by the full committee, and of course the 39 conference sessions, but for a long time we have been attempting to improve the quality of life in America and strengthen our environment. We have worked for this goal with an understood recognition for the need to keep our industrial strength a vital force in America.

Mr. President, I have seldom seen a bill of any nature receive such microscopic scrutiny as was given to S. 2770 during the 39 meetings of the conferees. It was indeed a long conference, spanning more than 3 months. But it was also thorough in its consideration of this extremely important and complex legislation. We felt that we had a responsibility to the people of the United States to produce the best possible program for alleviating water pollution conditions and maintaining high standards of water quality in the years ahead.

There was hard bargaining on the part of both sides, but always the conferees kept in mind the single objective of providing an effective and workable legislative response to one of our country's most serious concerns. The result is the conference report on S. 2770 before us today. This proposal is, I believe, the ultimate legislative refinement of the earlier work accomplished by the Senate and House of Representatives. It contains the objectives established for water pollution control legislation when our subcommittee first began its efforts nearly 2 years ago. The measure will enable the United States to accelerate the movement toward clean water and to assist the States and local communities in their part of what must be an undertaking in which all levels of government are involved.

One of the most important provisions of this legislation is that of increasing the Federal share for the construction of sewage facilities to 75 percent of the total costs. Present law provides a maximum Federal contribution of 30 percent, except for grants in States which are able to contribute 25 percent of project costs. Communities in our State of West Virginia could seldom raise the required 70

percent local share of construction costs, and until early this year the State seemed unable to find the means to contribute any financing for local waste treatment facilities, so that the additional Federal incentive share was unavailable.

This meant that each year, millions of dollars allocated to West Virginia on the basis of its population and needed treatment facilities would have to be turned back to the Federal Government and reallocated among other States, because West Virginia communities could not afford to take advantage of Federal grants limited to 30 percent of project costs.

A number of cities will be reimbursed for part of the expenses they incurred to build treatment facilities, even though they originally received only a small Federal share or none at all. Publicly owned treatment plants started during fiscal years 1967 through 1971 will be eligible to receive a retroactive Federal share of 50 percent of the initial cost. To do otherwise would penalize those communities which took the initiative to alleviate water pollution at substantially their own expense. There are a number of cities in the United States, including Charleston and Huntington, W. Va., which will be eligible for reimbursement under this section of the new law.

The purposes for which Federal water pollution funds can be spent by communities are expanded considerably by this legislation. The construction of collector sewers is, for the first time, eligible for Federal assistance. At the present time, this part of sewage systems is ineligible for Federal assistance, under this program, and the cost of collector sewers must be borne entirely by the communities. In addition to new sewers, the conference report authorizes the rehabilitation or rebuilding of existing systems as well as the construction of new systems in existing communities where there are none at present. This, again, is a provision that will be of extreme importance to small communities that lack sufficient financial resources to undertake these activities on their own.

While we have concentrated our efforts largely on helping communities provide waste collection and treatment systems, there are many areas of the country in which the conventional answers to sewage problems is neither practical nor feasible. This is principally true in rural areas where populations are widely dispersed and often separated by topographical barriers. While some of these areas may have relatively large populations, the people are so located that conventional sewage and collection treatment systems are not feasible. Section 104 of the conference report deals generally with research and investigation, training and information programs. I call attention particularly to section 104(q) which directs the Environmental Protection Agency to conduct research into sewage problems in rural areas or where its collection and treatment through conventional systems cannot be carried out.

As a Senator from the State designated the second most rural in our country, I have first-hand knowledge and experience with the frustrations of many West Virginians in their efforts to find practical solutions to sewage disposal problems. I anticipate that the requirements of this legislation, with the research and pilot programs it authorizes, will enable us to greatly increase our knowledge of how to eliminate this serious gap in our technology and administrative capabilities.

My service as a Senator from a State where there is extensive coal mining has made me acutely conscious of the widespread severe pollution that results from the discharge of mine acid into our streams. Thoroughout the Appalachian region and other areas where there is extensive mining, streams are discolored by acids, and plant and animal life is seriously threatened. Community water supplies frequently are endangered by mine acid, and the recreational potential of many streams is diminished or eliminated altogether.

Several studies in recent years delineated the scope and severity of acid mine drainage pollution. While we know its nature and its sources, pollution by acid mine water is extremely difficult to eliminate. One of the most difficult control problems arises with the fact that much of the polluting acid emanates from old and abandoned mines.

Water pollution control legislation developed in 1969 and 1970 gave special attention to acid mine drainage. It authorized research and demonstration projects to develop new techniques in the control of mine water pollution. The Appalachian Regional Commission also has been active in this area under a congressional mandate of its own to attack the problems of mine acid pollution. Certain limitations, however, have prevented the implementation of large scale demonstration projects which are necessary if we are to be successful in reducing pollution caused by mining. Accordingly, the Senate proposed in its bill and the conference accepted, modifications in existing law that I believe will permit us to move ahead. A key feature of this section is the doubling of authorizations to $30 million for mine water pollution control. It is my hope, and it was the intent of the Senate as expressed in its report on S. 2770, that a large scale demonstration project in the Monongahela River Basin would be particularly useful in implementing this program.

The committee also recognized the serious problems of siltation resulting from surface mining and hopes that the additional funding provided in section 107 will permit greater attention to this problem.

It is essential, for another reason, that we learn how to control mine water pollution, for it may affect a large urbanized area as well as the location in which it originates. The results of intensified activity in controlling mine water pollution will be valuable to many communities which desire to estabish waste treatment systems on a regional basis. A regional approach to waste treatment management is now being considered, for instance, in the Kanawha Valley of West Virginia. This is a heavily populated and highly concentrated industrial area and contains the city of Charleston and at least 12 other smaller municipalities. A substantial part of the population is located beyond the jurisdiction of any municipal government. In order to adequately manage the wastes from all the domestic and industrial sources in the Kanawha Valley, treatment must be planned, financed, and implemented on a regional basis. Section 208 of S. 2770 requires planning on an areawide scope for the management of all wastes, and authorizes grants to a representative planning agency including local elected officials or their delegees for the costs of developing such an areawide waste management planning process, as well as authorizing the Corps of Engineers to provide technical assistance to these regional planning agencies. All grants in such an area are made to management agencies selected with the advice of the regional planning agency, and all discharge sources must be in compliance with the areawide plan beginning no later than 3 years after enactment. Any regional program undertaken in this area must consider pollution resulting from mining activities on its fringes or along its streams that feed into the region's principal waterways.

Mr. President, the impact of programs contained in S. 2770 will undoubtedly be substantial. The large amounts of the money authorizations for pollution control would alone be felt, but in addition, we are directing new approaches to the total problem which should be carefully evaluated as they are placed in operation.

The House version of S. 2770 required the National Academies of Science and of Engineering to conduct certain studies on the impact of this legislation. The Senate conferees preferred a different approach, and as a result, I offered a proposal to create a National Study Commission which was accepted by the conference. Since the goals of this legislation are to be achieved through long-range programs, I believe it is essential to maintain some surveillance over these programs, particularly since, as I have said, much that is in this legislation is new. The study commission authorized by section 315 will have congressional representation. This is extremely important for it is the Members of Congress who will have the responsibility in the years ahead to make whatever changes may become necessary in our national water pollution control program.

Since the success of our program is, to a large degree, dependent on existing and anticipated technologies, the National Study Commission will give its principal attention to the technological aspects of achieving the effluent limitations and goals set for 1983. It also will examine the total economic, social, and environmental effects of achieving these goals. Only by being fully informed can the Congress act when it is again called on to consider legislation in this general field. The National Study Commission will help provide the information on which to base the necessary decisions.

Mr. President, I repeat, this legislation is broad in scope. Its impact will be felt by every man, woman, and child in

our country. There may be those who are adversely affected by its requirements, but I do not believe this bill places excessive demands on any individual, any industry, any community or any segment of our society. The monetary authorizations in this bill are substantial. But they are a small portion of our gross national product. The expense of carrying out the programs in this bill will, however, pay great and lasting dividends and will, I believe, be willingly borne by the American people.

America is a rich country. We have obtained much of our wealth by excessive exploitation of the abundant natural resources with which this continent was blessed. In less than 200 years, we have built the world's strongest nation where an untamed wilderness existed. This achievement is indeed reflective of the energy, resourcefulness, and determination of the American people.

The United States today is a mature country. We are secure and affluent. We have reached the point where we can look around and recognize the damage and neglect that are the byproducts of our growth. America's maturity is demonstrated by our desire to turn our energies toward correcting past abuses and to preventing their recurrence.

Mr. President, this legislation embodies what I sense to be the prevailing mood of the American people. Americans are proud of their achievements, but they know they cannot be retained unless we devote a part of our resources to a clean and healthy environment. I know that the legislation before us will have many widespread, beneficial results, and I urge my colleagues to adopt this conference report.

Mr. COOPER. Mr. President, the Senator from Delaware (Mr. BOGGS), the ranking minority member of the Subcommittee on Air and Water Pollution, is not able to be here at this time, and I shall act in his place.

The PRESIDING OFFICER. How much time does the Senator yield himself?

Mr. COOPER. I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOPER. Mr. President, in the short time we have it is impossible to discuss all the details of this legislation. As the Senator from Maine said, since Senate passage, we have had nearly a year of work on this bill. We had 39 sessions in conferences with the House. I think the result of the conference produced a better bill than either the House or the Senate produced. As the distinguished Senator from Maine (Mr. MUSKIE) said, we hope the water quality of this country will be moving toward the goal of no pollution.

The conference report on the Federal Water Pollution Control Act Amendments of 1972, which the Senate members of the conference committee bring before the Senate for final action today, constitutes one of the most significant, most comprehensive, most thoroughly debated pieces of environmental legislation ever to be considered by the Congress. It achieves the objectives sought by the executive branch in water quality proposals over the last 3 years, and it builds upon the experience of the Clean Air Act Amendments of 1970 which are now beginning to yield cleaner air throughout the Nation.

Particularly significant are the farsighted goals which are set forth: The goal of eliminating the discharge of pollutants into the waters of the United States by 1985, and the interim goal of achieving water quality sufficient to provide for protection of fish, shellfish, and wildlife and to provide for recreation in and on the water by July 1, 1983—purposes which will require a high level of water quality. The bill further announces national policies which prohibit discharge of toxic quantities of toxic substances into the Nation's waters; insure adequate financing of public waste treatment works; develop areawide waste treatment management planning processes; and stimulate the research and demonstration efforts needed to achieve the no-discharge goal.

As the floor manager of the conference report and the chairman of the subcommittee (Mr. MUSKIE) has described in detail, the bill addresses the major issues affecting water quality in this Nation. These issues include the need for strong, uniform, and enforceable standards to improve the quality of our Nation's waters; the need for a permit system to apply these standards precisely to the sources of discharge of pollutants; the need to catch up with the backlog of public waste treatment plant requirements, keep up with that need, provide equitable reimbursement to those States and municipalities which have built such plants without expected Federal assistance, and provide for an enhanced waste treatment management planning process; and the need for strengthened efforts in enforcement, training, and research.

I would like to comment specifically upon the financial provisions of the bill. Title II deals with the need to catch up with the backlog of public waste treatment construction needs, and keep abreast of such needs in the future. Contract authority is provided for up to $5 billion in 1973, $6 billion in 1974, and $7 billion in 1975. This will be allocated to the States on the basis of the Environmental Protection Agency's annual assessment of needs established without regard to budgetary limitations and other nonwater quality factors. As a result of an amendment I offered in conference, the Federal share of the cost of any public waste treatment work would be 75 percent, with the State and municipality contributing the remaining 25 percent. This assured high percentage of funding should eliminate the situation we have witnessed in which States and localities postpone the start of needed construction programs while legislation is pending to provide for a more generous Federal share. The total of $18 billion Federal funding with a 75-percent Federal share is consistent with EPA's most recent estimates of public waste treatment construction needs, adjusted for future growth. Subsequently, municipalities will be expected to provide for operation, maintenance, and replacement of their treatment works through assessment of user charges to industrial and other system users. Municipalities will be allowed to retain up to 50 percent of the industrial user charges which are attributable to the Federal share for future expansion and reconstruction of the project.

The need to deal equitably with those States and municipalities which have funded waste treatment works in anticipation of Federal reimbursement is met by providing for Federal reimbursement up to 30 percent of the cost of construction for plants built between 1956 and 1966, and up to 55 percent for plants constructed between 1966 and 1972. I believe that the funding levels for these and other provisions of the bill, which total over $24 billion—subject to the usual Presidential responsibility for evaluating these needs in relation to other national priorities—are responsible, are consonant with the magnitude of our Nation's water quality problems, and will not have an inflationary effect upon our economy.

This legislation has received more thorough consideration and has engendered more productive discussion than any other in which I have participated during my service in the Senate. The Senate Committee on Public Works held 30 days of hearings and 45 executive sessions in developing the Senate bill. The House Committee on Public Works followed a similarly thorough course which included 39 days of hearings and 2 days of executive sessions. We have just emerged from 39 sessions of the Senate-House conference committee, which began its work May 11. The time and effort which have been spent are not evidence of any attempt to delay or obstruct, or of any substantial disagreement as to the broad objectives of the legislation, either in the Senate, the House, or in the conference committee. Rather, they evidence the most thorough and careful consideration of a bill which will set the course for achieving a complete cleanup of our Nation's waters within the foreseeable future.

The distinguished Congressman from Alabama, Mr. ROBERT E. JONES, chairman of the conference committee, and the distinguished Senator from Maine (Mr. MUSKIE), who led the Senate conferees, deserve the highest praise for their earnest and persevering work culminating in agreement on this bill.

Mr. President, I would like to pay tribute to the chairman of our committee (Mr. RANDOLPH) who provided leadership to the conferees, and, of course, to the Senator from Maine (Mr. MUSKIE) who has been a leader in this field for so many years. I served with him on the Subcommittee on Air and Water Pollution since 1965, and I congratulate him on the great work he has done.

The Senator from Delaware (Mr. BOGGS), the ranking minority member of the Subcommittee on Air and Water Pollution, with his demanding duties on the Appropriations Committees, has been especially faithful and devoted in giving full and close attention to every step in the development of this complex measure. The distinguished Senator from Tennessee (Mr. BAKER), has contributed his practical and engineering knowledge,

his gift for incisive analysis and innovative resolution of problems, and his skill in negotiating solutions. All the conferees, Mr. President, are to be commended for their untiring efforts in helping achieve this unprecedented legislation.

The long course of development of this conference report required the devotion and perseverance of the Members from both Houses. The staffs of both committees, and several staff members of conferees, also have been essential to the development of this legislation and I think their names should be placed in the RECORD. In particular I would like to single out for special credit Barry Meyer, chief clerk and chief counsel of the committee; Leon Billings, senior staff member of the Air and Water Pollution Subcommittee; Philip Cummings, assistant committee counsel; Bailey Guard, minority clerk; Harold Brayman, professional staff member; James Jordan of Senator BAKER's staff; Sally Walker of the subcommittee staff; Mr. Richard Hellman, minority counsel, and Thomas Jorling, who was committee minority counsel until recently and is now director of environmental studies at Williams College, for their outstanding staff efforts in arriving at this legislation.

I urge each Senator to give his support to this vital environmental legislation, which aims to rid America's waters of pollution by 1985.

Mr. President, I yield 2 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I thank the distinguished ranking Republican member of the full committee, the Senator from Kentucky (Mr. COOPER) for yielding so that I can make a few general remarks. I know it is almost tradition at this point to pay respect to one's colleagues, especially the chairman and the ranking Republican member of the committee and subcommittee, but I want to underscore now in this brief time that this is not a mere formality.

I cannot remember any time that I have served in any group, in Congress or out, with men of higher intelligence, greater awareness and sensitivity, on a program as complex and difficult and full of conflict as has been done in the production of this water bill.

So with more than the ordinary expression of courtesy to my colleagues I want to underscore the enormous contribution of our chairman, Senator RANDOLPH, who does run a nonpolitical committee from a partisan standpoint; to the Senator from Kentucky (Mr. COOPER), who serves with such distinction as the ranking Republican member of the full Committee on Public Works, and who set the tone for the proper tone that pervades this committee, more than any group I have served with; to the Senator from Maine (Mr. MUSKIE), who is the chairman of what I believe to be the most effective subcommittee in Congress, the Subcommittee on Air and Water Pollution of the Committee on Public Works. The Senator from Maine (Mr. MUSKIE) has brought to this committee energy and dedication, and during all these conflicts, especially in conference, I have greatly admired both his conciliatory attitude and his resolute devotion to the environment. Out of that conference of 39 sessions we produced a good bill, in large measure due to the distinguished Senator from Maine and the Senator from Delaware, who is not here,

I wish to pay my special respect to the Senator from Delaware for his continuous, enlightened, and dedicated attendance in hearings and conferences. All have done a great job in conjunction with a great staff.

Mr. MANSFIELD. Mr. President, there was a misapprehension when the time limitation was agreed to. We thought we had cleared all bases.

I ask unanimous consent to extend the matter for an additional 15 minutes so that the Senator from New York and the Senator from Maryland may have time to address the Senate.

Mr. JACKSON. I made the request, of course, for an opportunity to be heard on this. I will not take more than 3 or 4 minutes, but I do wish to ask some questions.

The PRESIDING OFFICER. Is it 15 minutes on a side?

Mr. SYMINGTON. Mr. President, reserving the right to object, and I shall not object, inasmuch as I understand everybody is for the bill, it is getting late.

The PRESIDING OFFICER. Did the Senator request 15 minutes total time?

Mr. MANSFIELD. Fifteen minutes total time additional.

Mr. COOPER. I yield 4 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. GRIFFIN. Mr. President, I take this time for the purpose of establishing a legislative history.

After reviewing the conference report on S. 2770, I became deeply concerned that one provision in the conference agreement might adversely affect a number of pending lawsuits brought under the Refuse Act of 1899.

One such suit is now pending against the Reserve Mining Co. of Silver Bay, Minn., a company which has been dumping 67,000 tons of pollutants daily into Lake Superior.

The provision I refer to is section 402 (k), which provides in part that—

> Until December 31, 1974, in any case where a permit has been applied for pursuant to this section, but final administrative disposition of such application has not been made, such discharge shall not be a violation of (1) section 301, 306, or 402 of the Act, or (2) section 13 of the Act of March 3, 1899 . . .

I am also aware of section 4 of the bill, a provision to preserve pending Federal suits.

However, when these provisions are read together, it is not altogether clear what effect is intended with respect to pending Federal court suits against polluters violating the Refuse Act of 1899.

If section 402(k) were read as having retroactive effect, then about 170 Federal suits filed against polluters prior to the date of enactment of the bill, including the Reserve case, could be dismissed.

It is true that the suit against Reserve Mining is also based upon violations of water quality standards and the allegation that such dumping constitutes a public nuisance. However, the strongest part of the case is based on the Refuse Act.

Furthermore, the burden of proving a Refuse Act violation is less onerous than the burden of proving a violation of water quality standards.

During the last 2 years there have been some 300 criminal convictions under section 13 of the Refuse Act and over 120 civil actions most of which resulted in the defendants either stopping the dumping or agreeing to institute pollution control programs. On the other hand, it is my understanding there have been only a handful of prosecutions for violation of water quality standards since the Federal Water Pollution Control Act was enacted.

In view of this—a fact recognized by the conferees—it is inconceivable that the Senate would want to emasculate the best available enforcement device now available—the Refuse Act—and legislatively dismiss suits pending under it.

Accordingly, Mr. President, it is essential that any possible ambiguity be cleared up so that the legislative history will leave no doubt about the intent of the conferees and the Members of this body.

In an effort to clarify this point I wrote to the distinguished chairman of the Subcommittee on Air and Water Pollution (Mr. MUSKIE). I ask unanimous consent that a copy thereof be printed in the RECORD following my statement. In addition, I directed a letter to the Environmental Protection Agency requesting an interpretation, and a reply was received from the General Counsel of EPA, John Quarles, Jr., and he said in part:

> It is my firm opinion that any motion to dismiss an action because of the possible ambiguity contained in section 402(k) will be defeated.

I ask that these two letters also be printed in the RECORD.

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

OCTOBER 4, 1972.

HON. EDMUND S. MUSKIE,
Chairman, Subcommittee on Air and Pollution,
Public Works Committee,
New Senate Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: After reviewing the conference report on S. 2770, I am deeply concerned about a possible ambiguity in section 402(k) of the bill. That action provides in part that "until December 31, 1974, in any case where a permit has been applied for pursuant to this section, but final administrative disposition of such application has not been made, such discharge shall not be a violation of (1) section 301, 306 or 402 of the Act, or (2) section 13 of the Act of March 3, 1899 . . .".

This provision was not in the Senate bill and is a modified version of a provision in the House-passed bill.

Although the bill contains a savings provision for existing suits in section 4(a), some uncertainty has arisen about the possible effect of section 402(k) on pending Federal suits under the Federal Water Pollution Control Act and the Refuse Act of 1899, such as the suit against the Reserve Mining Company of Silver Bay, Minnesota.

Specifically, I want to know if the conferees intended to preserve Federal suits alleging violations of the Refuse Act or the Federal Water Pollution Control Act which were filed prior to the date of enactment of S. 2770?

It is difficult for me to believe that the conferees intended section 402(k) to adversely affect pending litigation.

However, it is essential that this ambiguity be cleared up, and that the legislative history leaves no doubt on this issue when the conference report is taken up in the Senate.

With best wishes and my kind regards, I am

Sincerely,

ROBERT P. GRIFFIN,
U.S. Senator.

U.S. SENATE,
Washington, D.C., September 29, 1972.

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

DEAR BILL: As you know, I have pressed vigorously for an end to the pollution of Lake Superior by the Reserve Mining Company of Silver Bay, Minnesota.

The response of the Environmental Protection Agency and the Justice Department in bringing suit against the company has been gratifying. However, I am distressed that a possible roadblock to this pending case may emerge from legislation nearing final passage in the Congress.

On Wednesday, September 28, House-Senate conferees filed a conference report on S. 2770, the Federal Water Pollution Control Act Amendments of 1972. Included in the bill agreed to in conference is the following provision:

"Sec. 402. (k) . . . Until December 31, 1974, in any case where a permit for discharge has been applied for pursuant to this section, but final administrative disposition of such application has not been made, such discharge shall not be a violation of (1) section 301, 306, or 402 of this Act, or (2) section 13 of the Act of March 3, 1899, unless the Administrator or other plaintiff proves that final administrative disposition of such application has not been made because of the failure of the applicant to furnish information reasonably required or requested in order to process the application. For the 180-day period beginning on the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, in the case of any point source discharging any pollutant or combination of pollutants immediately prior to such date of enactment which source is not subject to section 13 of the Act of March 3, 1899, the discharge by such source shall not be a violation of this Act if such a source applies for a permit for discharge pursuant to this section within such 180-day period."

Unfortunately, it is not clear as to the effect of this provision on Refuse Act permit applications pending on the date of enactment of this Act. This uncertainty is compounded by the language in the joint explanatory statement of the conferees which refers to "any case where a permit for discharge has been applied for but final administrative disposition has not been made." (Emphasis added)

In view of the fact that the Federal Government's action against Reserve Mining is predicated in part on a violation of the Refuse Act of 1899, I would appreciate it if you could advise me as to what effect section 402(k), or any other section, of S. 2770 will have on the pending court action against Reserve Mining.

Since the Conference Report on S. 2770 is likely to be brought up for consideration in the Senate Wednesday or Thursday of next week, I hope you will be able to provide a response before that time.

With best wishes and warm personal regards.

Sincerely,

ROBERT P. GRIFFIN,
U.S. Senator.

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., October 2, 1972.

Hon. ROBERT P. GRIFFIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GRIFFIN: This is in response to your letter of September 29, 1972, to Mr. Ruckelshaus wherein you voice concern about the apparent ambiguity in certain provisions of S. 2770 relating to the litigation of pending actions.

Section 402(k), as you note, provides that "until December 31, 1974, in *any case* where a permit has been applied for pursuant to this section, but final administrative disposition of such application has not been made, such discharge shall not be a violation of (1) section 301, 306, or 402 of the Act, or (2) section 13 of the Act of March 3, 1899. . . .". (Emphasis supplied)

Your concern is that the word "case" can be construed to render moot all pending litigation. It is my opinion that it is most unlikely that the language contemplates such a result, or that a court would so interpret the statute. For it is reasonable to conclude that the courts will not interpret any legislation to deprive them of jurisdiction of pending litigation in the absence of clear and explicit language. There is no such clear and explicit language to this effect in the pending bill.

In addition, the Savings Provision of the bill provides that "No suit, action or other proceeding lawfully commenced . . . shall abate by reason of the taking effect of the amendment made by section 2 of this Act". This is a clear reservation of jurisdiction in the courts over pending litigation. Furthermore it should be noted that the Savings Provision in referring to pending litigation uses the words "suit" and "action". It does *not* use the word "case". Hence, it is certainly arguable, at least, that Congress, in using the word "case", in its context in Section 402(k), was not referring to legal suits or actions but to situations where applications are filed pursuant to the Act.

In sum, it is my firm opinion that any motion to dismiss an action because of the possible ambiguity contained in Section 402(k) will be defeated. In any event, you may rest assured that this Agency will expect the Department of Justice to contest vigorously any such motion, should it be made.

Sincerely,

JOHN R. QUARLES, Jr.,
Assistant Administrator for Enforcement and General Counsel.

Mr. GRIFFIN. I wonder if I might address my question to the distinguished manager of the bill on this point.

Mr. MUSKIE. Yes, indeed. I appreciate having this point raised by the Senator from Michigan. I wish to put my answer in this form.

Section 4(a) of the conference report is an identical provision to that which appeared in the House bill.

Section 402(k) of the conference report is similar, although not identical, to section 402(l) of the House bill.

No question has even been raised up to this point as to the relationship of these two sections. The gentleman's question is the first indication that anyone has ever considered that there was an ambiguity in the two provisions.

Section 4 provides and I quote the relevant words pertaining to the Refuse Act:

No suit, action, or other proceeding lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity . . . shall abate by reason of the taking effect of the amendment made by section 2 of this Act.

Without any question it was the intent of the conferees that this provision include enforcement actions brought under the Refuse Act, the Federal Water Pollution Control Act, and any other acts of Congress.

I hope and trust that nothing said on this floor or elsewhere would lead anyone to believe that section 4 is anything but totally clear as to its meaning and intent.

Mr. GRIFFIN. I thank the manager of the bill. Certainly that does clarify the meaning as to the intent of the conferees, and it would clearly indicate that the suit now pending against the Reserve Mining Co. under the Refuse Act would not be affected by this bill.

Mr. MUSKIE. That is my belief.

Mr. GRIFFIN. I thank the Senator.

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

The PRESIDING OFFICER. There are 20 minutes remaining in total time.

Mr. COOPER. The Senator from Maryland wants to ask a question of the Senator from Maine. I yield 2 minutes for that purpose.

Mr. BEALL. Mr. President, I would like to ask the distinguished chairman of the subcommittee, the Senator from Maine, a question. As he remembers, it was my privilege to serve during three-quarters of the markup on the bill, and I appreciate the hard work and dedication that went into bringing this bill to the floor. During the discussion of the bill, we were concerned about regional sewage treatment plants, and I offered an amendment in the subcommittee, which was accepted in the subcommittee, and later by the full committee, and later carried in the Senate.

Is it true that the discretionary fund of $200 million that had been allowed the Director of EPA would be devoted to the Federal portion of regional sewage plants, so that the total cost of them would not have to be borne by a State and a State would not have to use all of its Federal portion for one project?

I have in mind Blue Plains, which is of grave concern in this area, because if the Blue Plains plant were to be completed, Maryland would have to spend all of its Federal money for that one project and would not be able to pay for any other sewage plants.

I am wondering, since the conferees did not agree to that particular matter, how the subject matter is covered in the bill now.

Mr. MUSKIE. May I say the conferees on both sides were in support of the Blue Plains project and undertook to take care of it by the language which is found on page 114 of the conference report. May I read it?

The conferees determined that utilization of a "needs" formula would eliminate any need for special allocation for an advanced waste treatment project or other special cases. Projects such as the Blue Plains Regional Treatment Works in the District of

Columbia will receive adequate and timely funds under this provision so long as adequate funds are released for obligation.

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

Mr. COOPER. Mr. President, I yield the Senator 1 more minute.

Mr. MUSKIE. In other words, if adequate funds are released for the total program, there should be adequate funds for Blue Plains.

Mr. BEALL. This will not penalize the State and the political subdivisions involved?

Mr. MUSKIE. The Senator is correct.

Mr. COOPER. Mr. President, I yield 4 minutes to the Senator from New York (Mr. BUCKLEY).

Mr. BUCKLEY. I thank my colleague from Kentucky.

Mr. President, I, too, have been a member of the subcommittee and have worked as hard as I could on this legislation. I do want to commend all concerned for their dedication. I do feel, however, that certain aspects are unfortunate. I believe the bill is more expensive than is needed to do the job, because with the rise in the Federal share, I think experience shows that something less than 75 percent could have mobilized the same volume of dollars to do the job without placing such extra burdens on the Federal Treasury. But I rise at this time because I am tremendously concerned over the insertion in the bill of a totally novel provision which appeared nowhere in either the Senate or House version. I refer to section 511(c)(1), which grants broad exemptions from the requirement of the National Environmental Policy Act under the new water legislation.

It is regrettable that we must make a decision on such a complex legislation in so short a time; especially as in one respect we are being asked to ratify a provision which has no basis in either the Senate or House versions. This is the language in section 511(c)(1) which grants a broad exemption from the requirements of the National Environmental Policy Act for actions taken by the administration under the new water legislation.

This exemption was no doubt prompted in large part by concern over the substantial backlog in applications for discharge permits under the Refuse Act. Under recent judicial decisions, these applications, in the absence of a legislative exemption, would have been subject to the procedural requirements of the National Environmental Policy Act. But the exemption goes well beyond facilitating the issuance of the backlog of permits on existing facilities; it would also exempt from the section 102(2)(C) requirement of NEPA the quite different activity involved in establishing general standards and guidelines relating to the broadest range of water quality matters.

Just how broad this exemption is can be seen from consideration of a few of the EPA activities which under section 511(c)(1) as written, will not be subject to the formal NEPA section 102(2)(C) impact statement.

(1) No NEPA impact statement would be required for EPA approval of regional water quality management plans, even though under EPA's current procedures environmental impact statements are prepared for such plans. (See Subpart E; EPA Procedures for Implementation of the National Environmental Policy Act.) The rationale for preserving the status quo with respect to preparation of statements on some EPA actions (waste water treatment projects), while removing the requirement as presently interpreted on other activities (water quality management plans) is not clear.

(2) While discharge permits for new sources will still be subject to section 102(2)(C) of NEPA, the much more significant setting of new source performance standards (upon which the permits would be based) apparently would not require a NEPA impact statement under the language of the exemption. This leads to the rather anomalous situation of requiring an impact statement on discharge permits, based on performance standards which have not been the subject of examination in an impact statement and which, under section 511(c)(2), would not be subject to reexamination in the context of issuing the permit. Thus, under section 511(c)(2) the only issue left for exploration in the impact statement in such cases would apparently be non-water quality considerations.

(3) No NEPA section 102(2)(C) impact statement would be required for the establishment of the "best practicable treatment" and "best available treatment" standards for categories of waste-discharging facilities, for which the NEPA-type comment process and analysis of alternatives would seem particularly useful.

(4) Similarly, the issuance of guidelines by EPA for State control of non-point sources of pollutants will not be subjected to analysis in an environmental impact statement.

I object strongly to this hasty and ill-considered amendment of the National Environmental Policy Act. Last March the Senate Public Works Committee and the Senate Interior Committee held joint hearings on NEPA and we asked Mr. Ruckelshaus about this specific matter, namely the advisability of applying NEPA to environmental regulatory action. He undertook to undertake a study on the question, the results of which are not yet available. The sensible course would be to get the results of this study, have it reviewed by the appropriate committees, and take such action as is appropriate.

The exemption presently contained in Section 511(c)(1) is a bad precedent. I regret that it cannot be deleted from the water legislation.

As I say, Mr. President, I am deeply concerned about clause 511(c)(2)(B). This clause may, I understand, bar any Federal permitting or licensing agency, such as AEC, from imposing, as a condition precedent to the issuance of any license or permit, any effluent limitation other than limitations established pursuant to S. 2770.

Mr. President, at this point, I ask unanimous consent to have printed in the RECORD an article from today's New York Times entitled "Environmentalists Hail AEC Ruling on Con Ed" and an article from today's Washington Post, entitled "AEC Orders Con Ed To Halt Thermal Pollution of River."

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

[From the New York Times, Oct. 4, 1972]

ENVIRONMENTALISTS HAIL AEC RULING ON CON ED

(By David Bird)

Environmentalists, who generally have been critical of the Atomic Energy Commission, were openly praising it yesterday for the decision to ask Consolidated Edison to add an expensive cooling system to its nuclear plant to protect fish life in the Hudson River.

"It's unprecedented for the A.E.C. to order a utility to do something that it doesn't want to do," said Angus Macbeth, attorney for the Hudson River Fishermen's Association, which has been opposing the original design of the plant on the Hudson River at Indian Point on the ground that it would kill much of the river's fish.

A spokesman for the A.E.C. said it was the first time the agency had said a utility must modify its cooling system to protect the environment.

The original design called for a "once-thorough" system, which draws water from a lake or river, passes it through the cooling system once and then dumps it back where it came from, heated.

The staff report, issued in Washington on Monday, still must be approved by the A.E.C. licensing board, which has been conducting hearings on the nuclear plant. The plant is virtually complete but has not yet received a license.

The report said Con Edison should be required to submit a plan for a self-contained, or closed-cycle, cooling system by July 1. It would have to be installed by Jan. 1, 1978.

Licensing hearings are expected to resume next month or in December. But environmentalists are already counting the A.E.C. staff report a solid victory that could set a precedent.

With a once-through system, the nuclear plant would suck some 2,650 cubic feet of water from the river every second and the Fishermen's Association said this would kill much of the river's fish by heating and battering them.

Con Edison has argued that the fish kill would be minimal and that any other system than the "once-through" method would be prohibitively expensive.

MILLIONS ARE INVOLVED

A Con Edison spokesman said that providing a self-contained cooling system for the plant that was now awaiting a license would add up to $97-million to the plant's $200-million cost.

But that could be only the beginning. The A.E.C. staff report dealt in detail only with the plant called Indian Point No. 2, which is now under consideration. The report said, however, that it was reasonable to expect that the same requirements would be placed on the Indian Point No. 1 plant, which has been in operation for 10 years, and on Indian Point No. 3 which Con Edison is adding to that generating complex 25 miles north of New York City.

Con Edison had no estimate on how much more it would cost to equip its other plants with self-contained cooling systems.

USUAL SYSTEM DESCRIBED

Usually self-contained cooling systems are giant cylindrical towers, or chimneys, where the water is allowed to cool in a draft of air and then returned to the plant to be used over and over again.

While generally pleased with the A.E.C. report, Mr. Macbeth said that when the hearings resume he expects to press for speeding up the schedule to require the plant be ready by 1977.

Rod Vandivert, environmental consultant to the Scenic Hudson Preservation Conference, said the A.E.C. staff's reasoning should apply just as well to Con Edison's pumped-

storage plant at Storm King, which would pump Hudson River water up to a mountaintop reservoir to be tapped to power generators during times of peak demand.

[From the Washington Post, Oct. 3, 1972]

AEC Orders Con Ed To Halt Thermal Pollution of River

(By Thomas O'Toole)

The Atomic Energy Commission yesterday told Consolidated Edison Co. it must stop removing large volumes of water from the Hudson River to cool its two atomic power plants at Indian Point, N.Y. It was the first time the AEC has acted to regulate the way a power plant is cooled.

In a move sure to have far-reaching legal, environmental and financial implications, the AEC told Con Ed it must install a "closed cycle" cooling system at Indian Point, which could cost Con Ed as much as $150 million to build and another $75 million to operate over the plant's 30-year lifetime.

The AEC gave Con Ed until 1978 to have the closed cycle cooling system in operation, partly because the power crisis is so critical in New York and partly because the nuclear plants at Indian Point give Con Ed a chance to close older plants that are polluting the air in New York City.

The AEC moved against Con Ed because it felt that continued operation of Indian Point's present cooling system would kill the entire striped bass population in the waters around New York, since the fish spawn in the Hudson River right at Indian Point.

At present, the two nuclear power plants at Indian Point draw more than 1.1 million gallons of water a minute out of the Hudson River, pulling in thousands of fingerlings and fish larvae with it. A third nuclear plant at Indian Point will raise the intake to almost 2 million gallons a minute, which the AEC feared would be disastrous not only to the striped bass but to other fish in the Hudson.

What the AEC wants Con Ed to do is to install giant cooling chimneys at Indian Point, chimneys that recycle the water taken from the river through the plant so that the water can be used over and over again.

Without the cooling chimneys, the water is dumped back into the river 20 degrees warmer than it was when taken from the river. This heat not only means a continuous use of river water for cooling, it also threatens the river itself.

The AEC figures that Con Ed will need at Indian Point at least two cooling chimneys, each 400 feet high. The chimneys could cost as much as $75 million each and an estimated $1 million a year to operate.

The move against Con Ed is the first time the AEC has acted to regulate what might be called a "non-nuclear" activity in an atomic power plant. The move is a direct result of an action last year by a federal appeals court, which told the AEC in the Calvert Cliffs, Md., case it had to regulate discharge of heated water into rivers, lakes and streams.

The AEC has given Con Ed a year to come up with a cooling plan, but fully expects the company to challenge the move in court.

"The question of legality is likely to be raised again," a source said, "just to see how far AEC authority extends."

Mr. BUCKLEY. Mr. President, the articles document an important environmental policy decision. For the first time the AEC had said to a utility that it must add an expensive "closed cycle" cooling system to its second nuclear plant at Indian Point, N.Y., to protect fish life in the Hudson River.

It appears to me that environmental decisions of this type are barred by clause 511(c)(2)(B) of the conference report on S. 2770. This appears to be an "effluent limitation" which is a "condition precedent" to a license. I would like to ask the Senator from Maine if I am correct in my understanding that environmentalists will be barred from intervening in AEC licensing procedures in order to obtain tougher effluent limitations—perhaps to protect wetlands, wildlife refuges, and so forth—than the limitations prescribed by the standards of the EPA-run water quality program? Am I correct in assuming that environmentalists and citizens groups particularly concerned about the effects of water pollution at, for instance, the sites of proposed industrial powerplants are entirely at the mercy of EPA and the general, nationwide standards it has set?

Mr. MUSKIE. Mr. President, I am not sure I heard clearly all of the Senator's question, but if I may try to state it, the Senator is asking whether EPA, in its authority to set effluent limitations controls with respect to the subject matter which the Senator has raised, can set those limitations and whether the AEC has to accept them. The answer is yes.

Mr. BUCKLEY. The AEC is precluded from setting higher standards than those imposed by EPA.

Mr. MUSKIE. Does the Senator mean more rigorous from an environmental standpoint? I must say that such an action by AEC is not a possibility that occurred to the conferees. It has not occurred to me in my experience over the years. We considered that this kind of authority should be in EPA and not in AEC, and in order to put the authority there, we put it in this act, and that is where it is.

Mr. BUCKLEY. Is it not the intention of the conference committee to exclude the right of other regulatory bodies to impose more stringent environmental conditions on discharges?

Mr. MUSKIE. Again I must say yes, we gave the authority to EPA. The whole concept of EPA is that environmental considerations are to be determined in one place by an agency whose sole mission is protection of the environment. It did not occur to us that AEC might be more conscientious in this respect than EPA, so we have given EPA the total authority on the assumption that the risk from AEC was not of the nature described by the Senator but, rather, the opposite, as history demonstrates.

If AEC develops a stringent environmental conscience, and I think it is developing a more stringent environmental conscience than EPA, then we can consider whether or not AEC ought not to have new authority.

Mr. BUCKLEY. Apparently that conscience has been developed, according to what is stated in this morning's newspapers.

Mr. MUSKIE. I do not think I would lend that too much credence.

Mr. BUCKLEY. I just want to reiterate the point here that action on this bill will preclude the right of other agencies to insist on other standards, or the rights of in-depth environmental groups to go to court and insist that the AEC maintain standards more stringent than those employed by the EPA, which under this legislation is not required to file an environmental impact statement; is that correct?

Mr. MUSKIE. I think I have answered the question. Yes; that is correct.

Mr. BUCKLEY. I thank the Senator.

Mr. COOPER. I yield 3 minutes to the Senator from Washington.

Mr. JACKSON. Mr. President, I have certain basic questions concerning the policy reflected in section 511(c). I would like to determine, to the extent that we can clarify it, the intent of tha section of he conference report.

Therefore, I would like to address some questions to the manager of the report.

First, how broad is the exemption proposed for EPA in section 511(c)(1)? Does the exemption cover only section 102(2)(C) and the requirement for preparing environmental impact statements? I am referring, of course, to the National Environmental Policy Act. Is it clear that EPA would be subject to all other requirements of NEPA except section 102(2)(C)?

Mr. MUSKIE. Mr. President, may I say first to the Senator, to preface my answer to the question, and in response to something the Senator from New York has said on the same subject, that in my judgment it was clearly intended at the time Congress enacted NEPA that environmental regulatory agencies such as those authorized by the Federal Water Pollution Control Act and the Clean Air Act would not be subject to NEPA's provisions. The Senator and I had discussions on this point, and it was clearly understood, from the colloquies in the Congressional Record on the subject it is clear, that it was the intention of NEPA to put mission-oriented agencies, not the environmental enhancement agencies, under an environmental stricture and that the environmental enhancement or improvement agencies such as the Federal Water Pollution Control Administration and the Clean Air Act would not be subject to NEPA's provisions.

So the effect of the language to which the Senator has referred is to breach that understanding, and to bring activities of the Administrator which would not be under NEPA in terms of that history under NEPA.

So let me answer the Senator's question.

Because the language of 511(c)(1) speaks of "major Federal actions significantly affecting the quality of the human environment"—a phrase which only appears in section 102(2)(C) of NEPA—some will argue that the conferees intended to limit their attention to section 102(2)(C) and that all of the other provisions are therefore meant to be applicable to actions of the Administrator. I address myself to those who would grasp at this slender straw. The term "major Federal action" and NEPA are synonomous in the minds of the conferees. It is the clear intent of conferees of both Houses—it was certainly the clear intent of the conferees when this provision was unanimously adopted—that all of the provisions of NEPA should apply to the making of grants under section 201 and the granting of a permit

under section 402 for a new source and that none of the provisions of NEPA would apply to any other action of the Administrator.

At page 149 of Report No. 92–1236, in the joint statement of managers on the part of the House and the Senate, we state:

If the actions of the Administrator were subject to the requirements of NEPA, administration of the Act would be greatly impeded.

We do not say "one of the requirements of NEPA." We do not say "some of the requirements of NEPA." We say "the requirements of NEPA." That is what we said, and that is what we meant.

May I say in addition, to cover both the Senator's question and that of the Senator from New York, why did we do it? We did it because we have written into the procedures for cleaning up the water deadlines geared to the time required for the procedures of the administrator.

Now, if we were to impose, on top of those procedures, additional ad hoc requirements that might be established by the administration of NEPA, the deadlines would go out the window, because in effect what we would be doing is giving industrial polluters another forum after they have taken their run at the procedures and policies of the administrator.

This is why, of course, I was so concerned at the time we enacted the NEPA legislation that environmental improvement agencies would not be subject to it.

Now we have made an exception that brings two environmental improvement activities under NEPA, and that is an exception that expands and does not restrict the authority of NEPA.

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

Mr. JACKSON. Mr. President, 1 more minute.

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

The PRESIDING OFFICER. The time of the Senator from Maine has expired. The Senator from Kentucky has 6 minutes.

Mr. COOPER. I promised 3 minutes to the Senator from Wisconsin (Mr. NELSON).

Mr. JACKSON. Could I have 1 minute?

Mr. COOPER. Yes.

Mr. JACKSON. Mr. President, in view of the limitation on time, I ask unanimous consent to have printed in the RECORD certain prepared statements and questions dealing with section 511(c) of the conference report.

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

STATEMENT BY SENATOR JACKSON

I am concerned about the precedent and the policy proposed in Subsection 511(c) of the Conference Report on the Federal Water Pollution Control Act Amendments of 1972. I am concerned because the policy proposed creates a troublesome precedent which may pave the way for effectively disarming the Nation's most important, long-range environmental law: the National Environmental Policy Act of 1969 (Public Law 91–190).

The Senate is being asked to vote on a conference report which contains in Subsection 511(c) a new provision which was not in the measure the Senate passed on November 2, 1971, which was not in the water quality bill passed in the House, and which was not, in my view, properly before the Conference Committee.

Mr. President, I presume that one of the purposes the House and Senate Public Works Committees had in mind in adopting Section 511(c) of the Conference Report was to reverse the effect of the Circuit Court of Appeals decision in the *Calvert Cliffs* case and other cases insofar as those decisions of the Federal Court affirmatively applied the requirements of Section 102(2)(C) to the Environmental Protection Agency.

Members of the Senate should be aware that portions of the legislative history of the National Environmental Policy Act do reflect a general understanding between myself and the junior Senator from Maine, that the adoption of NEPA would not change the statutory mandate under which EPA and other environmental agencies operate. This legislative history was, as I recall, made in response to concerns expressed by the Senator from Maine that the provisions of Section 102(2)(C) and Section 103 might in some way set new standards or new requirements for the Air and Water Quality programs. This was not the intent of the Act. Section 102(2)(C) establishes procedural requirements that apply to the decisionmaking process for all major Federal decisions that could have an adverse environmental impact. It is not a substantive standard and I, therefore, agreed that the adoption of NEPA would not change the substantive mandate for programs administered by EPA. Subsequent to this legislative history and the enactment of NEPA into law January 1, 1970, the guidelines promulgated by the Council on Environmental Quality, the regulations of some Federal agencies, and a number of major Federal Court decisions have construed NEPA to require the application of the Section 102(2)(C) procedural requirement for the preparation of an environmental impact statement to any major Federal action undertaken by EPA and other Federal agencies whose mandate involves the promotion of environmental quality objectives.

The action of CEQ and the subsequent decisions of the Federal Courts were in my view contrary in some respects to NEPA's legislative history. In all candor, however, I must acknowledge that the legislative history is ambiguous with respect to both the scope of the exemption sought to be established for EPA and the policy objectives sought to be achieved by the exemption.

In view of the Court's action and the present construction being given to NEPA by the judiciary and CEQ, I believe that the Congress is now faced with the issues of whether: (1) Any proper public purpose is served by granting to the Environmental Protection Agency a major exemption from the requirements of Section 102(2)(C) which is not enjoyed by any other Federal agency; and (2) If any exemption is warranted, the nature, class and types of activities and programs the exemption should cover.

Mr. President, after having had an opportunity to review the application of Section 102(2)(C) of NEPA to the many activities and programs conducted by all of the Federal agencies, it is my firm judgment that no exemptions should be granted to any Federal agency where the action proposed is a "major Federal action significantly affecting the quality of the human environment."

Requiring Federal agencies to examine in a rigorous fashion the alternatives to proposed decisions has, in my view, greatly improved the quality of government. It has mandated a "balancing process" and a weighing of alternatives in which all legitimate interests and values receive fair and proper consideration. Section 102(2)(C) has also opened the processes of Federal decisionmaking to the scrutiny of Congress and the American public. Insuring that any Federal agency proposing a major Federal action consult with and obtain the comments of other Federal agencies having special expertise on the subject involved goes far toward improving the quality of Federal decisions. This consultation procedure guarantees that single-purpose, mission-oriented objectives do not have unintended and unanticipated consequences far beyond the intent of the agency proposing the action under consideration.

For these and many other reasons, I feel it is important that the Senate consider and fully understand the scope, nature and content of what is being proposed in connection with the adoption of the Conference Report and Section 511(c).

I call my colleagues' attention to subsection 511(c) of S. 2770. Clause (1) of this remarkable subsection exempts entirely the Environmental Protection Agency (EPA) from complying with the section 102(2)(C) environmental impact statement requirements of NEPA for all—I emphasize all—activities under the water quality bill except for the issuance of discharge permits for new sources and sewage treatment construction grants.

Activities which may be exempted by Clause (1) include the promulgation of new-source performance standards, the establishment of "best available treatment" and "best practicable treatment" standards, issuance of guidelines for State control of non-point sources of pollutants, and approval of regional water quality management plans and State permit plans. Clause (2) states that nothing in NEPA is to be deemed (1) as authorizing any Federal agency authorized to license or permit the conduct of any activity which may result in a discharge into the navigable waters to review any effluent limitation or other requirement established pursuant to S. 2770 or the adequacy of any certification pursuant to section 401 that a discharge complies with the requirements of S. 2770, and (2) as authorizing any Federal agency to impose any effluent limitation different from effluent limitations established pursuant to S. 2770.

Subsection 511(c)(2) is a rewording of the so-called "Baker Amendment", formerly section 511(d) of the Senate bill. The Baker Amendment was devised to clarify the relationship of State or EPA certification under the Federal Water Pollution Control Act with the NEPA-mandated balancing judgment of environmental costs versus economic and technical benefits made by Federal licensing or permitting agencies. Its modest purpose was to clarify the nature of that relationship in accord with the original legislative intent at the time of NEPA's passage, not with the very different definition given to that relationship by the U.S. Court of Appeals for the District of Columbia in *Calvert Cliffs Coordinating Committee* v. *AEC*, 449 F. 2d 1109 (D.C. Cir. 1971) and by the Council on Environmental Quality in its guidelines to implement NEPA.

I am concerned that this revision of the Baker Amendment is intended to place greater restrictions on the ability of Federal permitting and licensing agencies to perform their NEPA responsibilities than did the original amendment to the Senate bill. In commenting on his amendment in this Chamber, Mr. Baker stated, "My amendment should not in any way be construed to mean that water quality considerations do not play a role in [the NEPA] 'balancing judgment' [required of Federal permitting and licensing agencies]. On the contrary, where pertinent, water quality considerations must be considered by any agency when it decides, under the NEPA mandate, whether it is in the public interest to grant a license or permit and, it so, under what conditions and stipulations." (*Congressional Record*, pt. 30, vol. 117, p. 38857) However, I question whether under the new subsection 511(c)(2) water quality considerations can, in fact, be

reviewed in the NEPA "balancing judgment." Absent the major factor of water quality, the 102(2)(C) impact statement "balancing" and "weighing of alternatives" analyses are rendered useless as policymaking or decisionmaking tools. I hope to receive clarification on this point from the Senate managers of the S. 2770 conference report.

I am particularly concerned about clause 511(c)(2)(B). This clause bars any Federal permitting or licensing agency, such as AEC, from imposing, as a condition precedent to the issuance of any license or permit, any effluent limitation other than such limitation established pursuant to S. 2770.

Articles in today's *Washington Post* and *New York Times* document an important environmental policy decision. According to the articles, the AEC required Consolidated Edison to add an expensive "closed cycle" cooling system to its second nuclear plant at Indian Point, New York, to protect fish life in the Hudson River. This requirement was a part of a prelicensing staff report.

It appears to me that environmental victories of this type are barred by clause 511(c)(2)(B) of the conference report on S. 2770. This appears to be an "effluent limitation" which is a "condition precedent" to a license. Therefore, I read 511(c)(2)(B) as prohibiting the AEC-Indian Point action. It is my worry that 511(c)(2)(B) will bar environmentalists from ever intervening in AEC licensing procedures in order to obtain tougher effluent limitations—perhaps to protect wetlands, wildlife refuges, etc.—than the limitations prescribed by the standards of the EPA-run water quality program. Am I correct in assuming that environmentalists and citizens groups particularly concerned about the effects of water pollution at, for instance, the sites of certain proposed nuclear powerplants are entirely at the mercy of EPA and the general, nationwide standards it has set?

Of far greater importance, however, is the sweeping new language contained in subsection 511(c)(1). Under this subsection, except for new-source permits and construction grants, all actions of EPA are exempted from compliance in any manner whatsoever with the NEPA Section 102 (2)(C) environmental impact statement requirement.

The operating philosophy behind this sweeping exemption appears to be that environmental control programs should be free of environmental law requirements. On page 149 of the conference report this rationale is made all too evident. We find the statement, "The sole purpose of the Act is the enhancement of environmental quality." This is followed on the same page by the statement, "If the actions of the Administrator under this Act were subject to the requirements of NEPA, administration of the Act would be greately impeded."

One could certainly take issue with this conclusion, but the real point to be made is why environmental control programs should be exempt from the constraints of environmental laws? Do we exempt civil rights programs from anti-discrimination requirements? Are labor programs exempted from minimum wage and child labor laws? Are law enforcement officers free to disobey criminal laws?

In short, the question is, "Who shall police the police?" EPA should certainly be required to undertake the same open, balancing decisionmaking which NEPA has required of other agencies. Decisions, reversals, and new decisions by EPA in the fields of auto emissions, phosphates, and pesticides reinforce the critical need for this type of decisionmaking by all Federal agencies.

The National Wildlife Federation in its September 22, 1972, *Conservation Report*, further criticized the 511(c) exemptions and the rationale of EPA's environmental purity:

"It cannot be assumed that EPA will always be the good guy. Since EPA was formed, they have done an admirable job and they are continuing to do so, at least for the present. However, it cannot be forgotten that EPA is a regulatory agency and in the past in Washington almost all regulatory agencies have eventually come under the control of those that they are charged with regulating. Everyone hopes that this will not occur but, if it does, the exemptions granted in the water bill could prove disastrous for the environment.

"The most important thing that NEPA does is require that decisions affecting the environment be made more or less in public rather than behind closed doors. These exemptions would take the decisionmaking and standard setting processes out of public view. In fact, the decisionmaking authority would probably be taken away from EPA and lodged with the Office of Management and Budget (OMB) under their Quality of Life Reviews . . . behind closed doors."

I suspect that the chief incentive for exempting environmental control programs is, as the conference report suggests, that to apply NEPA to these programs would be to increase their administrative burden. I question whether the application of the exemption to "one-shot" activities such as promulgation of new-source performance standards, the establishment of treatment standards, issuance of guidelines for State control of nonpoint sources of pollutants, and approval of regional water quality management plans and State permit plans will reduce administrative work to such an extent as to justify this reason for an exemption. But beyond this, I find this same concern over the potential administrative burdens of NEPA shared by all other Federal agencies and officials involved in most other Federal programs. Many other worthwhile programs—social programs, housing programs, recreation programs—also would dearly love to shrug off legislative mandates which may require additional administrative work. To exempt important Federal programs from essential legislative mandates simply because they increase the administrative burden of such programs is not good public policy.

A second concern over this wide exemption relates to its possible use as a precedent for further exemptions. The rationale for the 511(c) exemption would make it equally applicable to all other environmental programs. However, what one agency or one Congress may regard as an environmental program, the next may not. Are we to apply such a wide-ranging exemption on the basis of the momentary definition of what is an "environmental program?"

Rationales for legislation tend to mutate or lapse into extinction rather more quickly than do the legislation's precedential values. Again, I quote the Conservation Report:

"[Subsection 511(c)(1)] sets a bad precedent for other federal agencies, such as the Corps of Engineers, the Federal Highway Administration (FHA), etc., who are also seeking to have their activities exempted from EPA. During the spring environmentals fought to have two bills (H.R. 13752 and H.R. 14103), which would have granted exemptions from NEPA, defeated. Their victory in stopping those two bills has now been wiped out in the water pollution bill. It is also a bad precedent that the exemptions to NEPA tee rather than the committees under which were granted by the Public Works Committee rather than the committees under which NEPA was enacted, namely, the Senate Interior and Insular Affairs Committee and the House Merchant Marine and Fisheries Committee."

I would certainly welcome responses from the manager of this Conference Report on the general questions of advisability of exempting environmental programs from NEPA and of the possible precedent being established here. However, these questions cannot be resolved on the floor today. What would be useful, is a more detailed description of how 511(c) would operate and of the reasons why the conferees felt an expansion of the Baker Amendment was necessary. I must say I find the application of this amendment to be confusing in a number of cases. Let me give a few examples:

(1) No environmental impact statement analyses would be required for EPA approval of regional water quality management plans, even though environmental impact statements are prepared for such plans under EPA's existing procedures (Subpart E, EPA Procedures for Implementation of the National Environmental Policy Act). I believe a discussion is in order on the reasons for preserving the existing duty to prepare statements on some EPA actions such as waste water treatment projects, while removing the requirements on other activities, such as the water quality management plans.

(2) Discharge permits for new sources would still be subject to section 102(2)(C) of NEPA. Yet, the far more significant activity—the setting of new-source performance standards upon which the discharge permits would be based—apparently would be exempted from the required NEPA "balancing judgment." This creates the anamolous situation of requiring an impact statement on discharge permits which are to be based on performance standards which themselves will not be the subject of an impact statement and which, under section 511(c)(2), would not be subject to any reexamination in the context of issuing the permit. Therefore, under section 511(c)(2), the impact statement is limited to the review of only the non-water quality considerations.

(3) I am not certain of the breadth of this exemption. One of the two exceptions to the 511(c)(1) exemption is new-source permits. However, I am confused as to whether, upon the publication of regulations under S. 2770, should such regulations require any new construction or alterations in equipment, plant, or operation, all new permits would be considered permits for "new sources." If this is true, the exemption is limited.

(4) On the other hand, I believe the exemption is made virtually unlimited through another means. No environmental impact statement apparently would be required for EPA approval of State permit plans. Yet, once approved, these plans would allow the State to issue permits—presumably *even for new source discharges*—without further Federal review, including NEPA review. Therefore, even one of the two exceptions to the exemptions—new source permits—can be folded into the exemption through the approval of State plans.

(5) No NEPA analysis would be required for the establishment of the "best practicable treatment" and "best available treatment" standards for categories of waste discharging facilities. And yet the 102(2)(C) impact statement with its "balancing" and "weighing of alternatives" analyses is particularly appropriate for such standard setting. I am at a loss to understand why these standards are exempted.

(6) Similarly, the issuance of guidelines by EPA for State control of non-point sources of pollutants would not be the subject of an impact statement. Again, such guidelines are particularly appropriate subjects for environmental impact statements.

I am particularly concerned about the apparent view of the Senator from Maine that the 511(c) exemption from NEPA is, in fact, an exemption from *all* of the major provisions of NEPA. On its face, as wide as the 511(c) exemption is, it is still clearly limited to the 102(2)(C) environmental impact statement of NEPA. The words "major Federal actions" are found only in clause 102(2)(C) and the effect of those words is limited only to clause 102(2)(C). Therefore, the 511(c)(1) exemption applies only to the requirement of an environmental impact statement. Furthermore, 511(c)(2) does not touch upon NEPA's requirements vis-a-vis

the Environmental Protection Agency or S. 2770's water quality programs at all, but only upon how NEPA applies to other agencies in their relationship to EPA and S. 2770's programs.

There is no intent expressed in either the Conference Report or the managers statement to use S. 2770 as a vehicle for exempting other Federal permitting and regulating agencies from NEPA's requirement.

Should the conferees wish S. 2770 to be exempt from all the NEPA requirements, they should support such an amendment when the legislation first comes before the Senate and the House—at a time when all members have an opportunity to do more than vote up or down a conference report. A back-door attempt at legislation through last minute speeches on the floor of the Senate is not the proper conduct of the Nation's business. Fortunately, as *Calvert Cliffs* and other court decisions have indicated, the courts will not abide the diminution of the authority of environmental laws through the vehicle of floor speeches re-interpreting clear legislative language.

I did not object to 511(d) of S. 2770, the original Baker Amendment, when it was first considered in the Senate. As I understand that amendment, it established that—contrary to a holding in the *Calvert Cliffs* decision—the impact statement required of AEC and other Federal permitting or licensing agencies did not need to include an independent evaluation of water quality alone. These agencies could accept State or EPA certification under the water quality laws as conclusive on that point. However, as Senator Baker noted in the floor debate on S. 2770, his amendment would not bar water quality consideration in the overall balancing of costs and benefits required in the environmental statement.

As I read the new language contained in clause 511(c)(2) *all* water quality considerations are barred from the impact statement analyses. If this is true, this exemption not only frees EPA from the environmental impact statement requirement (in clause 1) but also (in clause 2) makes that requirement useless to all other Federal permitting and licensing agencies whose activities touch on water quality. To have consideration of such an important variable as water quality barred from the balancing and alternative weighing analyses of AEC and similar Federal licensing agencies makes the impact statement a less useful decisionmaking tool and useless to the public as a means of bringing decisionmaking which affects the environment into the open.

Could the manager of the Conference Report comment on the rewording and enlarging of the Baker Amendment beyond the scope of either the Senate or House bills and on the concerns I have expressed concerning such a step?

Mr. JACKSON. I would just point out, Mr. President, that the words "major Federal action" which my good friend from Maine has referred to are to be found only in section 102(2)(C) of NEPA. They do not occur in any other place in the act.

I am particularly concerned about the apparent interpretation given to 511(c) by the Senator from Maine that this subsection embodies an exemption from not just the NEPA 102(2)(C) impact statement requirements but from all the major requirements and provisions of NEPA. On its face, as wide as the 511(c) exemption is, it is still clearly limited to the 102(2)(C) requirement. The words "major Federal actions" are found only in clause 102(2)(C) and the effect of those words is limited only to clause 102(2)(C). Therefore, the 511(c)(1) exemption must be construed as applying only to the 102(2)(C) environmental impact statement requirement. Clause 511(c)(2) does not touch upon NEPA's requirements vis-a-vis the Environmental Protection Agency or S. 2770's water quality program at all, but only upon how NEPA applies to other Federal permitting and licensing agencies in their relationship to EPA and S. 2770's programs. Certainly, this clause (B) cannot be intended to be so wide as to exempt all major Federal permitting and licensing agencies from all the requirements of NEPA.

Should an exemption of all requirements of NEPA have been contemplated by the conferees, it was clearly not achieved in the language of 511(c). I suggest that such a wide-ranging exemption, if intended, should be the subject of debate when the legislation first comes before the Senate and House—at a time when all Members have an opportunity to do more than vote up or down a conference report. Fortunately, as Calvert Cliffs and other court decisions have indicated, the courts will not abide the diminution of the authority of environmental laws, through the vehicle of floor speeches reinterpreting clear legislative language.

I think there are limitations on how far one can go in interpreting the explicit and unambiguous language of the conference report. May I say that I agree with the Senator that we did have the colloquy on the Senate floor that he referred to, and we did have that understanding. Unfortunately since that time we have had a number of Federal decisions, including the Calvert Cliffs case. In addition, we have had guidelines promulgated by the Council on Environmental Quality and even regulations promulgated by EPA, which has abrogated our understanding and the effect of that colloquy.

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

Mr. COOPER. Mr. President, I yield 3 minutes to the Senator from Wisconsin (Mr. NELSON).

Mr. NELSON. Mr. President, first I want to commend the distinguished Senator from Maine for the excellent work he has done, along with the committee members, in preparing and negotiating this bill through. It is a long step forward from where the committee started a half dozen years ago.

Mr. President, on balance, the greatly increased funding and new initiatives such as the clean lakes drive make this water quality measure an important forward step in the Nation's clean environment effort.

The measure authorizes $18 billion over the next 3 fiscal years for the key program of Federal aid for municipal waste treatment plant construction.

As I understand it, in a response to State complaints that earlier Federal money commitments were not being met, the money authorized by this legislation could be obligated for the aid grants to municipalities without annual action by Congress.

Only if the President's Office of Management and Budget or the Congress specifically directed otherwise would the money not be available at the levels in the legislation, according to my understanding.

There has been considerable discussion in recent days about another provision in the bill, section 511(c)(1), which deals with the National Environmental Policy Act. While this section does specifically authorize some exemptions from the environmental policy act to avoid conflict with other key environmental aims, the reach of these exemptions would appear to be narrow.

For example, while the section does appear to mean that the Administrator's actions are not defined as "major Federal actions" under section 102(2)(C) of NEPA, the rest of NEPA appears to be left intact and applicable as far as this bill is concerned.

Is that a correct statement?

Mr. MUSKIE. I think I have answered the point in response to Senator JACKSON.

Let me read something from the colloquy at the time NEPA was enacted. This is Senator JACKSON's language:

> Many existing agencies, such as the National Park Service, the Federal Water Pollution Control Administration, and the National Air Pollution Control Administration, already have important responsibilities in the area of environmental control. The provisions of section 102 as well as 103 are not designed to result in any change in the manner in which they carry out their environmental protection authority.

Why did we put this in? We put it in because we wanted the water pollution control agency to have the authority to clean up the waters in connection with the specific requirements set out in this legislation.

To inject now, from the outside, other influences, other agencies, including EPA, is simply to give industrial polluters another forum to block progress toward our objective.

I want this legislative history to be clear on this point.

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

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

Mr. COOPER. I yield the Senator the remainder of my time.

Mr. NELSON. I am glad to see this doubly clarified. That was my understanding.

May I ask one question: Is there anything in the bill that would prohibit any State from establishing any water quality standard higher than the standards established under this act?

The PRESIDING OFFICER. All time has expired.

Mr. NELSON. Mr. President, I ask for 1 minute, to permit the Senator from Maine to answer.

Mr. JACKSON. Only 1 minute, because I had requested time originally from the leadership, and I agreed to a half hour, and I have had 4 minutes. It does affect the committee I chair. If it is only 1 minute, I will not object; otherwise, I shall ask unanimous consent for time, because I have a long series of questions.

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

Mr. MUSKIE. I say to the Senator that I wanted to check with the staff, to be

sure I was correct that the States' rights are fully protected.

Mr. NELSON. They may have a higher standard?

Mr. MUSKIE. That is correct.

Mr. NELSON. While EPA may not be subject to the "impact statement" requirements that it has complained about, its actions nevertheless, under this language, would seem to be subject to those important parts of the National Environmental Policy Act falling outside section 102(2)(C). The language of section 511 (c)(1) of this bill appears to be drawn specifically enough on that point that I assume the courts will restrict its applicability in this manner.

However, I would also like to point out that section 104 of the National Environmental Policy Act requires that nothing in sections 102 or 103—

Shall in any way affect the specific statutory obligations of any Federal agency (1) to comply with criteria or standards of environmental quality, (2) to coordinate or consult with any other Federal or State agency, or (3) to act, or refrain from acting contingent upon the recommendations or certification of any other Federal or State agency.

Thus, it seems clear that NEPA could not be used to frustrate the vital environmental purpose of this measure, which is to clean up the Nation's waters without delay, and this is as it should be.

Mr. GRIFFIN. Mr. President, on behalf of the distinguished Senator from Texas (Mr. TOWER), I ask unanimous consent that a statement by him on the conference report on the Federal Water Pollution Control Act Amendments of 1972 be printed in the RECORD.

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

STATEMENT BY SENATOR TOWER

The Conference Report on the Federal Water Pollution Control Act Amendments of 1972 is deficient in its allocation of waste treatment funds to states which have been the vanguard of the secondary treatment effort for many years, such as the State of Texas. The program traditionally has allocated funds on the basis of population, which is the fairest way to distribute the federal funds because it requires the states and localities to keep up a reasonable tax and expenditure effort of their own if they want to have adequate pollution control facilities. The federal government is not put in the position of bailing out a half-hearted or inadequate effort by the states and localities to look after their own pollution problems.

But this bill will now change the allocation basis to one of needs—i.e., the states which have been remiss in looking after their pollution problems will now get the lion's share of the funds for new waste treatment plants. This simply is not fair to the states which have diligently pursued secondary treatment over past decades, as has Texas. The people of Texas have invested a great deal in handling their own pollution problems, and under this bill they will now be penalized for having been responsible and self-reliant.

I certainly am in favor of getting the pollution problems of *all* states cleared up, but I do think that the Congress should also do equity to those states which have already been diligent in this regard and give them their fair share of the funds to be made available under this program. For the State of Texas, the allocation will be only half of what it should be under a population basis, and I intend to pursue remedial legislation for this deficiency at the earliest time the Public Works Committee will entertain such a proposal. I recognize that the "deficient" states have a solid majority presently and are immediately interested in getting these funds approved without further delay, but I hope that they will be open to the equitable legislation which I will be proposing for later consideration. I know that this will also be of great concern to my colleague from Texas, who can help guide corrective legislation through his Committee, at the appropriate time.

Mr. TUNNEY. Mr. President, during the past 20 years we have spent nearly $20 billion in public and private funds on water quality programs in an effort to redeem the beauty and usefulness of our Nation's waters. The progress made has been minimal at best. The enormous erosion of the quality of all of our waters creates the prospect that it may soon be too late to find a significant body of clean water in this country.

Because it was clear that something had to be done swiftly and effectively if we were going to preserve our Nation's waters as well as the health of our citizens, many of us devoted hundreds of hours of time last year in developing S. 2770, the Water Pollution Control Act Amendments of 1972, which passed the Senate by a unanimous vote in November 1971. Now, after months and months of Senate-House conference, we are presented with a conference report which reflects many of the substantial achievements of the Senate-passed legislation. I am pleased to vote for this important legislation which provides us with the goals and the means to achieve adequate water quality and eventually pollution-free water.

The bill authorizes $24.6 billion to achieve its ultimate objective of restoring and maintaining the natural chemical, physical, and biological integrity of the Nation's waters, and to end the discharge of pollutants into the navigable waters by 1985.

For the first time it declares as a national goal where we are going and when we should be there in our water pollution control efforts. It is therefore a decisive redirection in national policy.

GOALS

The national program would be carried through two distinct phases of execution.

Phase I—which was originally set for 1976 in the Senate-passed legislation—requires that for point sources of pollutants, limits shall be established not later than July 1, 1977, which comply with specifically defined levels of effluent control and treatment. These 1977 goals shall be at least secondary treatment for publicly owned treatment works and the best practicable control technology currently available for other point sources—and in all events shall be those levels of treatment or control which comply with previously adopted State or Federal water quality or effluent control laws and regulations.

In phase II, a further national effort shall move toward eliminating by 1983—2 years later than I had hoped—all pollutant discharges, or at least applying the "best available" control technology wherever any applicant can show to the Administrator that such technology cannot produce the "no discharge" goal.

In addition to these two phases, I introduced, as a member of the Public Works Committee, an additional goal into the legislation which was adopted by the Senate and by the conference committee. I felt that the country was never going to solve its pollution problems until we legislated fixed goals, set a timetable for their accomplishment and committed a sufficient amount of money to do the job. For this reason, in hours of executive sessions, I insisted that the bill mandate a national standard, to be achieved by 1981, that would allow for swimming and the propagation of fish, shellfish, and wildlife in all of the Nation's waters. This standard was the only one which survived conference without being pushed back another year.

MEANS

The agreement reached by the conference provides for the continuation of water quality standards already in existence, plus limitations on the amount of effluents plants may discharge into any of the Nation's waters. In every case, the effluent limitations must be sufficiently stringent to maintain the quality of the water as prescribed by the standards, but effluent limits will be a minimum measure of compliance. This procedure is essential, for it allows the Administrator to require the best control technology without having to provide a direct relationship between water pollution and water quality. Effluent limits, therefore, allow for swifter action in the fight against water pollution.

The Senate had changed the discharge permit system to reinstate the Federal-State relationship by giving the Administrator of EPA the responsibility of enforcing Federal standards. As it exists now, the permit system is run by the Army Corps of Engineers and has proven extremely complex and difficult to implement, often resulting in duplication and damage to the existing State program. The conference has somewhat diluted the authority of EPA over the permit system, but it is still a significant advancement over the system as it now exists. This bill would direct the Administrator of EPA to establish guidelines within which the separate States must operate their permit program. EPA will have permit-by-permit veto until the guidelines go into effect. Once that occurs, however, EPA will only be able to veto a permit if the State permit does not conform to the guidelines and requirements of the law or unless the Governor of a downstream State demonstrates that his waters are being polluted by permitted effluent discharges in another State.

Another important advancement over present programs is the development of areawide treatment management plans to assist Governors and local officials in designating areas confronted with serious water quality problems. The Government would pay 100 percent of the cost of developing the plans for the first 2 years, and 75 percent of the cost thereafter. The plans developed are to be utilized by the States and by EPA—in conjunction with the Corps of Engineers—in managing water pollution control problems.

Under this bill the Administrator of EPA is also authorized to make grants for the construction of a publicly owned waste treatment works. The Federal share of the cost of waste treatment projects is increased from the existing maximum of 55 percent to a new maximum of 75 percent. In addition, in cases where States decline to participate in cost sharing, the Federal Government will still pay up to 75 percent as compared to the current maximum of 30 percent. The bill authorizes $18 billion for sewage treatment construction grants. California's share would be approximately $1,429,700,000.

Several other significant sections in the bill authorize over $430 million in research, development, and demonstration programs to give the Administrator of EPA the technological tools and information needed to achieve the objectives of this legislation. In order to achieve the goals of the legislation, the most sophisticated use of systems analytical techniques which our aerospace and similar industries can provide will be required. This bill will begin to make effective use of the legislation which recently passed the Senate, S. 32, establishing new priorities for the use of our Nation's technical skills.

The legislation also provides over $100 million for approved State pollution control programs. The broad authority for training grants is also extended to authorize the Administrator to make grants for construction of waste treatment works and to provide for necessary education and training facilities for operation and maintenance personnel.

The bill also deals with efforts to eliminate thermal discharges. The Administrator is given the authority to impose the effluent standard which I introduced to assure the protection and propagation of a balanced water and wildlife from the dangers of thermal discharges by 1981.

Although there are several sections of the bill which I feel do not strengthen the fight against pollution, that is, the section dealing with civil suits which do not allow legal action unless those filing the suit are directly affected by the violation of Federal laws or regulations, I am convinced that we must pass this legislation if we are to make any serious effort to end water pollution before it is too late. The longer we wait to attack this problem, the more expensive it will be and the less sure we can be of the results which can be achieved.

Mr. HART. Mr. President, thanks are due the conferees on S. 2770, the Federal Water Pollution Control Act Amendments of 1972. The job they have done is evidenced by the tremendous number of differences that existed between the House and Senate bills which have been resolved by the conference report now before us. When this measure becomes law, the Environmental Protection Agency will at last have the tools to apply a firm grasp on the water pollution problems of this country.

One of the tougher issues before the conferees was how to relate this legislation with the requirements of the National Environmental Policy Act. NEPA has proved to be one of the most effective pieces of environmental legislation to pass the Congress and has forced the executive agencies into a much needed look at the environmental impact of their activities.

At the same time, it should be recognized that a recent court decision, *Kalur* v. *Resor*, 335 F. Supp. 1, has had the effect of requiring an environmental impact statement for many and perhaps most permits granted under the Refuse Act of 1899 and has caused the Environmental Protection Agency some problems. The conferees have dealt with this problem admirably in section 511(c)(1) of the legislation, although the exemption does appear to go beyond the preparation of impact statements for the issuance of permits to the preparation of those statements for other activities as well.

It is heartening to see that the exemption granted by section 511(c)(1) is otherwise a tightly drawn one, removing certain of the Administrator's actions from the impact statement requirements of section 102(2)(c) of NEPA but leaving the rest of NEPA applicable. Thus, the other requirements of NEPA including the consideration of alternatives to the proposed action as well as the consideration of environmental matters beyond water quality will continue to apply. In most of the EPA's functions under these amendments, the impact of a regulatory action beyond water quality will be considered and dealt with under various sections of the legislation before us, but NEPA's similar requirements will be particularly useful in EPA's decisions concerning the control of nonpoint sources of pollution as well as the granting of permits under section 402. In those two instances, the requirements of the legislation for consideration of nonwater quality related environmental impact is less clearly stated. It is my view that those requirements of NEPA and the similar requirements under this legislation are entirely consistent and will have the effect of buttressing each other.

Alarm has been voiced that efforts to prevent environmental damage to Lake Superior involving the discharge of taconite tailings by Reserve Mining Co., will be hindered by this legislation. It is my understanding, however, after the explanation of the Senator from Maine, that the suit now pending against the Reserve Mining Co., under the Refuse Act of 1899 will in no way be affected nor will any of the other counts under the existing Federal Water Pollution Control Act or other law.

Mr. BOGGS. Mr. President, I wish to express my strong support for the conference report on S. 2770 the Water Pollution Control Act Amendments of 1972.

This bill is truly landmark legislation. It sets a national goal of the eventual elimination of water pollution, and it places this Nation on a steady course toward that goal.

The distinguished floor manager of the conference report (Mr. MUSKIE) has most ably described this legislation, section by section. I shall not attempt to repeat his careful and accurate analysis of the bill's national impact.

Rather, I have put together an evaluation of the amendments, showing how this legislation will affect a single State, Delaware. Mr. President, I ask unanimous consent that a copy of this analysis be printed in the RECORD at the conclusion of my remarks.

I do want to stress my view that this legislation is both fair and firm. It establishes a goal that can be achieved, and must be achieved. Governmental and industrial groups must begin to direct our efforts toward an elimination of pollution, where feasible, not just the reduction of pollution. By setting a no-discharge goal, we will direct research toward complete, rather than partial, solutions.

Yet we recognize that such a goal cannot be achieved with certainty within a few years. As a result the bill creates a phased program of improvements, placing industry on notice of what it will be required to do over the next decade, removing the threat of new and differing legislative approaches every couple of years.

Another major emphasis in this legislation is the assistance it provides to States and local communities in constructing systems that will treat wastes more effectively. Federal grants of 75 percent are provided to assist communities in treating their municipal wastes.

Control of ocean dumping, of course, is vital to any effective water pollution control program. As Senators are aware, the Committee on Public Works and the Committee on Commerce share jurisdiction over this aspect of the national pollution control program. This conference report offers a three-pronged attack on the pollution of our seas.

First, the conference report creates a mechanism for controlling, with permits, the discharge of any pollutant into the ocean from an outfall pipe. This is true whether the outfall extends a few feet or 100 miles.

This bill also controls, by permit, any discharge of pollutants from a vessel that occurs within the navigable waters.

And third, section 405 of the conference report establishes a special procedure controlling the disposal of sewage sludge. This section covers several possible situations. For example, it would require an EPA permit if the sludge is deposited on land, and there is a possibility that the sludge may run off into a river.

Or it would require an EPA permit if sludge is dumped anywhere at sea, and there is a likelihood that currents would sweep the sludge back into the navigable waters of the United States.

The Committee on Public Works held a most informative hearing in Rehoboth Beach, Del., last year on the danger of ocean dumping. That hearing demonstrated the need for control procedures such as section 405, because millions of gallons of sewage sludge were being discharged at a site from which the currents apparently carried the sludge ashore.

Before closing, I want to express a word of commendation to my colleagues on the conference. We met during many, many long hours in the effort to resolve the differences in this very complex legislation. The chairman of the conference, the distinguished gentleman from Alabama (Mr. JONES), was most helpful

and cooperative throughout the conference. His leadership carried us over many potential difficulties and is largely responsible for bringing us to a final agreement. The same constructive approach was taken throughout by the gentleman from Ohio (Mr. HARSHA), who worked tirelessly on this legislation. I commend both of these gentlemen, as well as their colleagues among the conferees representing the House.

Certainly, this body knows of the dedicated work of my colleagues among the Senate conferees. The distinguished Senator from West Virginia (Mr. RANDOLPH) and the distinguished Senator from Maine (Mr. MUSKIE) spent many hours of hard work in order to reach this agreement. They provided both leadership and a sense of bipartisan cooperation that was essential to a resolution of the issues.

I also certainly want to commend the distinguished Senator from Tennessee (Mr. BAKER) for his service, his sound ideas, and his good humor. As always, Senator Baker worked forcefully and effectively for the Senate position. Our other Senate colleagues on the conference, Senator BAYH and Senator EAGLETON, also provided great assistance during the conference.

I have not yet mentioned one of our colleagues, the distinguished senior Senator from Kentucky (Mr. COOPER). That is because it is difficult to find the words of gratitude, respect, and admiration that I feel for JOHN COOPER.

Senators know of the great and tireless work he devoted to this bill. You know of the many creative ideas he presented, ideas that acted so often as the glue that held together this long and difficult conference.

Mr. President, it is always an occasion of mixed emotions when one of our distinguished colleagues decides to retire from the Senate. We are saddened to see him go. Yet we offer him good luck and the best of wishes. This is especially so when we lose a man of such outstanding ability as the senior Senator from Kentucky.

He has been a public servant and statesman for over a quarter of a century. To both roles he has brought an unusual blend of dedication, perception, concern, and honesty. America is in his debt for this.

It has been a great honor for me—for all of us—to serve with Senator COOPER on the Committee on Public Works over the years. His advice and counsel can always be depended upon, not only for its sincerity and grasp of the issues, but for his sensitivity to the human factors involved.

Personally, I have been with JOHN COOPER on Public Works for the entire 12 years I have served in the Senate. I have joined him on many, many conference committees. And while I may yet have the opportunity to serve on one or two more conferences with him, none will carry the significance—or the length—of this water-bill conference.

For that reason, I shall personally look back upon this conference with a special sense of sentiment and affection. To me, this will be JOHN COOPER'S bill and JOHN COOPER'S conference.

He has done the Senate and the Nation a great and monumental service.

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

THE NEW WATER POLLUTION CONTROL LEGISLATION: HOW IT HELPS DELAWARE

WASHINGTON, D.C., September 29, 1972.—The Senate-House compromise version of the bill to control water pollution contains many significant changes in law designed to clean up the rivers and lakes of Delaware and the nation. Many experts consider it to be the most important pollution control legislation ever adopted by the Congress.

The following is an analysis of the scope of the legislation, relating the legislation to the benefits available to the people of Delaware.

INCREASED FEDERAL SUPPORT

During fiscal year 1972, Delaware communities were eligible for grants totaling $4,990,000 for use in the construction of new sewage plants and interceptor sewers.

Under the pending amendments to the law, the sums available to Delaware are increased sharply, and the allocation formula has been altered to Delaware's benefit. In the current fiscal year (1973), if the full amount of contract authority permitted by the bill is released ($5 billion), Delaware communities would receive $32,820,000 for such construction.

This increase will accelerate the construction of new facilities in Delaware and lower dramatically the proportionate cost to the community and to the state. Under existing law, a Delaware project may qualify for a federal grant of up to 55% of the cost of the project. The new legislation raises the federal share to 75% of the project's cost.

Additionally, the amendments would finance the construction of collection-sewer systems out of the water pollution control program run by the Federal Environmental Protection Agency (EPA). Present law does not give this authority to EPA.

These differences in percentages and scope will increase the federal contribution to Delaware projects already on the drawing board by at least $17,000,000. (See attached chart A).

FASTER PAYMENTS

The amendments direct a speed-up in the schedule of grant payments to communities, so they will not have to wait until a major portion of the work on a project has begun before receiving federal checks. The legislation also endorses a "phased-grant" approach developed by Delaware. This approach allows Delaware to spread its annual federal grant allocation among many projects, starting each with a partial grant, rather than requiring that a few projects be fully funded annually.

While this approach may not mean more construction, over the long run, it means that all of Delaware's needs can be met sooner.

USER CHARGES

The bill requires that a grant recipient establish an equitable user charge system that covers the operating, maintenance, and replacement costs of the project. User charges are designed to assure that the burden of any system's costs will be spread among all users of the system, in relation to the volume of wastes discharged, not financed out of local taxes.

The amendments also required that any industry participating in a municipal system that receives a new construction grant repay that portion of the federal grant attributable to that company's wastes. A portion of this repayment on the capital costs would go to the local community for future expansion and reconstruction of the system.

ENVIRONMENTAL FINANCING

A new Environmental Financing Authority is established by the amendments. This agency would purchase a community's sewage bonds at a reasonable interest cost to the community, if the community was unable to obtain a fair interest cost in private markets. Programs such as this, as well as the increased grant percentage and scope, should make more Delaware projects feasible. (See attached chart C).

REIMBURSEMENT

The amendments also recognize that many communities failed to receive the full 50% federal grant envisioned by the Congress at the time of passage of the Clean Water Restoration Act of 1966. In part, this was because many states failed to respond immediately with matching-grant programs that would have automatically increased the federal share. The 1972 amendments, retroactively, increase to 50% all grants that were made between July 1, 1966 and June 30, 1972.

At least five projects in Delaware will qualify for such retroactive grants, bringing at least $323,000 in additional funds to these communities. (See attached chart B).

STATE AGENCY SUPPORT

An important aspect of any program to control water pollution is the work of the state action agencies that develop and administer state-wide plans and priorities for implementing the water-pollution control program. Under present law, Delaware received $86,942 for agency support from the Federal government during fiscal year 1972.

The new law increases this form of assistance to make Delaware's already effective program more effective. While the actual allocation remains to be worked out, it is expected that Delaware would receive a sharp increase, possibly to several hundred thousand dollars, this fiscal year, if all funds are appropriated under the new amendments.

BRANDYWINE RIVER

The legislation also authorizes the EPA to designate selected river basins to be turned into pollution-free rivers as a model for other areas of the country.

The Senate report on the legislation specifies the Brandywine Valley as the best location for such a national demonstration. Once these amendments become law, a state or interstate group would apply to EPA for such model-river designation. Funds for demonstrating new pollution-control methods would come out of the annual demonstration budget, which totals $60,000,000 for fiscal 1973.

The bill also requires that anyone removing sewage sludge from one area and depositing it at another site, for the purposes of disposal, must obtain a permit if any of the sewage might drain into a river or lake. This requirement would cover situations like the possible removal of sewage sludge from the path of Highway I–95 near Philadelphia Airport and its disposition along the upper reaches of the Brandywine River.

TRAINING FACILITIES

The amendments authorize a program for Federal construction of training facilities to be built in connection with a sewage-treatment plant. The purpose would be to improve the skills of plant operators. One such facility is authorized per state, at a cost of up to $250,000 per state. Because of the excellent programs developed under the leadership of Delaware State College and the State,

it is anticipated that Delaware would qualify as the site for one of these training facilities.

PERMIT SYSTEM

The bill establishes a new national system of permits, which all industries and municipal dischargers must obtain. This replaces the permit program established under an 1899 Refuse Act, now tied up in the courts.

INDUSTRIAL POLLUTION

To obtain the necessary permit, any industrial discharger must meet the increasingly strict standards for control of pollution that are established by the legislation. The first deadline is July 1, 1977, when the industry must have in operation that level of control technology that EPA determines to be the best practicable.

The second deadline is July 1, 1983, when that plant must achieve the "best available technology economically achievable", a control level that is tighter than the 1977 standard. The "national goal" of the legislation is the elimination of all pollution discharges by 1985. Violations of a permit requirement or failure to obtain a permit subject the violator to fines of as much as $25,000 a day.

SMALL BUSINESS

The bill sets aside an $800,000,000 fund for low-interest loans to small businesses in Delaware and elsewhere in an effort to help them meet the pollution-control standards in the bill.

CITIZEN SUITS

This bill creates a mechanism allowing private citizens to go to court to assure the attainment of pollution-control standards.

OCEAN DUMPING

The bill effectively controls ocean dumping with a permit system.

The legislation prohibits the disposal of any sewage sludge at sea, if any of the sludge would wash into the navigable waters (the three-mile limit). Thus, to continue dumping off Rehoboth, the City of Philadelphia would have to show that its pollutants are not carried by currents into Delaware's waters or onto Delaware's beaches. If the sludge does enter these waters, the City of Philadelphia would have to obtain a permit for disposal. This new provision should assure firm and complete protection of Delaware's coastline.

Second, the bill restricts any discharge from a pipeline into the sea, even if the pipeline extends 100 miles to sea.

CHART A.—A SAMPLING OF DELAWARE PROJECTS STARTED AFTER JULY 1, 1972

Project (County in brackets)	Estimated total cost	Estimated eligible cost (under existing law)	50 percent grant level (old law)	75 percent grant level (new legislation)	Estimated increase
Little Mill Creek relief sewer (New Castle)	$452,000	$452,000	$226,000	$339,000	$113,000
Delaware City S. & P. improvements (New Castle)	250,000	250,000	125,000	187,500	62,500
Frederica (Kent)	473,000	137,380	68,690	354,750	286,060
Magnolia (Kent)	190,000	43,400	21,700	142,500	120,800
Bethany Beach (Sussex)	4,127,000	2,422,000	1,211,000	3,095,250	1,884,250
Brookside Cool Run (New Castle)	1,071,000	1,071,000	535,000	803,250	260,250
White Clay (New Castle)	857,000	857,000	428,500	642,750	214,250
Red Clay (New Castle)	830,000	830,000	415,000	622,500	207,500
Christina River (New Castle)	6,696,000	6,696,000	3,348,000	5,022,000	1,674,000
Brian Park (Kent)	2,900,000	700,000	350,000	2,175,000	1,825,000
Seaford (Sussex)	1,000,000	986,000	493,000	750,000	257,000
South Bethany (Sussex)	2,923,000	1,464,000	732,000	1,719,750	987,750
Odessa (New Castle)	580,000	580,000	290,000	435,000	145,000
Matson Run relief (New Castle)	$247,000	$247,000	$123,500	$185,250	$61,750
Devonshire relief (New Castle)	381,700	381,700	190,850	286,275	95,425
Button Wood relief (New Castle)	338,000	338,000	169,000	253,500	84,500
South Christina relief (pt. B) (New Castle)	932,000	932,000	466,000	699,000	233,000
Cheswold (Kent)	244,000	72,985	36,492	183,000	146,508
Hospital for mentally retarded (Sussex)	164,000	164,000	82,000	123,000	41,000
Smyrna P.S., F.M. (Kent)	40,000	38,500	19,250	30,000	10,750
Estimated costs on other projects to be funded soon	29,990,000	28,100,000	14,050,000	22,490,000	8,470,000
Total for Delaware	54,685,700	46,762,965	23,380,982	40,539,275	17,180,293

CHART B.—EXAMPLES OF DELAWARE PROJECTS APPROVED BETWEEN JULY 1, 1966 AND JUNE 30, 1972, THAT WOULD BE ELIGIBLE FOR SEC. 206 REIMBURSEMENT

Project	Total cost	Eligible cost	Grant level (30 percent)	Grant level (50 percent)	Sec. 206 increase
Selbyville	$1,944,385	$707,735	$212,310	$353,868	$141,558
Smyrna	327,000	260,000	78,000	130,000	52,000
Georgetown	107,900	107,900	39,170	53,950	14,780
Lord Baltimore School	$78,216	$78,216	$23,464	$39,108	$15,644
Harrington	497,472	497,472	149,241	248,736	99,495
Total					323,477

CHART C.—ADDITIONAL PROJECTS

Examples of Delaware Projects that have not proved attractive economically under a 50% grant formula, but which may prove to be attractive under the broader scope and higher Federal share established by the amendments.

(1) Frankford—Dagsboro
(2) Blades

FEDERAL WATER POLLUTION CONTROL AMENDMENTS OF 1972

Mr. BAYH. Mr. President, I support the conference report on S. 2770, the Federal Water Pollution Control Act Amendments of 1972. This bill is the product of many, many hours of meetings, both by the Public Works Committee here in the Senate, and by the House and Senate conferees. It is a strong, innovative, well-considered bill which will make a tremendous contribution to our effort to preserve and regain a clean, healthy environment. The distinguished Senator from Maine (Mr. MUSKIE), the distinguished chairman of the Senate Public Works Committee (Mr. RANDOLPH), and the distinguished ranking minority member (Mr. COOPER) deserve great credit for their work in bringing this bill through conference and to the floor. I was pleased to be able to work with them, both as a member of the Public Works Committee—and its Subcommittee on Air and Water Pollution—and as a member of the conference committee.

The bill before us, Mr. President, combines in many ways the best features of the differing water pollution control bills passed by the two Houses. The conference committee wisely chose to retain the national goals established in both bills: the primary goal of eliminating the discharge of pollutants into the water by 1985, and the interim goal of achieving water quality by 1983 sufficient to provide for the protection of fish and wildlife and for recreation in and on the water. The bill also contains the heart of the Senate bill: a continuing water pollution control program which is based on technology, instead of water quality standards. Under the conference bill, which is very similar to the Senate bill on this point, industry will have to meet increasingly stringent effluent limitations: by 1977, industry would have to meet limitations based on the best practicable technology; and by 1983, industry will have to meet more advanced effluent limitations based on the best available technology economically achievable—including no discharge of pollutants. The whole thrust of the bill is to force industry to do the best job it can do to clean up the Nation's water, and to keep making progress, without incurring such massive costs that economic chaos would result. Similarly, municipal treatment plants must consistently do better to meet this bill's standards: by 1977 these plants must meet secondary treatment standards, and by 1983, they must meet more advanced standards.

I should emphasize that this is a continuing program; no further congressional action is necessary—other than authorizations and appropriations, of course—for the program to operate. The House version of the bill had authorized a program only until 1976, with a study and further congressional action after that. The conferees retained the study, but it is no longer necessary, though it would be entirely possible if appropriate, for Congress to act to continue the program.

The conferees agreed to accept the House passed authorizations for grants to the States for the construction of waste treatment plants, including sewage collection systems. This is construction which is absolutely essential if we are to make any meaningful progress toward the national goals established in the bill. The total authorization for this purpose is $18 billion over the 3 fiscal years ending in 1975. There is no doubt

that this money is needed, for without substantial authorizations the bill would be little more than a series of empty promises. The amounts allocated for grants for construction of treatment works will be distributed to the States on the basis of need, with the Federal share of construction costs being 75 percent. Under the provisions of the bill, the allotments for my own State of Indiana for fiscal years 1974 and 1975 will amount to approximately $370 million—not enough to meet every need in my State, to be sure, but enough to make a very significant contribution to solving the problems we have.

The conferees also retained provisions which had appeared in both bills relating to new sources of water pollution. These sources will have to meet very high standards of effluent control—standards which are based not only on the technology available to control discharge, but also on available production processes. This means that in the design and construction of new industrial plants, methods for recycling wastes and otherwise minimizing the production of effluents will be taken into account. The result will be that as our older plants are replaced with newer ones, our water pollution problems will come more and more under control.

We have learned by disappointing experience, Mr. President, that without strict enforcement and meaningful deterrents, water pollution control laws will have no real effect. The bill before us provides the enforcement and deterrents we need. Enforcement of the standards in the bill will be accomplished by a permit program, initially to be run by the Administrator of the Environmental Protection Agency, and then, as soon as State programs are well underway, by the States themselves. The Administrator of the Environmental Protection Agency will not be able to veto a permit issued by a State except in very limited circumstances; when the permit does not conform to the guidelines or where another State complains. Of course, if a State program becomes inadequate, the program will revert to the Administrator. Each permit for discharges into the water will contain conditions which will assure that the effluent limitations in the bill are met. The Administrator of the Environmental Protection Agency can issue abatement orders if the law is violated.

Furthermore, the bill contains substantial deterrents, which should guarantee that the conditions of the permits and that the other provisions of this bill are complied with. Civil penalties of up to $10,000 per day of violation and criminal penalties of up to $50,000 per day of violation and 2 years imprisonment are provided.

In addition, the bill, like the Clean Air Act and other environmental legislation we have passed, contains provisions for citizen suits for injunctions against persons who violate the law or the conditions of permits—including the Administrator of Environmental Protection Agency and other Government officials. Citizen suits—in which the plaintiff cannot collect damages for himself, but can simply seek an injunction to prevent violations—can be a very important tool for keeping industry and Government alike from letting standards and enforcement slip. The conferees agreed to remove the very limiting restrictions the House bill had placed on citizen suits, and to substitute simply the requirement that the citizen who brings the suit have an interest—including, of course, an environmental or esthetic or recreational interest—which might be adversely affected. Though not as broad as the Senate bill, the citizen suit provision before us will not prevent any legitimately concerned citizen or group from bringing suit to prevent the law from being violated.

I invite the Senate's attention to three additional areas which are of particular interest. First, the bill continues existing programs for pollution control in the Great Lakes, and, in addition, creates a new clean lakes progrm, under which the States will classify their lakes according to condition, and develop plans for preventing pollution. Over the next 3 fiscal years, $300 million is provided for these purposes. I think this is a very important program, and I am hopeful we will be able to use it to help save Lake Michigan. Second, the bill requires the President to undertake to enter into international agreements for uniform standards of pollution control. This is a difficult assignment, of course, but it is a crucial one. Without such agreements, American businesses and jobs could suffer at the hands of those countries which do not have proper concern for the environment; and without uniform standards the world environment, and our own, will be spoiled by this pollution. Third, the bill contains provisions which are designed to prevent environmental blackmail. These provisions direct the Administrator of Environmental Protection Agency to investigate threatened plant closures or reductions in employment which allegedly result from water pollution control requirements, and to issue a report to the public on the incident.

I have been able, Mr. President, to touch only on the highlights of this bill. In addition, the bill contains provisions controlling the discharge of toxic pollutants, requiring areawide planning; providing for user charges in municipal treatment works; dealing with marine sanitation, oil spills, disposal of dredged spoils, and thermal pollution; creating ways for communities which otherwise cannot do so to raise money for their share of treatment works; funding additional research and development; and granting reimbursement to cities which built treatment plants under prior Federal law but never received reimbursement. Even with this listing, I have not exhausted the points covered by the bill.

Mr. President, a conference committee, if it is to succeed, must reconcile the differences between the Houses. The final result of reconciliation and compromise is sometimes an improvement—as this bill is in some areas—and sometimes a disappointment—as this bill on occasion is as well. On the whole, however, there can be no doubt that this is the most significant environmental legislation we have considered since the Clean Air Act. It is a good, sound, reasonable piece of legislation, which will, I believe, make it possible for us to meet our goal of clean waters. I will be pleased to vote for it.

Mr. EAGLETON. Mr. President, the Federal Water Pollution Control Act Amendments of 1972 have been the subject of careful and lengthy consideration by both bodies of the Congress. On the Senate side alone, members of the Air and Water Pollution Subcommittee and the Public Works Committee have met well over a hundred times in public hearings, executive sessions, and conferences with the House Public Works Committee on this important legislation. Few bills are the subject of the kind of intensive scrutiny and careful deliberation which this bill received. The time and energy which it commanded from Members of both bodies of Congress is a fair measure of the urgent need for this legislation and its importance to the Nation.

If one word best describes the Federal Water Pollution Control Act Amendments of 1972, it is the word "comprehensive." It is comprehensive in its coverage of water pollution sources; it provides a broad-gauged but tightly knit programmatic attack on water pollution; and it engages all levels of government, and enlists individual citizens as well, in a concerted national effort to cleanse our water. By any objective measure, enactment of this bill would mark the most significant advance in the almost 20-year history of the Federal water pollution control program.

For this reason, Mr. President, I was greatly surprised recently to hear of a speech delivered by the Administrator of the Environmental Protection Agency, Mr. Ruckelshaus, in which he reportedly stated that he will be able to conduct a successful water pollution control program in the future without this legislation. If the reports of his statements are reliable, and I have no reason to doubt them, the administration's thinking has changed markedly since Mr. Ruckelshaus last discussed the Federal water pollution control program with Members of this body.

Mr. President, it is also profoundly regrettable that the statements attributed to Mr. Ruckelshaus are being characterized as an effort on his part to lay the groundwork for a Presidential veto of the Federal Water Pollution Control Act Amendments of 1972. I know I speak for all Members of this body when I say that I hope that the early reports of an impending Presidential veto of this important bill have been greatly exaggerated. A Presidential veto of this bill would wreak havoc on the water pollution control programs of the 50 States and undercut plans already made by hundreds of municipalities to build advanced waste water treatment plants.

If the Federal Water Pollution Control Act Amendments of 1972 fail to become law for want of the President's signature, the water pollution control program in the State of Missouri will suffer a grave setback. The taxpayers of Missouri have voluntarily assumed an additional tax burden in order to pay for construction

of waste water treatment plants. At the present time, State authorities are receiving about 75 applications per year for construction assistance and total investment in treatment works is running at about $80 million per year. Approximately $20 million of that total represents Missouri's matching share of sewage treatment plant construction funding under existing law.

According to my computations, Mr. President, Missouri could expect to receive approximately $180 million in Federal assistance for fiscal 1973 and 1974 under the Federal Water Pollution Control Act Amendments of 1972. If the bill fails to become law, the State of Missouri will be forced to pursue other, and probably lesser, sources of Federal assistance for sewage treatment plant construction.

To be even more specific, Kansas City, Mo., plans to spend approximately $80 million over the next 3 to 4 years for sewage treatment plant construction and St. Louis and St. Louis County anticipate expenditures of approximately $140 million in the same period. If this legislation does not become law, it will be a serious setback for Kansas City and the Greater St. Louis area.

I might also note that failure of this bill to become law would cost St. Louis an additional $13 million and Kansas City an additional $9.3 million in funds which would be reimbursed to them under the bill for investments they made in sewage treatment plants when the full Federal matching share was not available to them.

This bill is also of critical importance to the continued health and vitality of the vigorous Missouri water pollution control program. I understand that approximately one-half of the Missouri water pollution control personnel and the entire enforcement capability of the Missouri water pollution control program will be lost if this bill fails to become law.

There are, of course, other provisions in the Federal Water Pollution Control Act Amendments of 1972 which are of intense interest to Missourians. The new research and demonstration project programs on agricultural pollution are of considerable importance to many people in Missouri. The same can be said of the new authority in the bill for construction of joint municipal-industrial waste treatment facilities. And the National Pollutant Discharge Elimination System and the innovations in the Federal-State relationship it embodies are as important to the success of the Missouri water pollution control efforts as they are important to the entire national program.

Mr. President, a great deal is at stake in this legislation. I urge the Members of this body to approve the report of the conference committee, and I call upon the President to sign this measure at an early date.

Mr. BAYH. Mr. President, I wish to direct a question to the distinguished Senator from Maine (Mr. MUSKIE) concerning the definition of water pollution in section 502 of this bill. As we are all aware, the problem of excessive, ocean-derived salt water intrusion is a matter of the most serious concern as it affects the estuaries, tidal marshlands and other water bodies of our country.

Under section 208(b)(2)(I) of the bill, areawide waste treatment plans must contain a process to identify this salt water intrusion and procedures and methods to control such intrusion to the extent feasible.

My question to the distinguished Senator is whether such salt water intrusion is pollution within the definition contained in section 502 of the bill?

Mr. MUSKIE. I am happy to reply to the Senator. Such salt water intrusion to which the Senator refers resulting from reduction of fresh water flows from any cause, including irrigation, obstruction, upstream storage, ground water extraction and diversions, is no less a problem in various areas of the country than many of the other serious pollutants which threaten our fresh water supplies. As was noted in the report of the Senate Committee on Public Works last October:

> Salt water intrusion, no less than point sources of discharge, alters significantly the character of the water and the life system it supports. Salt water intrusion often devastates the commercial shellfish industry. It must be accounted for and controlled in any pollution control program. It makes no sense to control salts associated with industrial or municipal point sources and allow, at the same time, similar effects to enter the fresh water as a result of intrusion of salt water. The bill requires identification of those causes and establishment of methods to control them so as to minimize the impact of salt water intrusion.

That language is as valid today as it was last year. For that reason, in answer to the Senator's question, I would state that it is the intent of the conferees and of the bill that such salt water intrusion is pollution as defined in section 502 of the bill.

Mr. BAYH. Mr. President, I would like to direct a few questions to the distinguished Senator from Maine (Mr. MUSKIE) concerning the citizen suit provision of this bill, section 505. My friend from Maine and I have worked together closely on this provision in the conference, but I wish to inquire for the record.

Section 505 is identical to the comparable Senate provision, with two changes. One concerns the time period before a suit may be brought. The other concerns the definition of "citizen." Is this correct?

Mr. MUSKIE. The Senator is correct. The provision in subsection 505(b) of the Senate bill which had permitted the bringing of an immediate action has been modified to permit the bringing of immediate action after notification only with respect to a violation of sections 306 and 307(a) of the act.

The other change does concern the definition of citizen. Under the Senate bill, as under the Clean Air Act, there was no definition of citizen. The House bill had defined it in a way which might have severely restricted citizen suits. The conference agreed to define "citizen" to mean "a person or persons having an interest which is or may be adversely affected."

Mr. BAYH. Under the definition of "citizen" could a group of persons, like a club, or a corporation or an unincorporated association bring a citizen suit, if the other requirements were met?

Mr. MUSKIE. Yes. The definition of "citizen" includes "persons" and it is intended that this word include groups like those you have identified. Under section 1 of title 1 of the United States Code, the word "person" would be so defined.

Mr. BAYH. I thank the Senator. Let me explore now the concept of "an interest which is or may be adversely affected." Would an interest in a clean environment—which would be invaded by a violation of the Federal Water Pollution Control Act or a permit thereunder—be an "interest" for purposes of this section?

Mr. MUSKIE. That is the intent of the conference, as I am sure the Senator from Indiana well knows. The conference report states:

> It is the understanding of the conferees that the conference substitute relating to the definition of the term "citizen" reflects the decision of the U.S. Supreme Court in the case of Sierra Club v. Morton (No. 70-34, April 19, 1972).

In the Sierra Club case, the Supreme Court was asked to interpret section 10 of the Administrative Procedures Act—5 U.S.C., section 702—which contains wording similar to that of section 505(g) of the conference bill. The Supreme Court emphasized that "the interest alleged to have been injured may reflect aesthetic, conservational and recreational as well as economic values." The Court also said:

> Aesthetic and environmental well-being, like economic well-being, are important ingredients of the quality of life in our society, and the fact that particular environmental interests are shared by the many rather than the few does not make them less-deserving of legal protection through the legal process.

Thus it is clear that under the language agreed to by the conference, a non-economic interest in the environment, in clean water, is a sufficient base for a citizen suit under section 505.

Further, every citizen of the United States has a legitimate and established interest in the use and quality of the navigable waters of the United States. Thus, I would presume that a citizen of the United States, regardless of residence, would have an interest as defined in this bill regardless of the location of the waterway and regardless of the issue involved.

Mr. BAYH. I thank my good friend from Maine. I believe that the conference provision will not prevent any person or group with a legitimate concern about water quality from bringing suit against those who violate the act or a permit, or against the Administrator if he fails to perform a nondiscretionary act. These sorts of citizen suits—in which a citizen can obtain an injunction but cannot obtain money damages for himself—are a very useful additional tool in enforcing environmental protection laws. I am glad to see that authority for such suits is included in this bill.

Mr. MUSKIE. I thank the Senator from Indiana for his interest and for his help on this bill.

Mr. BAYH. I am grateful to the Senator for his hard work on this bill.

Mr. JAVITS. Mr. President, the bill which we are about to pass tonight represents landmark legislation which has been worked out over a period of many months by the Public Works Committees in both Houses. All involved deserve our congratulations and respect for this momentous accomplishment.

This bill represents a great step forward in the difficult fight against water pollution—a fight which we must win. New York State has for years been the leader in the effort to establish adequate treatment facilities and this bill will put the financing of these facilities on a much sounder basis as well as providing reimbursement for past efforts.

I hope that the States and all private businesses will make the effort required by this bill and that we will see the high goals called for in this bill reached at the time specified.

The PRESIDING OFFICER. The question is on agreeing to the conference report. 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 Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Oklahoma (Mr. HARRIS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Rhode Island (Mr. PELL), the Senator from Michigan (Mr. HART), the Senator from Louisiana (Mr. LONG), and the Senator from Minnesota (Mr. MONDALE) 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), the Senator from Rhode Island (Mr. PELL) 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. BROCK), the Senator from Arizona (Mr. GOLDWATER), the Senator from South Carolina (Mr. THURMOND), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Delaware (Mr. BOGGS), the Senator from Oregon (Mr. HATFIELD), the Senator from Texas (Mr. TOWER), and the Senator from South Carolina (Mr. THURMOND) would each vote "yea."

Also the Senator from Delaware (Mr. BOGGS), the Senator from New Jersey (Mr. CASE), the Senator from Colorado (Mr. DOMINICK), the Senator from Oregon (Mr. HATFIELD), the Senator from Ohio (Mr. SAXBE), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 74, nays 0, as follows:

[No. 520 Leg.]

YEAS—74

Aiken	Ervin	Moss
Allen	Fannin	Muskie
Baker	Fong	Nelson
Bayh	Fulbright	Packwood
Beall	Gambrell	Pastore
Bellmon	Gravel	Pearson
Bennett	Griffin	Percy
Bentsen	Gurney	Proxmire
Bible	Hansen	Randolph
Brooke	Hartke	Ribicoff
Buckley	Hollings	Roth
Burdick	Hruska	Schweiker
Byrd, Harry F., Jr.	Hughes	Scott
Byrd, Robert C.	Humphrey	Smith
Cannon	Inouye	Sparkman
Chiles	Jackson	Spong
Church	Javits	Stafford
Cook	Jordan, N.C.	Stennis
Cooper	Jordan, Idaho	Stevens
Cotton	Magnuson	Stevenson
Cranston	Mansfield	Symington
Curtis	Mathias	Taft
Dole	McClellan	Talmadge
Edwards	Miller	Tunney
	Montoya	Williams

NAYS—0

NOT VOTING—26

Allott	Harris	Mondale
Anderson	Hart	Mundt
Boggs	Hatfield	Pell
Brock	Kennedy	Saxbe
Case	Long	Thurmond
Dominick	McGee	Tower
Eagleton	McGovern	Weicker
Eastland	McIntyre	Young
Goldwater	Metcalf	

So the conference report was agreed to.

ANTIHIJACKING ACT OF 1972

Mr. CANNON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2280.

The PRESIDING OFFICER (Mr. GAMBRELL) laid before the Senate the amendment of the House of Representatives to 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; which was to strike out all after the enacting clause, and insert:

That this Act may be cited as the "Anti-Hijacking Act of 1972".

SEC. 2. Section 101(32) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(32)), is amended to read as follow:

"(32) The term 'special aircraft jurisdiction of the United States' includes—

"(a) civil aircraft of the United States;

"(b) aircraft of the national defense forces of the United States;

"(c) any other aircraft within the United States;

"(d) any other aircraft outside the United States—

"(i) that has its next scheduled destination or last point of departure in the United States, if that aircraft next actually lands in the United States; or

"(ii) 'having an offense', as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, committed aboard, if that aircraft lands in the United States with the alleged offender still aboard; and

"(e) other aircraft leased without crew to a lessee who has his principal place of business in the United States, or if none, who has his permanent residence in the United States;

while that aircraft is in flight, which is from the moment when all external doors are closed following embarkation until the moment when one such door is opened for disembarkation, or in the case of a forced landing, until the competent authorities take over the responsibility for the aircraft and for the persons and property aboard."

SEC. 3. Section 902 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472), is amended as follows:

(a) By striking out the words "violence and" in subsection (1)(2) thereof, and by inserting the words "violence, or by any other form of intimidation, and" in place thereof;

(b) By redesignating subsections (n) and (o) thereof as "(o)" and "(p)", respectively, and by adding the following new subsection:

"AIRCRAFT PIRACY OUTSIDE SPECIAL AIRCRAFT JURISDICTION OF THE UNITED STATES

"(n)(1) Whoever aboard an aircraft in flight outside the special aircraft jurisdiction of the United States commits 'an offense', as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, and is afterward found in the United States shall be punished—

"(A) by death if the verdict of the jury shall so recommend, or in the case of a plea of guilty, or a plea of not guilty where the defendant has waived a trial by jury, if the court in its discretion shall so order; or

"(B) by imprisonment for not less than twenty years, if the death penalty is not imposed.

"(2) A person commits 'an offense', as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft when, while aboard an aircraft in flight, he—

"(A) unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act; or

"(B) is an accomplice of a person who performs or attempts to perform any such act.

"(3) This subsection shall only be applicable if the place of takeoff or the place of actual landing of the aircraft on board which the offense as defined in paragraph 2 of this subsection is committed is situated outside the territory of the State of registration of that aircraft.

"(4) For purposes of this subsection an aircraft is considered to be in flight from the moment when all the external doors are closed following embarkation until the moment when one such door is opened for disembarkation, or in the case of a forced landing, until the competent authorities take over responsibility for the aircraft and for the persons and property aboard."

(c) By amending redesignated subsection (o) thereof by striking out the reference "(m)", and by inserting the reference "(n)" in place thereof.

SEC. 4. (a) Title XI of the Federal Aviation Act of 1958 is amended by adding a new section 1114 as follows:

"SUSPENSION OF AIR SERVICES

"SEC. 1114. (a) Whenever the President determines that a foreign nation is acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft, he may, without notice or hearing and for as long as he determines necessary to assure the security of aircraft against unlawful seizure, suspend (1) the right of any air carrier and foreign air carrier to engage in foreign air transportation, and any persons to operate aircraft in foreign air commerce, to and from that foreign nation and (2) the right of any foreign air

carrier to engage in foreign air transportation, and any foreign person to operate aircraft in foreign air commerce, between the United States and any foreign nation which maintains air service between itself and that foreign nation. Notwithstanding section 1102 of this Act, the President's authority to suspend rights in this manner shall be deemed to be a condition to any certificate of public convenience and necessity or foreign air carrier or foreign aircraft permit issued by the Civil Aeronautics Board and any air carrier operating certificate or foreign air carrier operating specification issued by the Secretary of Transportation.

"(b) It shall be unlawful for any air carrier or foreign air carrier to engage in foreign air transportation, or any person to operate aircraft in foreign air commerce, in violation of the suspension of rights by the President under this section."

(b) Title XI of the Federal Aviation Act of 1958 is amended by adding a new section 1115 as follows:

"SECURITY STANDARDS IN FOREIGN AIR TRANSPORTATION

"SEC. 1115. (a) Not later than 30 days after the date of enactment of this section the Secretary of State shall notify each nation with which the United States has a bilateral air transport agreement or, in the absence of such agreement, each nation whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to section 402 of the Federal Aviation Act of 1958, of the provisions of subsection (b) of this section.

"(b) In any case where the Secretary of Transportation, after consultation with the competent aeronautical authorities of a foreign nation with which the United States has a bilateral air transport agreement and in accordance with the provisions of that agreement or, in the absence of such agreement, of a nation whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to such section 402, finds that such nation does not effectively maintain and administer security measures relating to transportation of persons or property or mail in foreign air transportation that are equal to or above the minimum standards which are established pursuant to the Convention on International Civil Aviation or, prior to a date when such standards are adopted and enter into force pursuant to such convention, the specifications and practices set out in appendix A to Resolution A17-10 of the Seventeenth Assembly of the International Civil Aviation Organization, he shall notify that nation of such finding and the steps considered necessary to bring the security measures of that nation to standards at least equal to the minimum standards of such convention or such specifications and practices of such resolution. In the event of failure of that nation to take such steps, the Secretary of Transportation, with the approval of the Secretary of State, may withhold, revoke, or impose conditions on the operating authority of the airline or airlines of that nation."

SEC. 5. Section 901(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1471(a)) is amended by inserting the words "or section 1114" before the words "of this Act" when those words first appear in this section.

SEC. 6. Section 1007(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1487(a)) is amended by inserting the words "or, in the case of a violation of section 1114 of this Act, the Attorney General," after the words "duly authorized agents,".

SEC. 7. That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the heading

"Sec. 902. Criminal penalities.",

is amended by striking out the following items:

"(n) Investigations by Federal Bureau of Investigation.

"(o) Interference with aircraft accident investigation.";

and by inserting the following item in place thereof:

"(n) Aircraft piracy outside special aircraft jurisdiction of the United States.

"(o) Investigations by Federal Bureau of Investigation.

"(p) Interference with aircraft accident investigation.";

and that portion which appears under the heading

"TITLE XI—MISCELLANEOUS"

is amended by adding at the end thereof the following:

"Sec. 1114. Suspension of air services.

"Sec. 1115. Security standards in foreign air transportation.".

Mr. CANNON. Mr. President, I move that the Senate not agree to the House amendments to S. 2280 and that the Senate request a conference with the House on the disagreeing amendments of the two Houses and that the Presiding Officer be authorized to appoint conferees on behalf of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. GAMBRELL) appointed Mr. MAGNUSON, Mr. CANNON, Mr. HARTKE, Mr. BEALL, and Mr. WEICKER conferees on the part of the Senate.

SOCIAL SECURITY AMENDMENTS OF 1972—AMENDMENT

AMENDMENT NO. 1707

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

Mr. CRANSTON (for himself, Mr. JAVITS, Mr. MONDALE, Mr. KENNEDY, Mr. WILLIAMS, Mr. HARRIS, Mr. TAFT, Mr. SCHWEIKER, Mr. BROOKE, Mr. CASE, Mr. COOK, Mr. HART, Mr. STEVENSON, Mr. HUMPHREY, Mr. MUSKIE, Mr. BAYH, Mr. MONTOYA, Mr. HART, Mr. HUGHES, Mr. HARTKE, Mr. RIBICOFF, Mr. TUNNEY, Mr. NELSON, Mr. GRAVEL, Mr. INOUYE, Mr. MOSS, and Mr. CHURCH) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 1) to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes.

AMENDMENT NO. 1708

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

Mr. CRANSTON submitted an amendment intended to be proposed by him to the bill (H.R. 1), supra.

AUTHORIZATION OF FEDERAL PAYMENT FOR CONSTRUCTION OF A TRANSIT LINE IN THE MEDIAN OF DULLES AIRPORT ROAD

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1097, S. 2952.

The PRESIDING OFFICER (Mr. GAMBRELL). The bill will be stated by title.

The assistant legislative clerk read as follows:

S. 2952, to authorize a Federal payment for the construction of a transit line in the median of the Dulles Airport Road.

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 Commerce with amendments.

On page 1, at the beginning of line 6, strike out the word "section" and insert "sections:";

On page 2, line 1, after the word "designing,", strike out "constructing, and equipping" and insert "and other necessary planning for";

At the beginning of line 7, strike out "$90,000,000" and insert "$10,000,000";

In line 11, after the word "System", strike out ", but the cost of any intermediate stations on such a transit line shall not be included in this authorization.";

In line 14, after the word "authorized", insert "to be planned";

In line 20, after the word "authorized", insert "to be planned";

In line 25, after the word "exceed", strike out "$90,000,000" and insert "$10,000,000";

On page 3, line 3, after the word "Act.", strike out the quotation mark;

And, after line 3, insert a new section, as follows:

"SEC. 10. (a) The Secretary of Transportation is authorized and directed to contract with the Transit Authority for a comprehensive study of the feasibility, including preliminary engineering of extending a rapid transit line in the median of the Baltimore-Washington Expressway from proposed Greenbelt Road Metro Station area near the Baltimore-Washington Expressway to the Friendship International Airport.

"(b) The study to be undertaken pursuant to subsection (a) of this section shall be completed within six months after execution of the contract authorized therein at a cost not in excess of $150,000 and there is authorized to be appropriated not to exceed $150,000 to carry out the purposes of this section."

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Capital Transportation Act of 1969, approved December 9, 1969 (83 Stat. 320), is hereby amended by adding at the end thereof the following new sections:

"SEC. 9. (a) The Secretary of Transportation shall make payments to the Transit Auhority in such amounts as may be requisitioned from time to time by the Transit Authority sufficient, in the aggregate, to finance the cost of designing, and other necessary planning for a rail rapid transit line in the median of the Dulles Airport Road from the vicinity of Virginia Highway Route 7 on the K Route of the Adopted Regional System of the Dulles International Airport; except that the aggregate amount of such payments shall not exceed $10,000,000.

"(b) The transit line authorized to be planned in subsection (a) of this section shall include appropriate station facilities at the Dulles International Airport and at the point of intersection with the Adopted Regional System.

"(c) Upon completion of the transit line authorized to be planned in this section, all

transit facilities and the underlying real estate interests appurtenant thereto shall become the property of the Transit Authority and shall be operated by such Authority.

"(d) It is the intent of the Congress in enacting this section that the transit line authorized to be planned in this section be designed and constructed as soon as practicable following the date of the enactment of this section.

"(e) There is authorized to be appropriated to the Secretary of Transportation, without fiscal year limitation, not to exceed $10,000,000 to carry out the purposes of this section. The appropriations authorized in this subsection shall be in addition to the appropriations authorized by section 3(c) of this Act.

"SEC. 10. (a) The Secretary of Transportation is authorized and directed to contract with the Transit Authority for a comprehensive study of the feasibility, including preliminary engineering of extending a rapid transit line in the median of the Baltimore-Washington Expressway from proposed Greenbelt Road Metro Station area near the Baltimore-Washington Expressway to the Friendship International Airport.

"(b) The study to be undertaken pursuant to subsection (a) of this section shall be completed within six months after execution of the contract authorized therein at a cost not in excess of $150,000 and there is authorized to be appropriate not to exceed $150,000 to carry out the purposes of this section."

Mr. GRIFFIN. Mr. President, will the distinguished Senator from Virginia yield?

Mr. SPONG. I am pleased to yield to the Senator from Michigan.

Mr. GRIFFIN. Do I correctly understand that an amendment offered by the distinguished Senator from Maryland (Mr. BEALL) is in this legislation?

Mr. SPONG. Yes; that amendment is, I believe, a committee amendment and I will ask that the amendments be considered and agreed to en bloc: That amendment provides for a feasibility study of a rapid transit system to Friendship Airport. It was presented by the Senator from Maryland (Mr. BEALL) in the committee and was adopted by the committee and will be made a part of this legislation.

Mr. GRIFFIN. I thank the distinguished Senator from Virginia.

Mr. SPONG. Mr. President, the legislation before the Senate is must legislation if we are to redress the imbalance which now exists in usage of the Washington area airports.

Air traffic at National continues to grow, fostered by Federal policies, while only minimal attention is given to Dulles Airport, which, like National, is federally owned, or, for that matter, to Friendship which is also a part of the Washington area air service system.

S. 2952, as reported from the Senate Committee, authorizes $10 million for preliminary planning and engineering work on a rapid rail transit line in the median of the Dulles Airport Highway. The $10 million would cover necessary surveys, soil borings, preparation of general plans, preparation of contract plans and specifications, and certain overhead expenses. The amended bill also provides for a feasibility study of rapid transit to Friendship International Airport.

This bill had its origins 3 years ago when I introduced an amendment to the metro authorization bill providing for a feasibility study of the Metro system. That amendment was adopted and, subsequently, an appropriation of $150,000 was allowed for the study.

Finally, in July 1971, the study was completed. It concluded that there were no engineering or economic obstacles to early construction of such a line and that it would be a "vital link with what will be the area's most important airport and an important branch of the metropolitan Washington rapid transit line."

Through the years, every major organization which has had anything to do with the airport, including the Federal Aviation Administration, the air carriers and business and civic groups, have pointed to the critical need for better transportation to Dulles. Typical of the statements made, was this comment by a representative of the Air Transport Association at a Senate District of Columbia Committee hearing at Dulles Airport in May 1969:

The airlines believe that inadequate through-highway access is a major constraint to the growth of passenger traffic at Dulles as there is no single continual limited access highway to the District's Metropolitan center. We urge that the necessary steps be taken to extend the Dulles access road to the District or to a connecting point on the proposed extension of U.S. Route 66 from the Capital Beltway into the District.

In addition, we recommend that consideration be given to the development of a high-speed transit system which would provide direct airport access between Dulles and the District. The Department of Transportation may well find that it has the opportunity to create such a system as a demonstration or prototype project. In addition to making Dulles more accessible to the public, this system would serve as a model for other major airport communities interested in solving airport access problems.

In large measure, the present imbalance in the utilization of Dulles and National Airports owes to the absence of any convenient through routes to Dulles. That is the missing link in the development of this modern and superbly appointed facility. The contrasting convenience of National will be even more pronounced in years ahead in view of plans to have an operating Metro station at National in late 1975 or early 1976. Unless we take steps now to authorize and begin planning for a Dulles Metro line, the already serious imbalance in the use of the two airports will be even further aggravated.

The bill before us today provides for Department of Transportation funding of preliminary planning and engineering. This is appropriate considering that Dulles Airport and the Dulles Highway are wholly federally owned. Federal financing can also be justified on grounds that this line would serve as a demonstration for other communities with airport access problems. I will note here that the Department of Transportation, a few months ago, was prepared to invest $22 million or thereabouts in the construction of a trackless air cushion vehicle in the median of the Dulles highway purely on demonstration and prototype grounds.

According to the consultant's study, the Dulles line, when completed, would produce a net revenue gain beyond operating and maintenance costs. So, some part of the capital expenditure would probably be reimbursed to the Federal Government under the terms of the Metro Act, once the line is in operation.

S. 2952 was introduced on December 6, 1971, by myself and 10 cosponsors: Senators BAKER, BIBLE, NELSON, DOMINICK, PELL, EAGLETON, BELLMON, CHILES, TUNNEY, and HOLLINGS. Hearings were held on June 16, 1972. The Senate Commerce Committee reported S. 2952, as amended, on September 15.

In reporting the bill, the committee noted:

Having fully considered the study report and the testimony of witnesses taken at hearings held on June 16, the committee believes that in order to develop Dulles Airport into a fully viable facility, it is necessary that it be made more readily accessible to the commuter whose trip originates or ends in the corridor extending from the airport to the District of Columbia. The committee feels that this can best be accomplished by extending the rail rapid transit facilities now being constructed by the Washington Metropolitan Area Transit Authority to Dulles Airport, and it is urgent that the planning and design of these facilities start immediately so that this extension may be available for operation when the rail line to which it connects at I–66 is opened for revenue service. The committee has taken cognizance of the present plans of the Washington Metropolitan Area Transit Authority to begin operations of service to Washington National Airport by 1976 and feels that for the sake of attaining a balance between the demands for service from these sister airports, work should begin now to make Dulles Airport equally accessible.

The committee also recognizes that Friendship is one of the three large airports serving the Washington metropolitan region and that it provides flights for many citizens of the Washington area. Because of the increasing use of this airport by Washington area residents, it seemed desirable to the committee to study a possible linkup between Washington's Metro system and the Airport, a distance of only 15 to 20 miles. This would further enable the Washington system to be linked to the Baltimore Metro system now in the planning stage. The Baltimore system has already planned a spur to Friendship.

Mr. President, I urge passage of this bill.

Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, the committee amendments are considered and agreed to en bloc.

The bill is open to further amendment. Who yields time?

Mr. PROXMIRE. Mr. President, I understand that there is a division of time of one-half hour on the bill, with 15 minutes on a side; is that correct?

The PRESIDING OFFICER. The Senator is correct. The division of time is between the Senator from Virginia (Mr. SPONG) and the assistant minority leader (Mr. GRIFFIN).

Mr. PROXMIRE. Mr. President, will the Senator from Michigan yield me 7 minutes?

Mr. GRIFFIN. Mr. President, I am glad to yield such time as remains on this side to the distinguished Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, a wise Senator told me some 15 years ago when

I first entered the Senate to beware of spending bills that emerge from under a rock at the end of a session. "Here," said the Senator are the worst steals, giveaways, throw-aways that could not stand the light of day." Mr. President, the pending bill is an almost perfect example of this. We have before us today a piece of legislation that comes about as close as any bill we have taken up this session to being a Federal giveaway. I refer to S. 2952, which would authorize the expenditure of $10 million on the planning—and I emphasize the fact that this large amount would be spent on planning alone—of a rapid transit system to Dulles Airport.

What would the ultimate cost of such a system be? Well, according to the report on the bill the cost in 1969 dollars, exclusive of vehicles for the system, would be $90 million. It is not at all clear from the report whether this is a recent estimate or was made in 1969. I assume the latter, since the estimate has been given in 1969 dollars. This would mean that the price today would be well over $100 million.

So before we even begin to consider the bill we have to recognize the fact that we have no very good idea as to what the ultimate cost of this system would be. In fact we do not even have a printed hearing record on the legislation that all Senators can examine. And if there is another purpose for hearings other than to let Senators know about this before we make history. Had I not been able to get hold of a copy of the transcript I would not have learned that the Department of Transportation, the only Federal agency testifying on this legislation, strongly opposes the bill.

But let us assume that we have an up-to-date cost estimate. Let us assume that one were made available to the Senate, by magic, as it were. We still would be confronted with the fact that the part of the metropolitan rapid transit system to which the Dulles link would be attached will not be completed until 1978—6 years from now. Consequently, unless we want to build a spur from Dulles to I–66 with no access to metropolitan Washington, a rather fruitless undertaking, we are authorizing the first step in a system that would not be constructed until 1978. Lord only knows how much it will cost at that time to build the Dulles link. Even if we assume that this is a worthy project—and I reject that assumption—what in the world is the rush?

Furthermore, not only do we have no idea as to what sort of costs are ultimately involved here, we do not even know where the starting point of this Dulles line will be. As Under Secretary of Transportation Beggs points out in his testimony before the Commerce Committee:

S. 2952 envisages a linkage between the airport route and the K Route of the Adopted Regional System. Unfortunately the future of the K route is now in doubt as it was to be constructed in the median strip of I–66, the construction of which has been halted by court order. It may well be that the location and/or design of I–66 will be altered as a result of this court action.

Consequently the Congress, if it passes this legislation will be approving a rapid transit system without knowing how much it will cost or where it will go.

How about local governments? What share of the costs of this system are they paying? After all the system will have local stops, it appears from the report, that will benefit communities in northern Virginia. This is undoubtedly why representatives of Fairfax County—the second richest county in all America—Reston, Herndon, Loudon County, and Falls Church testified in favor of the bill.

Here is another reason why these local officials support the bill: They would not incur one single dime of cost as the result of the passage of this legislation. Any local government leader worth his salt would jump at the opportunity to gain a rapid transit system without cost. But the question that bites is: Should the Congress pass a giveaway bill of this dimension to some of the richest counties in America? The answer is "no."

How about other major cities. Do they have rapid transit systems to their large airports? Does Paris have a rapid transit system to Orly? The answer is no. Does London have a rapid transit system to Heathrow? Again the answer is no. New York to Kennedy?—No. How about Chicago, San Francisco to their airports? No again. If these major cities, some with transit system in existence for scores of years, have not even now completed spur lines to their airports, why should Washington, with no transit system at present, make such a commitment before we even know how effectively rapid transit will work? To ask the question is to answer it.

There are other good reasons why it is ridiculous to approve a rapid transit link to Dulles at this point. Improved technology could result in a better system if we wait a while—and as I have pointed out there is no rush. Why further encumber a Government faced with the largest peacetime deficit in its history? But I think the considerations I have spelled out here today make it abundantly clear that to authorize final planning for a Dulles link would be a vast mistake. We do not know how much it will finally cost, we do not know where it will go, we have no hearing record before us, other major world cities do not have such systems, there is no local cost sharing, the reasons for not passing the bill are myriad.

I ask unanimous consent to have an excerpt from Under Secretary Beggs testimony opposing the bill inserted in the RECORD at this point.

There being objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT FROM TESTIMONY OF UNDER SECRETARY BEGGS

Let me share with the Committee some of the problems we face in evaluating this proposal, and which have led us to believe the most prudent course is to defer action on this measure at this time.

As you know, S. 2952 envisions a linkage between the airport route and the K Route of the Adopted Regional System. Unfortunately, the future of the K Route is now in doubt as it was to be constructed in the median strip of I–66, the construction of which has been halted by court order. It may well be that the location and/or design of I–66 will be altered as a result of this court action. An authorization of this connecting route should, therefore, await a resolution with respect to the K Route.

Likewise, even assuming that the legal entanglement concerning I–66 is settled rapidly and satisfactorily, this particular line is not scheduled to be operational until 1978, six years hence. To construct the airport connection at this time, then, would serve no truly useful purpose. While some costs may be saved by construction now, we may well find in a year or so that newer, faster, and more efficient technology is available for the same purpose and that the airport system is outdated before it is operational. In this regard, I might add that the Department is still exploring the possibility of running a tracked air cushioned vehicle (TACV) to Dulles.

The cost of the project also raises serious questions. We have examined the feasibility study on Dulles access carried out last year, and the data would seem to indicate that the line might be self-supporting, at least based on projected costs and ridership. Clearly, a more refined look at this whole question is needed to determine the most appropriate method of financing such a project. In this regard, I would also remind the Committee that the Federal Government is currently operating under extreme financial structures, and that this is not the time, we believe, for a project which will not become operative until six years hence.

Before we proceed, there is one additional question that must be resolved. It has been our experience that transportation projects, if they are to be successfully implemented, must be of local concern and carry with them local commitments. A superimposed solution almost always fails; a locally-selected solution is normally better-suited to the precise needs of the urban area involved. The Federal Government should help supply the resources needed to select and implemented such projects, but it should not make the decisions which most properly belong to the local communities themselves.

The stimulation of this mix of local interest and initiative is, of course, a delicate matter. In the area of rapid transit, however, we have found it accomplished best through a funding arrangement which requires the localities to provide one-third of the cost of federally assisted capital projects. There is an old saying that one should never look a gift horse in the month, and it is our fear that the local communities will take precisely that attitude when faced with 100 percent federal financing. While we truly believe that the proposal to provide good transit service to Dulles is in the public interest, we also believe it should be fully developed, refined and supported by the metropolitan area it will serve. Further, we believe that if the local jurisdictions are not sufficiently convinced of the project's merit or importance to contribute a portion of its cost, we may be deceiving ourselves as to its real value.

I want to make it clear that our position on this measure in no way negates our support for improved transportation in this region. Our continued and strong support for the metro system and its financial strength, our willingness to work with local governments concerning the current bus transportation dilemma, our close cooperation with the District government to recommend a viable and effective interstate highway system, and our $3 million transportation planning grant to the region all give evidence of our interest in and support of effective regional transportation.

I also pledge today to offer the full measure of the Department's expertise and ex-

perience in aiding the region to assess the place transit in the Dulles corridor has among its priorities.

The transit improvement proposed by this bill is really no more than a skeletal conception. Before the Federal Government agrees to provide assistance for a particular transit system serving Dulles, the locality should develop a solid plan of action which takes into consideration much more than just one means of providing access to Dulles Airport. It should include a thorough analysis of alternative means of providing public transportation service to Dulles, and the relative capital and operating costs of such alternatives. It must also make basic decisions with respect to service for the rapidly developing intermediate points in the Dulles corridor such as Reston. Indeed, it should consider the role and importance of service in the Dulles corridor in relation to the future development of the Washington metropolitan area as a whole. Transportation is clearly not an end in itself, and transit improvements cannot be undertaken in isolation from other basic land use decisions.

I realize that the proposal as now formulated with 100 percent federal financing may seem to be the easiest course to follow, but in the long run I would question whether it is the best. The Department truly believes that the responsible course is to require the region to go through the hard but necessary process of analyzing this project vis-a-vis its other needs. In view of this need, and the need of the Department and WMATA to review further the unresolved questions concerning the project, we believe the wisest course would be to defer action on this legislation at this time.

Mr. PROXMIRE. Mr. President, I do not know how in the world I can justify to my constituents in Wisconsin the authorization of an appropriation of $10 million, preliminary to an expenditure of $100 million, and probably much more, in one of the richest areas of the country when we require people to match funds that are made available.

Finally, Mr. President, obviously we have a unanimous-consent agreement. We will have a voice vote on this matter. I will not delay the Senate any further. However, I feel very strongly that this is a serious way to go about the spending of the taxpayers' money. I want to be very sure that I am recorded as being opposed to this matter. It has not been justified. The hearings have not yet been printed. The administration has announced its opposition to the proposal. So, for all of those reasons, I must say that I am opposed.

Mr. SPONG. Mr. President, I regret that the Senator from Wisconsin feels so keenly about this project. I want to say for the RECORD that I did not think the testimony of Under Secretary Beggs was particularly persuasive.

The Transportation Department just a few months ago was prepared to spend $22 million on a Mickey Mouse prototype along the median strip of the Dulles Airport access road to provide access to Dulles.

This bill is not any overnight proposition. It has been thoroughly studied. The consultants have said that the maintenance cost would more than pay for itself under the Metro system.

I would remind the Senator from Wisconsin that Dulles Airport has sat out there underutilized and losing the taxpayers' money year after year, during the time that he talks about. Every authority who has appeared before Congress in any form in the years that it has been my privilege to serve in this body has come before us and said that we have to do something about access to Dulles.

In 1969, the Air Transport Association and every one from the Federal Aviation Administration on, when we confronted them with the fact that Dulles, this magnificent facility, sits out there underutilized while National Airport continues to grow and remains overcrowded, tell us that we have to have transportation out there.

The taxpayers' money is being used to build a subway station at National Airport as a part of the Metro system. All of that would be completed, the congestion would continue to grow, National would continue to grow, and the investment in Dulles would continue to suffer. These two airports are the only federally owned and controlled airports in the United States.

This matter has been thoroughly studied. The only recommendation of the Department of Transportation was to wait and wait. When I finally got some information from them, it turned out that they were going to recommend some kind of rail system different from the Metro. What kind of logic is that? You have a Metro system you are building and you have here a chance to make a connection with it, and the sooner we get on with it the cheaper it will be.

I regret that the Senator from Wisconsin did not have the transcript before him and did not have the benefit of all the testimony, because the great weight of the evidence was that we should go forward.

The communities are going to participate insofar as the building of the stations is concerned. This will serve as a commuter stop as well as serving the airport.

The Department of Transportation came before the Committee on Commerce and they said that we have to have coordinated transportation planning throughout the United States; we have to encourage the metropolitan areas of the United States to coordinate what they do between highway transportation and rapid transit.

Mr. President, do you know what I said to Secretary Volpe? He who would clean up the world must first clean up his own doorstep, and the biggest transportation mess in the United States of America is here in the Washington metropolitan area where two airports have been run for years with complete imbalance, where bridges and highways are held up by suits, where a mass transit system that has been authorized for years is just getting underway, although it has been badly needed. The rapid transit line proposal has been studied, authorized, recommended, and it is logical. It is a model for the rest of the United States. There is only one thing like this in America, and that is the Cleveland Airport. It is more than paying for itself. I do not have to be guided by what they are doing in Orly, France. I know they run better railroads than we run.

Mr. President, this can be a model not only for this country but for the rest of the world. This proposal has been studied and we have worked on it for 5 years. It is needed. Every year we wait it will cost more. I urge the Senate this evening to authorize it and show the rest of the country that despite the bureaucracy and the problems that we can do something that is logical in providing a metropolitan transit system.

Mr. PROXMIRE. Mr. President, I will be brief, if the Senator will yield to me a little additional time.

Mr. SPONG. I yield the Senator whatever time he needs.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. PROXMIRE. Mr. President, now we can see why this unfortunate bill got through committee. No one can be more persuasive and effective than the distinguished Senator from Virginia (Mr. SPONG). I greatly respect him; he made a powerful argument for an incredibly weak case.

For years people wondered why in the world we built Dulles Airport. It was to have cost $12 million and now it is over $100 million. Now, Congress is going to make the same mistake again. It has already thrown money away and now we are saying that we have to throw away more money. We have spent a great deal of money already and we will spend more money to get to a place people have not used in the past and will not use in the future. Let us assume I am wrong and that Dulles Airport is successful, and people are going to use it. We should know where this is to be built before we provide $10 million additional. What is the hurry? It is not to be constructed until 1978. Why in the world should we not have matching? After all, benefits will accrue to the residents in this area in Virginia. The Senator from Virginia knows that. We require matching of at least 10 percent in every other area. As Mr. Beggs pointed out, in some cases it is one-third. In this case none is required. Certainly we should require careful and thoughtful planning that Mr. Beggs called for. It should include a thorough analysis and an alternative means for providing transportation to Dulles.

The Senator from Virginia (Mr. SPONG) said that this had been studied for 5 years. If it has been studied, where are the answers to this kind of need? The Senator said we should show the rest of the country. I have tried to plead for economy in Government, as have many other Senators. The people of my State would be delighted to get $100 million which would benefit their transportation and cost nothing. Of course, they want it. This is one way to show the rest of the world how this pork barrel operates.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. SPONG. I yield back the remainder of my time.

Mr. PROXMIRE. I yield back the remainder of my time.

The PRESIDING OFFICER. The bill is open to amendment. If there be no

amendment to be proposed the question is on third reading of the bill.

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

The title was amended, so as to read: "A bill to authorize a Federal payment for the planning of a transit line in the median of the Dulles Airport Road and for a feasibility study of rapid transit to Friendship International Airport."

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SPONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR RECESS UNTIL 8:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 8:30 a.m. tomorrow.

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

ORDER FOR RECOGNITION OF SENATORS BUCKLEY, BEALL, AND HRUSKA TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that immediately following the recognition of the two leaders under the standing order tomorrow, the following Senators be recognized for not to exceed the time indicated, and each in the order stated. Mr. BUCKLEY, 15 minutes; Mr. BEALL, 15 minutes, and Mr. HRUSKA, until the hour of 9:15 a.m.

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

ORDER TO SET ASIDE TEMPORARILY THE UNFINISHED BUSINESS IF CLOTURE MOTION FAILS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that if the motion to invoke cloture fails on tomorrow, the unfinished business, the consumer protection bill, be laid aside temporarily, and remain in a temporarily laid-aside status until such hour as the distinguished majority leader or his designee determines.

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

ORDER FOR SENATE TO RETURN TO THE CONSIDERATION OF H.R. 1 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that immediately following the vote on the motion to invoke cloture tomorrow, if the motion to invoke cloture fails, the Senate return to the consideration of H.R. 1.

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

QUORUM CALL

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. 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.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow morning at 8:30 a.m., following a recess. After the two leaders have been recognized under the standing order, the following Senators will be recognized: Mr. BUCKLEY, 15 minutes; Mr. BEALL, 15 minutes, and Mr. HRUSKA, for not to extend beyond the hour of 9:15 a.m.

At the hour of 9:15 a.m. the Senate will proceed to the consideration of the unfinished business, the consumer protection bill, and the 1 hour for debate under rule XXII on the motion to invoke cloture on the consumer protection bill will begin running at 9:15.

At the hour of 10:15 the clerk will call the roll to establish a quorum, and when a quorum has been established, a yea-and-nay vote, which is mandatory under the rule, will occur. That should begin around 10:30 a.m.

If the motion to invoke cloture fails, the unfinished business will be laid aside temporarily and the Senate will return to the consideration of H.R. 1. Amendments will be in order. Yea and nay votes will occur. Tabling motions will be in order. Conference reports will be in order. Yea-and-nay votes may occur on any of these.

RECESS TO 8:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in recess until 8:30 a.m. tomorrow.

The motion was agreed to; and at 8:32 p.m. the Senate recessed until tomorrow, Thursday, October 5, 1972, at 8:30 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, October 4, 1972*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Rend your hearts and not your garments, and turn unto the Lord your God, for He is gracious and merciful, slow to anger, and of great kindness.—Joel II: 13.

O God, our Father, send the power of Thy spirit into our minds and hearts as we wait upon Thee—that we who ask for love may receive it and receiving it live by it; that we who seek for light may find it and, finding it, follow it faithfully; and we who knock at the door may discover the way to life opened to us and, entering, walk in it all the days of our lives.

Bless these representatives of our people, the homes in which they live, the churches where they worship, the staffs who work with them, and this Nation they serve with all their hearts. Grant that by their dedication to Thee and their devotion to our country they may usher in a new day of freedom for all, justice by all, and good will in all. To the glory of Thy holy name. 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 October 2, 1972, the President approved and signed bills of the House of the following titles:

On October 2, 1972:

H.R. 7614. An act to amend titles 5, 10, and 32, United States Code, to authorize the waiver of claims of the United States arising out of certain erroneous payments, and for other purposes.

H.R. 10486. An act to make the basic pay of the master chief petty officer of the Coast Guard comparable to the basic pay of the senior enlisted advisers of the other armed forces, and for other purposes;

H.R. 13697. An act to amend the provisions of title 14, United States Code, relating to the flag officer structure of the Coast Guard, and for other purposes; and

H.J. Res. 135. Joint resolution to authorize the President to issue a proclamation designating the week in November of 1972 which includes Thanksgiving Day as "National Family Week."

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 16593. An act making appropriations for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes;

H.R. 16654. An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1973, and for other purposes; and

H.R. 16754. An act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 16593) entitled "An act making appropriations for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Mc-